

**ORIGINAL**

<p><b>Counsel for the State Bar</b>                  THE STATE BAR OF CALIFORNIA                  OFFICE OF THE CHIEF TRIAL COUNSEL                  ENFORCEMENT                  SHARI SVENINGSON, NO. 195298                  1149 So. Hill Street                  Los Angeles, CA 90015-2299                  Telephone: (213) 765-1000</p>	<p><b>Case number(s)</b></p> <table> <tr><td>00-0-15212</td><td>01-0-01648</td></tr> <tr><td>00-0-15401</td><td>01-0-01650</td></tr> <tr><td>01-0-00338</td><td>01-0-03568</td></tr> <tr><td>01-0-00531</td><td>01-0-03857</td></tr> <tr><td>01-0-01643</td><td></td></tr> </table>	00-0-15212	01-0-01648	00-0-15401	01-0-01650	01-0-00338	01-0-03568	01-0-00531	01-0-03857	01-0-01643		<p>(for Court's use)</p> <p><b>FILED</b></p> <p>AUG - 4 2003</p> <p>STATE BAR COURT                  CLERK'S OFFICE                  LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
00-0-15212	01-0-01648											
00-0-15401	01-0-01650											
01-0-00338	01-0-03568											
01-0-00531	01-0-03857											
01-0-01643												
<p><b>Counsel for Respondent</b>                  Gene Koon, No. 77051                  332 W. Foothill Blvd.,                  Monrovia, CA 91016                  Telephone: (626) 256-1651</p>	<p><b>Investigation matters:</b></p> <p>02-0-15078                  02-0-15644                  03-0-00784                  03-0-01156</p>											
<p><b>in the Matter of</b>                  ROY EARNEST PETERSON                  Bar # 153455                  A Member of the State Bar of California                  (Respondent)</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION                  AND ORDER APPROVING                  ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>											

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 14, 1991 (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 19 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) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
2004, 2005 and 2006  
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth under "Partial Waiver of Costs"
  - costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."



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 99-0-10500

(b)  date prior discipline effective December 24, 2000

(c)  Rules of Professional Conduct/ State Bar Act violations: Rules of Procedure, rule 3-110(A) [Failure to Perform]; Rules of Procedure, rule 4-100(B)(3) [Failure to provide Accounting of Client Funds]; Rules of Procedure, rule 3-700(D)(1) [Failure to Release File].

(d)  degree of prior discipline Public Reprimand, one (1) year probation

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or under "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 to 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. \*See below.
- (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.
- (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:

The misconduct in this matter occurred during the same time period as the misconduct that led to the discipline imposed in case no. 99-0-10500.

\*Respondent provided documentation substantiating his claim that during the time of the misconduct, he was being treated for a heart and viral pneumonia which resulted in his hospitalization and incapacity to conduct day-to-day law office work.

D. Discipline

1. Stayed Suspension.

- A. Respondent shall be suspended from the practice of law for a period of one (1) year
- 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 to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - iii. and until Respondent does the following: \_\_\_\_\_

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of five (5) years which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

- A. Respondent shall be actually suspended from the practice of law in the State of California for a period of sixty (60) days
- 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 to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
  - iii. and until Respondent does the following: \_\_\_\_\_

E. Additional Conditions of Probation:

- (1)  If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, 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.
- (4)  Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall 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. If the first report would cover less than 30 days, that report shall be submitted on the next quarter, 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 shall be assigned a probation monitor. Respondent shall 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 shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel 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 shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. See page 16.
- (8)  Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (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 checked="" type="checkbox"/> Financial Conditions See page <sup>16</sup> 17 + 18. |
- (10)  Other conditions negotiated by the parties:
- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel during the period of actual suspension or within one year, whichever period is longer. 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) & (b), Rules of Procedure.
- No MPRE recommended.
- Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.



court judgment in the amount of \$1,560 against Respondent in their action for a refund of unearned fees paid to Respondent in connection with the court case. Respondent has agreed to pay the \$1,560 judgment that was obtained against him to Carlos and Sarpy.

#### LEGAL CONCLUSION

By failing to file the opening brief and the response to a demurrer on Carlos and Sarpy's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

#### **Case No. 00-O-15212**

1. On or about December, 31, 1999, Ezzat Guirguis ("Guirguis") employed Respondent to file an appeal on his behalf in the case entitled Guirguis v. Los Angeles District Attorney's Office, LASC No. BC 192813. Guirguis paid Respondent \$3,000 for his legal services.

2. On or about July 11, 2000, Respondent requested an extension of time to file the opening brief which was granted to July 21, 2000 by the Court of Appeal, Second Appellate District ("Court").

3. On or about July 25, 2000, Respondent was notified by the court clerk, Joseph A. Lane, that the appeal would be dismissed pursuant to Rule 17(a) of the California Rules of Court if the opening brief was not filed within 15 days of the notification.

