


(Do not write above this line.)

State Bar Court of California Hearing Department			kwiktag® 018 040 003 
Counsel For The State Bar Hugh G. Radigan Deputy Trial Counsel 1149 S. Hill Street Los Angeles, Ca. 90015 213-765-1206 Bar # 94251	Case Number (s) 07-O-10597	(for Court's use) <div style="text-align: center;"> FILED OCT 15 2010 <i>AS</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
Counsel For Respondent James M. Simmons P.O. Box 431368 Los Angeles, Ca. 90043 424-200-4968 Bar # 159726	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter Of: Nana S. Gyamfi Bar # 171480 A Member of the State Bar of California (Respondent)			

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted July 22, 1994.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ costs added to membership fee for calendar year following effective date of discipline.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: **2011 and 2012** (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☒ State Bar Court case # of prior case **02-O-15610, 03-O-03450, 04-O-10066 and 04-O-10557**
 - (b) ☒ Date prior discipline effective **August 30, 2006**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code sections 6068(a)(two counts), 6068(j) (two counts), 6068(m) (one count) and Rules of Professional Conduct, rules 3-700(D)(2) (two counts) and 3-110(A) (one count).**
 - (d) ☒ Degree of prior discipline **suspended for two years, execution of suspension stayed plus two years probation.**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **Respondent has provided ten character letters from a wide range of professional disciplines who have attested to their knowledge of the pending charges and Respondent's integrity and value to her community both professionally and socially.**
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **two years**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested,

(Do not write above this line.)

in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☒ **Other Conditions:**

Respondent is to give notice to the complaining witness, Johnnie Smith, of her rights to proceed to fee arbitration by certified mail, return receipt requested. This notification by certified mail is to be given thirty days after the effective date of the discipline order herein. Proof of compliance with this certified mail notification to the complaining witness is to be made available to the Probation Department.

(Do not write above this line.)

Attachment language (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Nana S. Gyamfi

CASE NUMBER(S): 07-O-10597

FACTS AND CONCLUSIONS OF LAW.

Case No. 07-O-10597:

1. On or about April 5, 2005, Johnnie Williams ("Williams") employed Respondent on behalf of her grandson, Johnell Smith ("Smith"), to appeal his California state court criminal conviction for residential burglary on July 1, 2002. On September 13, 2002, Smith was sentenced to 30 years to life with the possibility of parole under California's Three Strikes Law. Smith's sentence was enhanced by Smith's two prior juvenile adjudications for robbery.

2. Between April 5, 2005 and February 17, 2006, Williams advanced \$7,000 as fees for the representation.

3. On May 18, 2005, Respondent's office filed a form petition for a writ of habeas corpus on behalf of Smith in the United States District Court on behalf of Smith (the "petition"). Respondent did not sign the petition, but her signature was simulated on the petition. The stated ground for the petition was that there was insufficient proof that the two prior juvenile court convictions could enhance Smith's sentence as the convictions were gained without a jury trial. The petition also reflected that Smith previously had filed an appeal of his conviction with the California Court of Appeal; a petition for review with the California Supreme Court; and a petition for writ of habeas corpus with the California Supreme Court on the same ground stated in the petition. The Court of Appeal affirmed Smith's conviction on July 24, 2003. The Supreme Court summarily denied the petition for review on October 22, 2003 and summarily denied the petition for writ of habeas corpus on May 19, 2004.

4. On June 28, 2005, the Warden, Scott Kerlan, filed an answer to the petition.

5. On August 9, 2005, Respondent's office filed a reply on behalf of Smith as ordered by the court. Respondent did not sign the reply, but her signature was simulated on the reply. In the reply, the

petitioner was erroneously identified as "Santana Kelly," which suggests that the reply was a boilerplate document used by Respondent's office.¹

6. On August 24, 2005, the magistrate judge filed his report and recommendation that the petition be dismissed. The judge concluded that the clearly established and controlling federal law in existence as of the time of Smith's sentencing supported the sentence enhancement.

7. On September 14, 2005, Respondent's office filed objections to the magistrate judge's report and recommendation on behalf of Smith. Respondent did not sign the objections, but her signature was simulated on the objections.

8. At the time Williams employed Respondent to represent Smith, Respondent employed Anthony R. Gaston ("Gaston") to perform services in the Smith matter. Effective July 31, 2005, the California Supreme Court suspended Gaston from the practice of law. Gaston remained suspended at all times mentioned herein.

9. On May 18, 2005, Gaston served the petition on Smith and opposing counsel. On August 7, 2005, Gaston served the reply on Smith and opposing counsel. On September 13, 2005, Gaston served the objections on opposing counsel.

10. Respondent did not serve upon the State Bar, Williams or Smith any written notice of her employment of Gaston for the Smith matter, prior to or at the time of employing Gaston to work on the Smith matter.

