


<b>Counsel for the State Bar</b> THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL CHARLES T. CALIX, No. 146853 1149 SOUTH HILL STREET LOS ANGELES, CA 90015-2299 (213) 765-1255	<b>Case number(s)</b> 00-0-15388 (Macharia) 01-0-02206 (Corona) 01-0-00797 (Archuleta) 01-0-05371 (Judge Goodman) 01-0-04128 (Duran) 02-0-12749 (Kagiri) 02-0-12948 (Maciel) 02-0-13749 (Benetiz) 02-0-15104 ( ) ETC 02-0-15267 ( )	<b>(for Court's use)</b> <b>ORIGINAL</b> <b>FILED</b> JUN 14 2004 STATE BAR COURT CLERK'S OFFICE LOS ANGELES kwiktag® 035 117 274 
<b>Counsel for Respondent</b> STANLEY Z. WHITE LAW OFFICES OF STANLEY Z. WHITE 8500 WILSHIRE BLVD., #829 BEVERLY HILLS, CA 90211 (310) 659-5268	<b>PUBLIC MATTER</b>	
<b>In the Matter of</b> ERIC TARANKOW  Bar # 101427  A Member of the State Bar of California (Respondent)	Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  ACTUAL SUSPENSION  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 1, 1981.  
(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 43 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:  
(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 [definition, see Standards for Attorney, Sections 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 99-0-13301 (S 095784)

(b) ☒ date prior discipline effective June 9, 2001

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business & Professions Code

Section 6140.7

(d) ☒ degree of prior discipline No actual suspension. One Year suspension, stayed. 2 Years probation with conditions.

(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.
- (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:

## 1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of Four 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 to (as set forth on page 37)  
[payee(s)] (or the Client Security Fund, if appropriate), in the amount of  
(see page 37), plus 10% per annum accruing from (see page 37)  
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 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 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 to (as set forth on page 37)  
[payee(s)] (or the Client Security Fund, if appropriate), in the amount of  
(see page 37), plus 10% per annum accruing from (see page 37)  
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 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.
- (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 checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions             |
- (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) & (c), 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.

In the Matter of

Case Number(s):

ERICK TARANKOW

01-0-04128 et. al.

A Member of the State Bar

## Financial Conditions

- a. ☒ Respondent shall pay restitution to The payees [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) listed on page 37, plus 10% interest per annum accruing from the dates listed on page 37, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,
- ☒ no later than 2 years from the effective date of the discipline herein.
- or
- ☐ on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."
- b. ☒ 1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
- 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";
  - respondent has kept and maintained the following:
    - a written ledger for each client on whose behalf funds are held that sets forth:
      - the name of such client;
      - the date, amount and source of all funds received on behalf of such client;
      - the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - the current balance for such client,
    - a written journal for each client trust fund account that sets forth:
      - the name of such account;
      - the date, amount and client affected by each debit and credit; and,
      - the current balance in such account,
    - all bank statements and cancelled checks for each client trust account; and,
    - 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.
  - respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - each item of security and property held;
    - the person on whose behalf the security or property is held;
    - the date of receipt of the security or property;
    - the date of distribution of the security or property; and,
    - 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 Probation Unit 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.
- c. ☒ Within one (1) year, of the effective date of the discipline herein, respondent shall supply to the Probation Unit 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.

(Financial Conditions form approved by SBC Executive Committee 10/16/00)

In the Matter of  
ERIC TARANKOW  
A Member of the State Bar

Case Number(s):  
01-0-04128 et. al.