4. On or about August 9, 2000, Respondent filed an opening brief without a reference in the brief citing an appendix.

5. On or about August 15, 2000, the court vacated and re-issued the rule 17(a) notice filed July 25, allowing Respondent 15 days from the date of the notification to correct the deficiencies in his opening brief.

6. Respondent failed to refile the brief in a timely manner. On or about September 5, 2000, the court dismissed the appeal.

7. Respondent has agreed to refund \$2,000 to Guirgus.

#### LEGAL CONCLUSION

By not filing a proper opening brief in a timely manner on behalf of Guirgus, Respondent intentionally, repeatedly, or recklessly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

#### **Case No. 01-O-01648**

1. On or about June 28, 2000, Jesus Rocha ("Rocha") employed Respondent to represent him in a wrongful termination case. Rocha paid Respondent \$500 for his legal services.

2. Between on or about June 28, 2000 and April, 2001, Rocha telephoned Respondent numerous times in an attempt to receive a status update on his case. Rocha left messages on Respondent's answering machine on each occasion, each of which Respondent received. Respondent did not respond to any of the messages.

3. Respondent has not completely performed the legal services for which he was hired.

4. Respondent has agreed to refund \$500 to Rocha.

#### LEGAL CONCLUSIONS

By failing to perform work on Rocha's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence wilful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to respond to Rocha's telephone messages, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and

Professions Code, section 6068(m).

**Case No. 01-O-00531**

1. On or about March 20, 2000, Annette Williams("Williams") employed Respondent to represent her in a wrongful termination case against her former employer. On that date, Williams paid Respondent \$1,000 in advanced fees for his legal services.

2. Respondent has not completely performed the legal services for which he was hired.

3. Respondent has agreed to refund \$1,000 to Williams.

**LEGAL CONCLUSION**

By failing to perform work on Williams case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

**Case No. 01-O-01650**

1. On or about May 9, 2000, Gloria Redondo ("Redondo") employed Respondent to represent her in a wrongful termination case against her former employer, California Business Bureau. Redondo paid Respondent \$110 for his legal services and \$150 to the legal referral service that referred her to Respondent.

2. Between December, 2000 and May, 2001, Redondo called Respondent at his office several times and left messages on his answering machine requesting a status update on her case.

3. Respondent failed to return any of Redondo's telephone calls and did not send her correspondence or communicate in any other manner concerning her case.

4. Respondent has not completely performed the legal services for which he was

hired.

5. Respondent has agreed to refund \$110 to Redondo.

#### LEGAL CONCLUSIONS

By failing to perform work on Redondo's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to respond to Redondo's telephone messages, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code, section 6068(m).

#### **Case No. 01-O-03857**

1. On or about January 28, 2001, Richard Mortvedt ("Mortvedt") employed Respondent to represent him in a wrongful termination case against the MTA and a breach of contract case against his union. Mortvedt paid Respondent \$1,500 for his legal services.

2. Respondent has not completely performed the legal services for which he was hired.

3. Respondent has agreed to refund \$1,500 to Mortvedt.

#### LEGAL CONCLUSION

By failing to perform work on Mortvedt's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

**Case No. 02-O-15078 (unfiled matter)**

1. On or about July 23, 1998, Magdaleno Marin ("Marin") employed Respondent to represent him in a wrongful termination case against Marin's former employer. On that date Marin paid Respondent \$750 in advanced fees for legal services and an additional \$250 for filing fees and costs.
2. Respondent has not completely performed the legal services for which he was hired.
3. Respondent has agreed to refund \$1,000 to Marin.

**LEGAL CONCLUSION**

By failing to perform work on Marin's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

**Case No. 02-O-15644 (unfiled matter)**

1. On or about August 27, 1999, Ruth Zamora ("Zamora") employed Respondent represent her in a wrongful termination case against Zamora's former employer. On that date Zamora paid Respondent \$830 in advanced fees for legal services.
2. Respondent has not completely performed the legal services for which he was hired.
3. Respondent has agreed to refund \$830 to Zamora.

**LEGAL CONCLUSION**

By failing to perform work on Zamora's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct,

rule 3-110(A).

**Case No. 03-O-00784 (unfiled matter)**

1. On or about March 10, Javier Rivera ("Rivera") employed Respondent to represent him in a wrongful termination case against Rivera's former employer. On that date Rivera paid Respondent \$1,500 in advanced fees for legal services.

2. Respondent has not completely performed the legal services for which he was hired.

3. Respondent has agreed to refund \$1,500 to Rivera.

**LEGAL CONCLUSION**

By failing to perform work on Rivera's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

**Case No. 03-O-01156 (unfiled matter)**

1. On or about July 6, 2000, Agustin Castro ("Castro") employed Respondent to represent him in a marital dissolution matter. On that date Castro paid Respondent \$2,000 in advanced fees and an additional \$162 for filing fees and costs.