Legal Conclusion:

11. By not serving written notice to the State Bar, Williams or Smith of her employment of Gaston in the Williams matter, Respondent wilfully employed a person that Respondent knew or reasonably should have known was a suspended member of the State Bar in willful violation of the requirements of rule 1-311(D) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 16, 2010.

¹ In February 2004, Santana Kelly had filed a petition for review of his conviction with the California Supreme Court, and that petition was denied on March 17, 2004.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
07-O-10597	One	Failure to perform with competence (Rules of Professional Conduct, rule 3-110(A))
	Three	Failure to refund unearned fees (Rules of Professional Conduct, rule 3-700(D)(2))

FACTS SUPPORTING MITIGATION.

Respondent has provided ten character letters from a wide range of professional disciplines who have attested to their knowledge of the pending charges and Respondent's reputation for integrity, honesty and participation in civic activities that are of value to her community.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 16, 2010, the prosecution costs in this matter are approximately \$3,654.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards For Attorney Sanctions For Professional Misconduct provides that the primary purpose of discipline is the protection of the public, the courts and the legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.10 provides for reproof or suspension for those violations of Rule of Professional Conduct, rule 1-311(D), according to gravity of the offense or the harm, if any, to the victim.

The Standards should be followed whenever possible. *In re Silverton* (2005) 36 Cal. 4th 81, 92. The Supreme Court gives the standards great weight, and will reject a recommendation consistent with the standards only where the Court entertains grave doubts as to its propriety. See *In re Naney* (1990) 51 Cal. 3rd 186, 190. Further, although the standards are not mandatory, it is well established that the standards may be deviated from only when there is a compelling, well-defined reason to do so. See *Aronin v. State Bar* (1990) 52 Cal. 3rd 276, 291; *Bates v. State Bar* (1990) 52 cal. 3rd 1056, 1060, fn.2.

In this case, the stipulated discipline is within the range of discipline prescribed by the standards as set forth above. In light of the fact that Respondent has been in practice for sixteen years, and in light of the fact she has cooperated with the State Bar and taken responsibility for her actions, a period of actual suspension is not deemed necessary. The parties submit that given Respondent's recognition of wrongdoing, together with her remorse and candor and cooperation throughout this matter, that the stipulated discipline (a stayed suspension and probationary terms including submitting the alleged issue of unearned fees to arbitration) and probationary conditions in this matter are sufficient to assure that

Respondent will conform her future conduct to ethical standards and therefore, protect the public, courts and legal profession.

STATE BAR ETHICS SCHOOL.

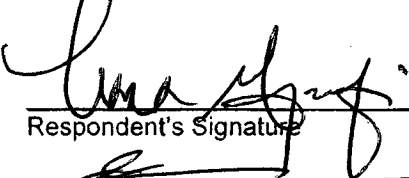
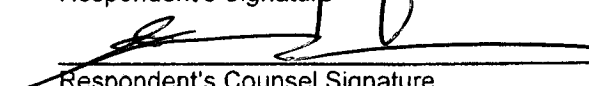
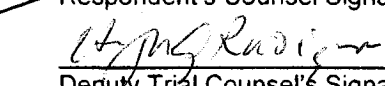
Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

(Do not write above this line.)

In the Matter of Nana S. Gyamfi	Case number(s): 07-O-10597
------------------------------------	-------------------------------

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u>09/22/2010</u> Date	 Respondent's Signature	<u>Nana S. Gyamfi</u> Print Name
<u>9/22/2010</u> Date	 Respondent's Counsel Signature	<u>James M. Simmons</u> Print Name
<u>September 22/10</u> Date	 Deputy Trial Counsel's Signature	<u>Hugh G. Radigan</u> Print Name

(Do not write above this line.)

In the Matter Of NANA S. GYAMFI	Case Number(s): 07-O-10597
---	--------------------------------------

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, **DAM**
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without **out**
prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

1. On page 1 of the Stipulation, at paragraph A.(3), line 3, "**11**" is deleted, and in its place is inserted "**10**".
2. On page 2 of the Stipulation, at paragraph A.(8), "**2011 and 2012**" is deleted, and in its place is inserted "**2012 and 2013**".
3. On page 2 of the Stipulation, at paragraph B.(1)(d), "**suspended for two years**" is deleted, and in its place is inserted "suspended for two years and until rehabilitation".
4. On page 5 of the Stipulation, at paragraph F.(2), line 3, the word "within" (which was inserted between the words "thirty" and "day") is deleted, and the word "within" is inserted between the words "given" and "thirty".
5. On page 5 of the Stipulation, at paragraph F.(2), line 4, "made available" is deleted, and in its place is inserted "provided".
6. On page 5 of the Stipulation, at paragraph F.(2), line 5, "within 60 days after the effective date of the discipline order herein" is inserted after "Department".
7. On Attachment Page 2, at paragraph 11, line 2, "Williams" is deleted, and in its place is inserted "Smith".