Law Office Management Conditions

- a. ☒ Within \_\_\_ days/ 18 months/ \_\_\_ years of the effective date of the discipline herein, Respondent shall develop a law office management/ organization plan, which must be approved by respondent's probation monitor, or, if no monitor is assigned, by the Probation Unit. This plan must include procedures to send periodic reports to clients; the documentation of telephone messages received and sent; file maintenance; the meeting of deadlines; the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located; and, for the training and supervision of support personnel.
- b. ☒ Within \_\_\_ days/ \_\_\_ months 2 years of the effective date of the discipline herein, respondent shall submit to the Probation Unit satisfactory evidence of completion of no less than 12 hours of MCLE approved courses in law office management, attorney client relations and/ or general legal ethics. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent shall not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☒ Within 30 days of the effective date of the discipline, respondent shall join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for 5 year(s). Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit of the Office of Chief Trial Counsel in the first report required.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        Eric Tarankow

CASE NUMBER(S):        01-O-04128 (Duran), 02-O-12749 (Kagiri), 02-O-12948 (Maciel), 02-O-13749 (Benitez), 01-O-05371 (Judge Goodman), 01-O-00797 (Archuletas), 01-O-02206 (Corona), 00-O-15388 (Macharia), 02-O-15014 (SBI I), and 02-O-15267 (SBI II)

**GENERAL BACKGROUND INFORMATION, FACTS AND CONCLUSIONS OF LAW**

Eric Tarankow ("Respondent") admits that the following facts, with the exception of paragraph numbers 2 to 4, 7 to 9, 12 to 14, 133 to 141, and 166, are true and that he is culpable of violations of the following specified statutes and/or Rules of Professional Conduct.

**A.    General Background Information Relevant to All Matters**

1. Eric Tarankow ("Respondent") was admitted to the practice of law in the State of California on December 1, 1981, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California

2. Francine Diane Needles ("Needles") was admitted to the practice of law in the State of California on December 16, 1980.

3. On January 12, 2000, Needles was convicted of two-counts of violation of Title 18 U.S.C. section 1341, *i.e.*, mail fraud, in the United States District Court, Central District of California.

4. On April 17, 2000, Needles was placed on interim suspension after her conviction of mail fraud.

5. On or about September 27, 2000, Respondent notified the State Bar that he had changed his official membership address to 3350 Wilshire Boulevard, Suite 575, Los Angeles, California, 90010, which had been Needles' official membership address from September 23, 1999 to July 10, 2000. Needles operated the Law Offices of Francine Diane Needles from that address.



6. Respondent entered into an agreement with Needles to assume responsibility for her cases. Respondent then operated the Law Offices of Eric Tarankow from the address previously occupied by Law Offices of Francine Diane Needles, *i.e.*, 3350 Wilshire Boulevard, Suite 575, Los Angeles, California, 90010.

7. On or about August 1, 2001, Needles tendered her resignation with charges pending to the State Bar.

8. On or about August 29, 2001, Needles' resignation with charges pending was transmitted to the Supreme Court for the State of California ("Supreme Court").

9. On October 10, 2001, the Supreme Court accepted Needles' resignation with charges pending from the State Bar.

**B. Case No. 01-O-04128 - Duran - Facts**

10. On or about January 15, 1998, J. Gaspar Duran ("Duran") was injured while riding in a bus operated by the Los Angeles County Metropolitan Transportation Authority ("MTA"). The MTA bus was involved in a collision with another vehicle.

11. Duran employed Needles and subsequently Respondent to file suit against the MTA.

12. On or about April 17, 1998, Needles sent a letter to the claims department for the MTA informing the MTA that Needles had been employed to represent Duran.

13. On May 6, 1998, the claims department for the MTA sent a letter to Needles informing Needles that the MTA had rejected Duran's claim. The letter warned Needles that Duran had only six months to file a court action on the claim pursuant to California Government Code section 945.6.

14. On or about May 8, 1998, Needles sent a letter to the claims department for the MTA requesting a copy of the police report and an explanation for rejecting Duran's claim.

15. On or about November 8, 1998, the statute of limitations for Duran's civil action against the MTA expired.

16. On or about January 15, 1999, the statute of limitations for Duran's civil action against the other driver expired.

17. On August 2, 2001, Duran sent a letter to "Carlos Valencia, Esq." ("Valencia") at Respondent's office. The letter gave Valencia ten days to contact Duran to provide a status report on the case. The letter also requested a copy of Duran's file and information on whether a civil complaint had been filed, and if so, the case number.