2. Respondent has not completely performed the legal services for which he was hired.

3. Respondent has agreed to perform the work necessary to resolve Castro's marital dissolution matter.

**LEGAL CONCLUSION**

By failing to perform work on Castro's case, Respondent intentionally, recklessly,

or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was by letter ~~May~~ <sup>July 9, 2003</sup> 19, 2003.

**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>
00-O-15401	TWO	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	THREE	Business and Professions Code, section 6068(m)[Failure to Respond to Client Inquiries/Failure to Inform of Significant Development]
	FOUR	Business and Professions Code, section 6106 [Moral Turpitude]
	FIVE	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
00-O-15212	SEVEN	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	EIGHT	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
01-O-00338	NINE	Rules of Professional Conduct, rule 3-110(A)[Failure to Perform With Competence]
	TEN	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
	ELEVEN	Rules of Professional Conduct, rule 3-700(D)(1)[Failure to Release File]
01-O-00531	THIRTEEN	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	FOURTEEN	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]

01-O-01643	FIFTEEN	Rules of Professional Conduct, rule 3-110(A)[Failure to Perform With Competence]
	SIXTEEN	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	SEVENTEEN	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
01-O-01648	NINETEEN	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	TWENTY	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
01-O-01659	TWENTY-THREE	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	TWENTY-FIVE	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
01-O-03568	TWENTY-SIX	Rules of Professional Conduct, rule 3-110(A)[Failure to Perform With Competence]
	TWENTY-SEVEN	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	TWENTY-EIGHT	Business and Professions Code, section 6068(m)[Failure to Respond to Client Inquiries]
	TWENTY-NINE	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
01-O-03857	THIRTY-ONE	Rules of Professional Conduct, rule 3-700(A)(2)[Improper Withdrawal From Employment]
	THIRTY-TWO	Rules of Professional Conduct, rule 3-700(D)(2)[Failure to Refund Unearned Fees]
	THIRTY-THREE	Rules of Professional Conduct, rule 3-700(D)(1)[Failure to Release File]
	THIRTY-FOUR	Business and Professions Code, section 6106 [Moral Turpitude]

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 15, 2003, the estimated prosecution costs in this matter are approximately \$2,134. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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 1.2(e)(iv) - Mitigating Circumstances - Extreme physical difficulties suffered by the member at the time of the act of professional misconduct.

In the Matter of Aulakh (1997) 3 Cal. State Bar Court Reporter 690:

The Review Department upheld the Hearing Department judge's decision to suspend Respondent from the practice of law for one year, stayed, 3 years probation and 45 days actual suspension. The Respondent failed to perform legal services competently.

Wren v. State Bar (1983) 34 Cal. 3d 81:

The Respondent received 2 years suspension, stayed, 2 years probation and 45 days actual suspension. He represented a client in a dispute over a mobile home. He was hired to file suit for repossession. Over a twenty-two month period, the Respondent had two meetings with the client and did nothing to prepare the case.

In this matter, greater discipline is warranted because Respondent's misconduct involves multiple clients.

In the Matter of Raymond E. Mapps (1990) 1 Cal. State Bar Ct. Rptr. 1:

The respondent's two instances of misconduct occurred during the same period of time and the respondent attributed them to the same problem of financial difficulty. The court found this to be properly considered in mitigation.

Respondent's prior instance of misconduct and the misconduct involved in these matters occurred during the same period of time. Respondent attributes both instances of misconduct to the physical illness he was suffering from at that time.

**STATE BAR ETHICS SCHOOL EXCLUSION.**

It is not recommended that respondent attend State Bar Ethics School since respondent attended Ethics School within the last two years on December 7, 2001 in connection with case number 99-O-10500.

**OTHER CONDITIONS NEGOTIATED BY THE PARTIES.**

Within three (3) months of the date that Respondent's signs this Stipulation and prior to the effective date of the Supreme Court order in this matter, Respondent must produce evidence of performance of legal services in Augustin Castro's marital dissolution matter (Investigation Case No. 03-O-01156) via a memorandum describing the work he has performed to the Probation Unit.

Upon the completion of his period of actual suspension Respondent must perform the services necessary to resolve Augustin Castro's marital dissolution matter without receiving payment of any additional fees.