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

10/14/10

Date



Donald F. Miles
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 15, 2010, I deposited a true copy of the following document(s):

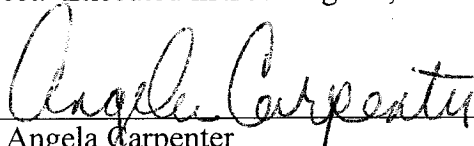
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:
- JAMES M SIMMONS
P O BOX 431368
LOS ANGELES CA 90043
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 15, 2010.


Angela Carpenter
Case Administrator
State Bar Court



(Do not write above this line.)

State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar KRISTIN L. RITSEMA SUPERVISING TRIAL COUNSEL 1149 SOUTH HILL STREET LOS ANGELES, CA 90015 (213) 765-1235 Bar # 149966	Case number(s) 02-0-15610 03-0-03450 04-0-10066 04-0-10557	(for Court's use) <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center;">APR 11 2006</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
<input type="checkbox"/> Counsel for Respondent <input checked="" type="checkbox"/> In Pro Per, Respondent NANA S. GYAMFI 7703 SOUTH BROADWAY LOS ANGELES, CA 90003 (323) 758-2529 Bar # 171480	PUBLIC MATTER	
In the Matter of NANA SERWAAH GYAMFI Bar # 171480 A Member of the State Bar of California (Respondent)	Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted July 22, 1994
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation, and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 29 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(Do not write above this line.)

- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- (a) ☐ costs added to membership fee for calendar year following effective date of discipline
 - (b) ☒ costs to be paid in equal amounts prior to February 1 for the following ~~membership years~~ two (2) billing cycles following the effective date of the Supreme Court Order.
(hardship, special circumstances or other good cause per rule 282, Rules of Procedure)
 - (c) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - (d) ☐ costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ Prior record of discipline [see standard 1.2(f)]
- (a) ☐ State Bar Court case # of prior case _____
 - (b) ☐ Date prior discipline effective _____
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations: _____

 - (d) ☐ Degree of prior discipline _____
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline".
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. By failing to refund unearned fees, Respondent has deprived the clients of the use of those funds.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing ~~or demonstrates a pattern of misconduct~~
- (8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☒ No Prior Discipline: Respondent has no prior record of discipline over many years of practice ~~coupled with present misconduct which is not deemed serious~~
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation with ~~the victims of his/her misconduct and to~~ the State Bar during disciplinary investigation and proceedings.
- (4) ☐ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ Good Faith: Respondent acted in good faith.
- (8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(Do not write above this line.)

- (10) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances are involved.**

Additional mitigating circumstances:

D. Discipline

1. ☒ Stayed Suspension.

(a) ☒ Respondent must be suspended from the practice of law for a period of two (2) years

- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this Stipulation.
- iii. ☐ and until Respondent does the following: _____

The above-referenced suspension is stayed.

2. ☒ Probation.

Respondent is placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

(Do not write above this line.)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☒ Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.
- In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.
- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: _____
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☒ The following conditions are attached hereto and Incorporated:

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☐ Medical Conditions

☒ Financial Conditions

(Do not write above this line.)

F. Other Conditions Negotiated by the Parties:

- (1) ☒ Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.

☐ No MPRE recommended. Reason: _____

- (2) ☒ Other Conditions: See Attachment page 27.

(Do not write above this line.)

In the Matter of NANA SERWAAH GYAMFI	Case Number(s): 02-0-15610 03-0-03450 04-0-10066 04-0-10557
---	---

Financial Conditions

a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF of the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Mason Debato	\$3,000	December 28, 1997
Mason Debato	\$1,000	April 7, 2000
Georgiana Williams	\$500	July 23, 2004
Kifa Muhammad	\$2,500	September 20, 2001

- ☐ Respondent must pay the above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than _____.

b. Installment Restitution Payments

- ☒ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Mason Debato	\$200	Monthly, with payment
Georgiana Williams	\$100	due on the first of
Kifa Muhammad	\$200	each month commencing the
		first month following the
		effective date of the
		disciplinary order, until
		paid in full.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of NANA SERWAAH GYAMFI	Case Number(s): 02-0-15610 03-0-03450 04-0-10066 04-0-10557
---	---

b. Respondent has kept and maintained the following:

- i. a written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: NANA SERWAAH GYAMFI

CASE NUMBERS: 02-O-15610, 03-O-03450, 04-O-10066, and 04-O-10557

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Jurisdiction

1. Respondent was admitted to the practice of law in the State of California on July 22, 1994, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 02-O-15610
Business and Professions Code Sections 6068(a), 6125, 6126
[Unauthorized Practice of Law]

2. Respondent failed to support the laws of this State, in wilful violation of Business and Professions Code section 6068(a), by engaging in the unauthorized practice of law in violation of Business and Professions Code sections 6125 and 6126, as follows:

- 3. On December 2, 2000, the State Bar's Office of Membership Services ("Membership Services") sent Respondent her 2001 membership fee statement indicating that her membership fees for 2001 were due by February 1, 2001. The fee statement was properly mailed to Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope

addressed to Respondent at her official State Bar membership records address at that time: 5959 W. Century Blvd. #535, Los Angeles, CA 90045-6500. The fee statement was returned as undeliverable by the United States Postal Service stamped, "Attempted Not Known."