18. On August 15, 2001, Respondent sent a letter to Duran that informed Duran that Valencia: was not an attorney; was the "Administrator for our Law Firm;" and normally handled Respondent's clients when Respondent was not available. Respondent also informed Duran that his "case has not been settle (sic) yet, due to the [MTA's denial of liability]" and because the driver of the other vehicle had only offered to pay Duran's medical expenses, which had not been accepted. Respondent advised Duran to immediately contact another attorney if Duran thought that Respondent had not done a "good job."

19. On September 21, 2001, Duran sent a letter to Valencia requesting a copy of his file and information as to whether a civil complaint had been filed, and if so, the case number. The letter gave Valencia ten days to contact Duran to provide the file and status report on the case.

20. Respondent did not respond to Duran's letter dated September 21, 2001 or provide a copy of Duran's file.

21. Respondent never informed Duran that a civil action had not been filed, that Duran's right to file a civil action against the MTA had expired on or about November 6, 1998, and that Duran's right to file a civil action against the other driver had expired on or about January 15, 1999.

**C. Case No. 01-O-04128 - Duran - Conclusions of Law**

22. By stating that the matter could still settle after the statute of limitations had run without filing a complaint, and intimating that Respondent had done a good job when Respondent had not worked on the matter and Needles had allowed the statute of limitations to expire, Respondent committed acts involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

23. By failing to provide status reports after receiving the letters dated August 2, 2001 and September 21, 2001, failing to inform Duran that a civil action had not been filed and failing to inform Duran that the statute of limitations had run without filing a complaint, Respondent failed to respond promptly to reasonable status inquiries of a client and failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of violated Business and Professions Code section 6068(m).

24. By failing to provide Duran with his file after receiving the letters dated August 2, 2001 and September 21, 2001, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

**D. Case No. 02-O-12749 - Kagiri - Facts**

25. In Spring 1999, Loise M. Kagiri ("Kagiri") employed Respondent to prepare and file an I-539, "Application to Extend/Change Nonimmigrant Status," and supporting documentation with the United States Department of Justice, Immigration and Naturalization Service ("INS").

26. On or about September 23, 2000, Kagiri employed Respondent to prepare and file an I-360, "Religious Lay Worker Application," and supporting documentation with the INS. Kagiri paid Respondent \$710 on September 23, 2000, *i.e.*, \$600 to prepare and file the application and \$110 for the filing fee.

27. On or about September 23, 2000, Respondent sent a letter to the INS that enclosed a Religious Lay Worker Application, "Notice of Entry of Appearance as Attorney or Representative" and \$110 processing fee for Kagiri with the INS. The Notice was signed by Respondent and Zora Malone ("Malone"), the Church Administrator for the Love Sanctuary Church of God in Christ ("Sanctuary"). The Sanctuary was the religious organization that employed Kagiri.

28. Kagiri periodically contacted Respondent and his office regarding the Religious Lay Worker Application and was always told by Respondent and his office staff that nothing had been received from the INS.

29. On or about December 9, 2000, Respondent sent a letter to Kagiri notifying her that he had not heard from the INS and that he had sent an application to the INS on her behalf for the immigration lottery as well as an inquiry to the INS regarding her Religious Lay Worker Application.

30. On or about February 9, 2001, the INS sent a "Request for Evidence" to Respondent, which requested, *inter alia*, information about the religious organization and its nonprofit status, as well as information about Kagiri's work history, membership position in the religious organization and means of support. According to the February 9, 2001 letter, the INS required the evidence by May 9, 2001.

31. On or about February 19, 2001, Respondent sent a letter to Kagiri requesting that she contact him about the request for evidence from the INS. On or about March 3, 2001, Respondent sent a letter to Kagiri indicating that she needed to respond to the request for

evidence from the INS, but that they could probably arrange for the production of the documents requested by the INS over the telephone.