**FINANCIAL CONDITIONS, RESTITUTION.**

Within **4 years and 9 months** from the effective date of discipline in this matter, the respondent must make restitution to **(See amount owed to each specific party listed below)** or the **Client Security Fund** it has paid, plus interest at the rate of **10% per annum from May 19, 2003**. Respondent agrees to issue individual payments to each of the nine (9) complaining witnesses on a monthly basis. Respondent agrees to pay a total cumulative amount of **\$690 each quarter**. Respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

Restitution- principal amount owed to each party plus interest at the rate of 10% per annum from May 19, 2003:

1. Case No. 00-O-15401

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Carlos Arturo** or the Client Security Fund if it has paid, in the total principal amount of **1,560** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

2. Case No. 00-O-15212

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make

restitution to **Ezzat Guirguis** or the Client Security Fund if it has paid, in the total principal amount of **\$2,000** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

3. Case No. 01-O-00531

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Annette Williams** or the Client Security Fund if it has paid, in the total principal amount of **\$1,000** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

4. Case No. 01-O-01648

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Jesus Rocha** or the Client Security Fund if it has paid, in the total principal amount of **\$500** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

5. Case No. 01-O-01650

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Gloria Redondo** or the Client Security Fund if it has paid, in the total principal amount of **\$110** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

6. Case No. 01-O-03857

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Richard Mortvedt** or the Client Security Fund if it has paid, in the total principal amount of **\$1,500** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

7. Case No. 02-O-15978

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Magdelano Marin** or the Client Security Fund if it has paid, in the total principal amount of **\$1,000** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

8. Case No. 02-O-15644

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Ruth Zamora** or the Client Security Fund if it has paid, in the total principal amount of **\$830** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

9. Case No. 03-O-00784

Within **4 years, 9 months** from the effective date of discipline in this matter, respondent must make restitution to **Javier Rivera** or the Client Security Fund if it has paid, in the total principal amount of **\$1,500** plus interest at the rate of 10% per annum from May 19, 2003 until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit.

Date 7/10/03

Respondent's signature Roy E. Peterson

print name ROY E. PETERSON

Date 7/10/03

Respondent's Counsel's signature Gene Koon

print name GENE KOON

Date 7.14.03

Deputy Trial Counsel's signature Shari Sveningson

print name SHARI SVENINGSON

**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.

*RMC*  The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

See attached MODIFICATION TO STIPULATION.

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 7/29/03

Judge of the State Bar Court Richard A. Honn

**RICHARD A. HONN**

In the Matter of **ROY EARNEST PETERSON**  
Case No. 00-O-15212-RAH  
and Inv. No. 02-O-15078

**MODIFICATION TO STIPULATION**

1. The Court approves the dismissal of the following:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
00-O-15401	Two	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Three	Business & Professions Code, section 6068(m) (Failure to Respond to Client Inquiries/Failure to Inform of Significant Development)
	Four	Business & Professions Code, section 6106 (Moral Turpitude)
	Five	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
00-O-15212	Seven	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Eight	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
01-O-00338	Nine	Rules of Professional Conduct, rule 3-110(A) Failure to Perform with Competence)
	Ten	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
	Eleven	Rules of Professional Conduct, rule 3-700(D)(1) (Failure to Release File)
01-O-00531	Thirteen	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Fourteen	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
01-O-01643	Fifteen	Rules of Professional Conduct, rule 3-110 (Failure to Perform with Competence)
	Sixteen	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Seventeen	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)

In the Matter of ROY EARNEST PETERSON  
Case No. 00-O-15212-RAH  
and Inv. No. 02-O-15078

**MODIFICATION TO STIPULATION**

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
01-O-01648	Nineteen	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Twenty	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
01-O-01659	Twenty-Three	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Twenty-Five	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
01-O-03568	Twenty-Six	Rules of Professional Conduct, rule 3-110(A) (Failure to Perform with Competence)
	Twenty Seven	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Twenty-Eight	Business & Professional Code, section 6068(m) (Failure to Respond to Client Inquiries)
	Twenty-Nine	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
01-O-03857	Thirty-One	Rules of Professional Conduct, rule 3-700(A)(2) (Improper Withdrawal from Employment)
	Thirty-Two	Rules of Professional Conduct, rule 3-700(D)(2) (Failure to Refund Unearned Fees)
	Thirty-Three	Rules of Professional Conduct, rule 3-700(D)(1) (Failure to Release File)
	Thirty-Four	Business & Professions Code, section 6106 (Moral Turpitude)

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

I am a Case Administrator of the State Bar Court. 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 August 4, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed August 4, 2003**

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

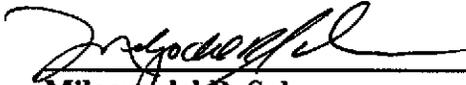
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**GENE KOON ESQ  
332 W FOOTHILL BLVD  
MONROVIA, CA 91016**

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

**Shari Sveningson, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 4, 2003.

  
\_\_\_\_\_  
**Milagro del R. Salmeron**  
Case Administrator  
State Bar Court