4. Respondent failed to pay her State Bar of California membership fees by February 1, 2001 as required to maintain her active status with the State Bar.

5. On February 15, 2001 and April 16, 2001, Membership Services sent second and third membership fee statements, respectively, to Respondent notifying her that if her 2001 membership fees were not paid by certain dates, penalties would be added. The second and third fee statements were properly mailed to Respondent via the United States Postal Service, first class postage prepaid, in sealed envelopes addressed to Respondent at her official State Bar membership records address at that time. The fee statements were both returned as undeliverable by the United States Postal Service stamped, "Attempted Not Known."

6. On May 24, 2001, Membership Services sent a final delinquent notice to Respondent notifying her that she had not paid the required membership fees and that unless she paid the applicable fees and penalties, the Board of Governors would recommend that she be suspended from the practice of law. The delinquent notice was properly mailed to Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address at that time. The notice was returned as undeliverable by the United States Postal Service stamped, "Attempted Not Known."

7. By order filed August 17, 2001, the Supreme Court suspended Respondent from the practice of law effective September 1, 2001 and until payment of all current fees and penalties.

8. On August 17, 2001, Merbership Services sent Respondent a Notice of Entry of Order and enclosed a copy of the August 17, 2001 Supreme Court order. The notice specifically notified Respondent that she would be suspended from the practice of law effective September 1, 2001 if she didn't pay the required membership fees and penalties.

9. The August 17, 2001 Notice of Entry of Order and enclosed copy of the August 17, 2001 Supreme Court order were properly mailed to Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address at that time. The notice was returned by the United States Postal Service stamped, "Attempted Not Known."

10. As a result of her failure to pay the State Bar membership fees required for 2001, Respondent was suspended from the practice of law effective September 1, 2001. Respondent never received notice that she was suspended, but acknowledges that she failed to update her official State Bar membership records address when she moved from her 5959 W. Century Boulevard address. Moreover, Respondent knew she had not paid her State Bar membership fees and took no steps to ascertain whether or when she would be suspended as a result. If Respondent had inquired of Membership Services, she would have learned that she would be or was suspended. Therefore, Respondent should have known that she was suspended effective September 1, 2001.

11. Respondent remained suspended for failure to pay required membership fees and penalties until September 3, 2002, though she remained inactive because of failure to comply with minimum continuing legal educations requirements until January 24, 2003.

12. On September 17, 2001, a criminal information was filed against Kifa Muhammad ("Muhammad"). On or about that date, Muhammad hired Respondent to represent him in the criminal matter. He paid Respondent \$2,500 in advanced attorney fees.

13. Respondent undertook representation of Muhammad and became the attorney of record for Muhammad in the criminal matter until on or about November 16, 2001 when the Public Defender was appointed. During the period from on or about September 17, 2001 until on or about November 16, 2001, Respondent held herself out as entitled to practice law and in fact engaged in the practice of law during the period she was suspended by representing Muhammad in the criminal case. Among other activities, during her suspension period, Respondent held herself out as entitled to practice law when she agreed to undertake Muhammad's representation and accepted advance attorney fees from him, discussed the criminal matter with Muhammad, hired a contract attorney to make approximately three court appearances in the criminal matter, and made approximately three court appearances herself. At no time did Respondent notify Muhammad that she was suspended for failure to pay membership fees.

Conclusions of Law

14. By holding herself out as entitled to practice law and by actually engaging in the practice of law on behalf of Muhammad in the criminal matter when Respondent was suspended for failure to pay required State Bar membership fees, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code sections 6125 and 6126 and

thereby failed to uphold the laws of this State in wilful violation of Business and Professions Code section 6068(a).

COUNT TWO

Case No. 02-O-15610
Rule 3-700(D)(2) of the Rules of Professional Conduct
[Failure to Refund Unearned Fees]

15. Respondent failed, upon termination of employment, to promptly refund any part of a fee paid in advance that was not earned, in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct, as follows:

16. The stipulated facts set forth in paragraphs 3 through 13 are hereby incorporated by reference as if set forth in full.

17. Respondent was suspended from the practice of law for failure to pay membership fees during the entire period of her representation of Muhammad in the criminal matter. Because she was suspended, Respondent was not entitled to perform legal services, nor was she entitled to charge or accept legal fees from Muhammad. Because she was suspended and not entitled to perform any legal services, Respondent did not earn any portion of the \$2,500 in advance attorney fees that Muhammad paid.