32. In March 2001, Kagiri sent Respondent documents concerning her Religious Lay Worker Application, including but not limited to a letter dated March 14, 2001 from Mt. San Antonio College regarding her academic work and from Sanctuary indicating that the Sanctuary had been granted tax exempt status on January 17, 1968, exemption number 23-7002419.

33. On or about March 30, 2001, Respondent sent a follow-up letter to Kagiri that thanked her for coming into the office the prior week, but cautioned her that they still needed evidence of the tax exempt status for the Sanctuary.

34. On April 18, 2001, Kagiri faxed to Respondent a copy of a ruling from the U.S. Treasury Department, Internal Revenue Service ("IRS"), to the Sanctuary, granting it tax exempt status.

35. On April 27, 2001, Kagiri faxed to Respondent a copy of additional documents regarding the Sanctuary's tax exempt status.

36. On or about June 16, 2001, Kagiri sent a letter to Respondent directing him to seek a work permit for her from the INS.

37. On or about September 18, 2001, the INS sent a Notice of Decision to the Sanctuary with a carbon copy to Respondent stating that Kagiri's Religious Lay Worker Application had been denied because there had been no response by Respondent to the Request for Evidence sent by the INS on February 9, 2001. The notice informed the Sanctuary and Respondent that submitting the evidence and/or information would not serve to overcome the decision, but that a motion to reopen for abandonment could be filed.

38. On or about October 6, 2001, Respondent sent a letter to Malone informing him that the Notice of Decision had been denied and that it would save time and money to file a new Petition rather than a motion to reopen. Respondent enclosed a "Notice of Entry of Appearance as Attorney or Representative" for the Sanctuary with the letter. Respondent informed Malone that he would submit a new petition to the INS once Malone returned the signed petition and notice of appearance.

39. In October 2001, Kagiri called Respondent's office to inquire as to the status of her immigration proceeding and to set up a meeting with Respondent. Kagiri met with Respondent in or about October 2001 to discuss her cases. Respondent apologized for the delay, promised to file another application and to pay the fee for that application.

40. On or about October 28, 2001, Respondent sent a letter to Kagiri to respond to her inquiry that informed her that he was filing the application on her behalf with the Sanctuary, that it would be another 20 days before he received the receipt from the INS, and that he needed two green card size color photographs of her for her lottery application.

41. In late October 2001 or early November 2001, Kagiri sent a letter to Respondent enclosing the photographs and requesting a status report on the application. On or about November 3, 2001, Respondent sent a letter to Kagiri thanking her for her letter and asking her to be patient concerning her application.

42. In late 2001 or early 2002, Kagiri repeated called Respondent's office and requested to speak with Respondent to discuss the preparation and filing of an Application for Employment Authorization to obtain a work permit for Kagiri. However, Respondent would not accept telephone calls from Kagiri or schedule a meeting with her.

43. On or about February 23, 2002, Kagiri went to Respondent's office without an appointment to meet with him. Although Respondent was in the office, she was told that he would not meet with her because she did not have an appointment. After waiting for two hours, a secretary told Kagiri that she would fill out the I-765, Application for Employment Authorization aka a green card, for Kagiri. The secretary told Kagiri that the application required two passport photographs and a check for the \$100 filing fee to the INS.

44. On or about February 23, 2002, Respondent sent a letter to the INS enclosing a Notice of Entry of Appearance as Attorney or Representative, the application and the \$100 filing fee.

45. Respondent did not communicate with Kagiri after February 23, 2002, or take any of the necessary steps to process her INS applications.

46. On or about March 23, 2002, the INS sent a letter to Respondent rejecting the Application for Employment Authorization because the filing fee for the application had been increased to \$120.

47. Respondent did not notify Kagiri or the Sanctuary that the Application for Employment Authorization had been rejected or resubmit the application with the appropriate filing fee.