18. At no time has Respondent refunded to Muhammad any portion of the \$2,500 in advance attorney fees that he paid.

///

///

Conclusions of Law

19. By failing to refund any portion of the \$2,500 in fees paid by Muhammad in the criminal matter, Respondent has failed, upon termination of employment, to promptly refund unearned fees in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

COUNT THREE

Case No. 02-O-15610
Business and Professions Code Section 6068(j)
[Failure to Update Membership Records Contact Information]

20. Respondent failed to comply with Business and Professions Code section 6002.1 by failing to notify the State Bar membership records office within 30 days after she changed her office address, and thereby wilfully violated Business and Professions Code section 6068(j), as follows:

21. The stipulated facts set forth in paragraphs 3 through 11 are hereby incorporated by reference as if set forth in full.

22. Respondent failed to notify the State Bar membership records office within 30 days after she changed her office address from the 5959 W. Century Boulevard address. Respondent did not notify the State Bar until September 3, 2002.

Conclusions of Law

23. By failing to notify the State Bar within 30 days after she changed her office address as required by Business and Professions Code section 6002.1, Respondent wilfully violated Business and Professions Code section 6068(j).

COUNT FOUR

Case No. 03-O-03450
Rule 3-110(A) of the Rules of Professional Conduct
[Failure to Competently Perform Legal Services]

24. Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct, as follows:

25. In June 1996, Haneze DeBato ("Haneze") was convicted of one count of murder and three counts of attempted murder. In July 1996, he was sentenced to 31 years to life imprisonment on the murder conviction and three stayed life plus four years sentences on the attempted murder convictions.

26. In December 1997, Haneze's mother, Yolanda DeBato ("Yolanda"), and brother, Mason DeBato ("Mason"), hired Respondent to represent Haneze with respect to a writ of habeas corpus. Respondent agreed to research, prepare and file the writ of habeas corpus and represent Haneze at any hearings on the writ. Haneze authorized Respondent to communicate with Mason regarding the writ matter.

27. Respondent agreed to provide legal services to Haneze with respect to the writ of habeas corpus for a flat fee of \$5,000. Mason paid Respondent \$3,000 on December 28, 1997. Respondent's recollection is that the agreement was that the entire fee was to be paid up front before she was to commence work on the writ matter. The Debatos' recollection is that Respondent was to commence work on the writ matter immediately. Unfortunately, no written fee agreement was entered into in December 1997.

28. Thereafter, Respondent failed to perform the legal services for which she had been retained.

29. By April 2000, Respondent had not yet prepared or filed the writ of habeas corpus on behalf of Haneze.

30. On April 7, 2000, Respondent and Mason on behalf of Haneze executed a formal written fee contract and retainer agreement with respect to the writ matter. In the contract, Mason agreed to pay a flat fee of \$5,000, \$3,000 of which was characterized as a "non-refundable retainer deposit." Respondent agreed to commence work on the matter "when the non-refundable deposit is received." Respondent had received the \$3,000 from Mason more than two years earlier.

31. Also on April 7, 2000, Respondent and Mason on behalf of Haneze executed a written payment agreement in which Mason agreed to pay the remaining \$2,000 due to Respondent for legal services on the writ matter by paying \$1,000 on April 7, 2000 and another \$1,000 when the writ was completed. Pursuant to the agreement, Mason paid Respondent \$1,000 on April 7, 2000.

32. Subsequent to execution of the April 7, 2000 agreements, Respondent performed legal services with respect to Haneze's writ matter. According to Respondent, she reviewed the transcripts of Haneze's underlying criminal proceeding and performed legal research. She then prepared a petition for a writ of habeas corpus on behalf of Haneze.

33. On January 5, 2001, Respondent forwarded a letter to Haneze enclosing what she characterized as "the petition part of [the] writ." She sent copies of the letter and enclosure to

Mason and Yolanda. Respondent specifically did not enclose with the letter what she characterized in her letter as "the supporting documents." She indicated that she would send them to Haneze after he reviewed, approved and signed the writ. She also indicated that she would then send Haneze a file stamped copy of the writ of habeas corpus once she filed it with the court.

34. Haneze and Mason received Respondent's January 5, 2001 letter and the enclosed writ document. Haneze promptly reviewed, approved and signed the writ and returned it to Respondent to file with the court along with the appropriate supporting documents.

35. Thereafter, Respondent failed to file the petition for writ of habeas corpus with the appropriate court on behalf of Haneze.

36. According to Respondent, she became convinced that Mason would not pay the remaining \$1,000 owed with respect to the writ matter, and therefore she didn't file it with the court. According to Respondent, she notified Haneze in a letter dated October 24, 1001 that she would not be filing the writ in light of the fact that she had not been paid the remainder of her fees. According to Respondent, she modified the writ petition so that Haneze could file it himself in propria persona and enclosed the writ petition with the October 24, 2001 letter. Respondent produced a copy of the October 24, 2001 letter that she claims she sent to Haneze. According to Haneze, he never received Respondent's October 24, 2001 letter or any other notification from Respondent that she would not be filing the writ on his behalf.

37. Nevertheless, according to the written payment agreement executed by Respondent and Mason on April 7, 2000, the remaining \$1,000 was not due until the writ was "completed."

To date, Respondent has never filed a petition for a writ of habeas corpus on behalf of Haneze in any court and the matter has never been completed. Nor has Respondent ever provided Haneze or Mason with the completed writ petition that included supporting documents. According to Respondent, back in 2001, she considered the writ "complete" in January 2001 when she had finished preparing the writ petition. She now acknowledges that she should have filed the writ and completed the work whether the remaining fees were paid or not.

Conclusions of Law

38. By failing to complete the legal services with respect to the writ of habeas corpus on behalf of Haneze, Respondent intentionally, recklessly or repeatedly failed to perform legal services competently in violation of rule 3-110(A) of the Rules of Professional Conduct.

COUNT FIVE

Case No. 03-O-03450
Rule 3-700(D)(2) of the Rules of Professional Conduct
[Failure to Refund Unearned Fees]

39. Respondent failed, upon termination of employment, to promptly refund any part of a fee paid in advance that was not earned, in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct, as follows:

40. The stipulated facts set forth in paragraphs 25 through 37 are hereby incorporated by reference as if set forth in full.

41. By failing to provide any legal services on behalf of Haneze after January 2001, including failing to file a petition for a writ of habeas corpus on behalf of Haneze with the appropriate court, Respondent effectively withdrew from representation of Haneze.

42. Respondent agreed to represent Haneze in the writ matter for a flat fee of \$5,000, \$4,000 of which was paid (\$3,000 on December 28, 1997 and \$1,000 on April 7, 2000). The remaining \$1,000 was to be paid when the writ was complete. Respondent agreed to research, prepare and file the writ and appear at any court hearings relating to the writ. However, Respondent never filed a petition for a writ of habeas corpus on behalf of Haneze and never completed the services for which she was retained. To date, Haneze has received no benefit from any legal services Respondent performed in preparing the writ petition because Respondent never finalized and filed the petition.

43. By failing to provide any legal services of value on behalf of Haneze, Respondent has failed to earn any portion of the \$4,000 in fees paid to her by Mason for the writ matter.

44. To date, Respondent has failed to refund any portion of the \$4,000 in fees paid to her to represent Haneze in the writ matter.

Conclusions of Law

45. By failing to refund any portion of the \$4,000 in fees paid by Mason in the writ matter, Respondent has failed, upon termination of employment, to promptly refund unearned fees in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

COUNT SIX

Case No. 04-O-10066
Business and Professions Code Sections 6068(a), 6125, 6126
[Unauthorized Practice of Law]

46. Respondent failed to support the laws of this State, in wilful violation of Business and Professions Code section 6068(a), by engaging in the unauthorized practice of law in

19

Page #

Attachment Page 11

violation of Business and Professions Code sections 6125 and 6126, as follows:

47. Respondent failed to pay her State Bar of California membership fees in early 2003 as required to maintain her active status with the State Bar.

48. On May 23, 2003, Membership Services sent a delinquent notice to Respondent notifying her that she had not paid the required membership fees and that unless she paid the applicable fees and penalties, she would be suspended from the practice of law. The notice indicated that the anticipated date of this suspension would be September 16, 2003. The notice was properly mailed to Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address at that time: 4050 Buckingham Rd. #210, Los Angeles CA 90008. The notice was not returned as undeliverable or for any other reason by the United States Postal Service. Nevertheless, according to Respondent she has no recollection of ever receiving the notice.

49. Respondent failed to pay the required State Bar membership fees. Accordingly, by order filed August 28, 2003, the Supreme Court suspended Respondent from the practice of law effective September 16, 2003 and until payment of all current fees and penalties.

50. On August 28, 2003, Membership Services sent Respondent a Notice of Entry of Order of Suspension for Nonpayment of Fees and enclosed a copy of the August 28, 2003 Supreme Court order. The notice specifically notified Respondent that she would be suspended from the practice of law effective September 16, 2003.

51. The August 28, 2003 Notice of Entry of Order of Suspension for Nonpayment of Fees and enclosed copy of the August 28, 2003 Supreme Court order were properly mailed to

Respondent via the United States Postal Service, first class postage prepaid, in a sealed envelope addressed to Respondent at her official State Bar membership records address at that time. The notice was returned by the United States Postal Service stamped, "Return to Sender No Forward Order on File Unable to Forward."

52. As a result of her failure to pay the State Bar membership fees required for 2003, Respondent was suspended from the practice of law effective September 16, 2003. Respondent claims that she did not receive notice that she was suspended, but acknowledges that she failed to update her official State Bar membership records address when she moved from her Buckingham Road address. Moreover, Respondent knew she had not paid her State Bar membership fees and took no steps to ascertain whether or when she would be suspended as a result. Had she inquired with the State Bar's Office of Membership Billing Services, she would have learned that she was or would be suspended as a result of failing to pay her membership fees. Therefore, Respondent should have known that she was suspended effective September 16, 2003.

53. As a result of her payment of the outstanding fees, Respondent was reinstated to practice law on October 24, 2003.

54. On January 28, 2003, Russell and Donna Merriweather hired Respondent to represent them in an ongoing civil matter entitled *Merriweather v. Bank of America, et al.*, Los Angeles County Superior Court case number BC280340 (the "civil case").

55. Respondent remained the attorney of record for the Merriweathers in the civil case at the time her suspension became effective on September 16, 2003.

56. Respondent held herself out as entitled to practice law and in fact engaged in the practice of law during the period she was suspended by continuing to represent the Merriweathers in the civil case. Among other activities during her suspension period, Respondent sent letters to the defendants' counsel regarding mediation and a demurrer, prepared additional responses to discovery, prepared documents for a meeting with the Merriweathers, and met with the Merriweathers to discuss their case. At no time did Respondent notify the Merriweathers that she was suspended from September 16, 2003 through October 23, 2003.

Conclusions of Law

57. By holding herself out as entitled to practice law and by actually engaging in the practice of law on behalf of the Merriweathers in the civil matter when Respondent was suspended for failure to pay required State Bar membership fees, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code sections 6125 and 6126 and thereby failed to uphold the laws of this State in wilful violation of Business and Professions Code section 6068(a).

COUNT SEVEN

Case No. 04-O-10066
Business and Professions Code Section 6068(j)
[Failure to Update Membership Records Contact Information]

58. Respondent failed to comply with Business and Professions Code section 6002.1 by failing to notify the State Bar membership records office within 30 days after she changed her office address, and thereby wilfully violated Business and Professions Code section 6068(j), as follows:

59. The stipulated facts set forth in paragraphs 47 through 53 are hereby incorporated by reference as if set forth in full.

60. Respondent failed to notify the State Bar membership records office within 30 days after she changed her office address from the Buckingham Road address. Respondent did not notify the State Bar until October 27, 2003.

Conclusions of Law

61. By failing to notify the State Bar within 30 days after she changed her office address as required by Business and Professions Code section 6002.1, Respondent wilfully violated Business and Professions Code section 6068(j).

COUNT EIGHT

Case No. 04-O-10557
Business and Professions Code Section 6068(m)
[Failure to Communicate Significant Developments]

62. Respondent failed to keep a client reasonably informed of significant developments in a matter with regard to which she had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m), as follows:

63. On January 3, 1986, as part of a plea bargain, Rodney Brown ("Brown") entered a guilty plea to second degree murder and was thereafter sentenced to imprisonment for 15 years to life.

64. On May 23, 2003, Brown's mother, Georgiana Williams ("Williams"), hired Respondent to handle a writ of habeas corpus on behalf of Brown. On May 24, 2003, Williams paid Respondent \$5,000 to handle Brown's writ matter.

65. Thereafter, according to Respondent, she reviewed Brown's criminal file to determine whether there were any issues for a writ. According to Respondent, she did not find any. Respondent did not perform any other legal services on behalf of Brown. Nor did Respondent meet with Brown, though she promised to visit him in prison to discuss his criminal matter.

66. At no time did Respondent communicate to Brown or Williams that she had determined that there were no issues to support the filing of a petition for writ of habeas corpus on behalf of Brown.

Conclusions of Law

67. By failing to communicate to Brown or Williams that she had determined that there were no issues to support the filing of a petition for writ of habeas corpus on behalf of Brown, Respondent failed to inform her client of a significant development in wilful violation of Business and Professions Code section 6068(m).

COUNT NINE

Case No. 04-O-10557
Rule 3-700(D)(2) of the Rules of Professional Conduct
[Failure to Refund Unearned Fees]

68. Respondent failed, upon termination of employment, to promptly refund any part of a fee paid in advance that was not earned, in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct, as follows:

69. The stipulated facts set forth in paragraphs 63 through 66 are hereby incorporated by reference as if set forth in full.

24

Page #

Attachment Page 16

70. Respondent did not earn the \$5,000 fee paid in advance by Williams on behalf of Brown. That fee was paid in contemplation of Respondent handling the entire writ proceeding, including researching, writing and filing the petition for writ of habeas corpus as well as appearing at any hearings in the matter. Once Respondent determined that there were no issues to support filing a petition for writ of habeas corpus on behalf of Brown, Respondent knew that she would not be able to earn the \$5,000 paid in advance by Williams. However, she failed to promptly refund any portion of the \$5,000 to Williams.

71. Respondent claims she was willing to refund the unearned fees to Williams, but was unable to contact Williams as she only had contact information for Brown. However, Respondent did not take any steps to contact Brown to obtain contact information for Williams so that she could refund the unearned fees.

72. On July 23, 2004, after Brown filed a complaint with the State Bar, Respondent refunded \$5,000 to Williams but did not pay any interest on the amount.

Conclusions of Law

73. By failing to promptly refund any portion of the \$5,000 in fees paid by Williams for Brown's writ matter, Respondent failed, upon termination of employment, to promptly refund unearned fees in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was February 24, 2006.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct, Title IV of the Rules of Procedure of the State Bar of California (hereinafter "Standard"), provides that the primary purposes of disciplinary proceedings and imposing sanctions for professional misconduct are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys; and the preservation of public confidence in the legal profession."

Standard 1.6(a) provides that the appropriate sanction for an act of professional misconduct shall be the sanction set forth in the standards for the particular misconduct found and that if multiple acts of misconduct are found and different sanctions are prescribed by the standards, then the sanction to be imposed shall be the most severe of the different applicable sanctions.

In this stipulation, Respondent has stipulated to a violation of rule 3-110(A) of the Rules of Professional Conduct for failing to perform legal services competently for Haneze DeBato and a violation of Business and Professions Code section 6068(m) for failing to inform Rodney Brown of a significant development. Standard 2.4 provides that "[c]ulpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

In this stipulation, Respondent has also stipulated to three violations of rule 3-700(D)(2) for failing to promptly refund unearned fees in the Kifa Muhammad, Haneze DeBato, and Rodney Brown matters. Rule 3-700(D)(2) does not have a corresponding standard that prescribes the sanction for violation of that particular rule. However, standard 2.10 provides that culpability of a member of a violation of any Rule of Professional Conduct not specified in the standards "shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3"

Finally, in this stipulation, Respondent has stipulated to two violations of Business and Professions Code section 6068(a) for failing to uphold the laws of this State by engaging in the unauthorized practice of law while suspended for failure to pay membership fees in violation of Business and professions Code sections 6125 and 6126 and two violations of Business and Professions Code section 6068(j) for failing to notify the State Bar within thirty days after she changed her office address. Standard 2.6 provides that culpability of a member of violation of Business and Professions Code section 6068 (including 6068(a), 6068(j), 6125 and 6126) "shall

26

Page #

Attachment Page 18

result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

The Supreme Court gives the Standards "great weight," and will reject a recommendation consistent with the Standards only where the Court entertains "grave doubts" as to its propriety. (*In re Naney* (1990) 51 Cal. 3d 186, 190; *In re Silverton* (2005) 36 Cal. 4th 81, 91, 92.) Further, although the Standards are not mandatory, it is well established that the Standards may be deviated from only when there is a compelling, well-defined reason to do so. See *Aronin v. State Bar* (1990) 52 Cal. 3d 276, 291; *Bates v. State Bar* (1990) 52 Cal. 3d 1056, 1060, fn. 2.

In this case, the stipulated discipline is within the range of discipline prescribed by the standards as set forth above. In light of the fact that Respondent has been in practice for more than 11 1/2 years with no prior discipline, and in light of the fact that she has cooperated with the State Bar and has taken responsibility for her actions, a period of actual suspension is not deemed necessary. Rather, a stayed suspension (with a period of probation and the stipulated conditions, including restitution) is appropriate in this case to further the purposes of standard 1.3 to protect the public, the courts and the profession.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

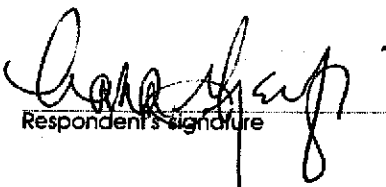
Within thirty (30) days of the effective date of the disciplinary order imposed as a result of this stipulation, Respondent shall provide satisfactory evidence to the Office of Probation of the State Bar of California that she has provided a complete copy of her file in the Haneze Debato writ matter to Haneze Debato, or to Mason Debato if authorized to do so by Haneze Debato. The file should include all items specified by rule 3-700(D)(1), including but not limited to all transcripts and any other record of the underlying criminal conviction matter in Respondent's possession as well as whatever documents she may have prepared with respect to the petition for writ of habeas corpus on behalf of Haneze Debato.

(Do not write above this line.)

In the Matter of NANA SERWAAH GYAMFI	Case number(s): 02-0-15610 03-0-03450 04-0-10066 04-0-10557
---	---

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law and Disposition.

03/17/06  NANA S. GYAMFI
Date Respondent's signature Print name

03/17/06  KRISTIN L. RITSEMA
Date Deputy Trial Counsel's signature Print name

(Do not write above this line.)

In the Matter of NANA SERWAAH GYAMFI	Case number(s): 02-0-15610 03-0-03450 04-0-10066 04-0-10557
---	---

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 953(a), California Rules of Court.)

Date

4/6/06


RICHARD A. HONN

Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 11, 2006, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

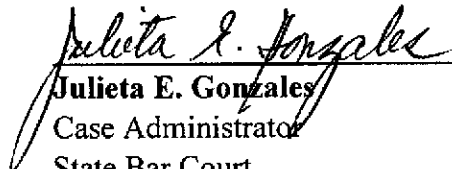
- [X]** by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**NANA S GYAMFI ATTORNEY AT LAW
LAW OFC NANA GYAMFI
7703 S BROADWAY
LOS ANGELES, CA 90003-2433**

- [X]** by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Kristin L. Ritsema, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **April 11, 2006**.


Julieta E. Gonzales
Case Administrator
State Bar Court