48. On August 26, 2002, Kagiri sent a letter to Respondent complaining that she had not heard from him since February 23, 2002 concerning her application and therefore requested a copy of her file and that he discontinue working on her applications.

49. Respondent never provided Kagiri with a copy of her file after she requested on August 26, 2002.

50. Respondent did not earn all of the advanced fee paid by Kagiri, in part, because each of the applications were rejected without being processed by the INS because Respondent did not properly prepare, file and/or follow-up the application.

51. At no time did Respondent refund any of the unused advanced fees paid by Kagiri.

**E. Case No. 02-O-12749 - Kagiri - Conclusions of Law**

52. By failing to send to the INS the evidence it requested by letter dated February 9, 2001, abandoning the Religious Lay Worker Application, failing to file a motion to reopen the Religious Lay Worker Application, failing to timely file the Application for Employment Authorization, and failing to enclose the correct filing fee with the Application for Employment Authorization, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

53. By failing to inform Kagiri that he had not send to the INS the evidence it requested by letter dated February 9, 2001 and that her Application for Employment Authorization had been rejected by the INS because of an incorrect filing fee, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

54. By allowing the Religious Lay Worker Application to be rejected by the INS because of the failure to provide the evidence requested by the INS and not taking any action to reinstate the application , allowing the Application for Employment Authorization to be rejected by the INS because of an incorrect filing fee and not taking any action to reinstate the application or inform Kagiri that the application had been rejected, Respondent failed upon termination of employment to take reasonable steps to avoid reasonably foreseeable prejudice to his client in violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

55. By accepting \$710 to prepare and file a Religious Lay Worker Application, failing to properly file the application and supporting documentation, failing to refund at least part of the \$710 that had been paid to file the application, and then failing to properly file the Application for Employment Authorization, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of Rules of Professional Conduct, rule 3-700(D)(2).

**F. Case No. 02-O-12948 - Maciel - Facts**

56. On or about November 19, 2001, Magdalena Maciel (“Magdalena”) and her brother, Christian Maciel (“Christian”) hired Respondent to represent another brother, Jose Maciel (“Maciel”) in an appeal of his criminal conviction in *People v. Jose Maciel aka Jose Maria Martinez*, Los Angeles Superior Court Case No. B155606 (“*People v. Maciel*”). Magdalena and Christian paid Respondent \$3,000 of the \$15,000 attorney fee, Respondent quoted them, to prosecute the appeal.

57. On November 21, 2001, Respondent sent a letter to Magdalena that acknowledged that their agreement guaranteed that he would appear at every court appearance. The letter further acknowledged receipt of \$3,000 of the \$15,000 attorney fee to prosecute the appeal, but claimed that none of the payments would be refundable.

58. Respondent never informed the Court of Appeal, Second Appellate District (“Court of Appeal”), that he was the attorney of record for Maciel in *People v. Maciel*.

59. On or about January 9, 2002, a notice of appeal was filed on behalf of Maciel in *People v. Maciel* by his trial attorney, George Kelly (“Kelly”).

60. On or about January 9, 2002, the Court of Appeal sent a notice to Maciel informing him of his right to counsel along with a financial affidavit. On or about January 25, 2002, the notice and affidavit were returned by the U.S. Post Office.

61. On January 26, 2002, Respondent sent a letter to Magdalena that informed her that she and Christian needed to file an appeal on behalf of Maciel and to provide a copy of his “file” as soon as possible. Respondent also informed her and Christian to contact Valencia with questions or concerns, because “he is the one who is handling [her brother’s] case.”

62. Magdalena and Christian obtained a copy of the court file and trial transcripts from Kelly. Christian delivered the documents to Respondent’s office. Respondent never informed Magdalena or Christian that Maciel would receive a free copy of the appellate record, including the court file and trial transcripts.

63. On or about February 1, 2002, the Court of Appeal re-sent the notice of right to counsel and a financial affidavit to Maciel.

64. Maciel received the notice of right to counsel and financial affidavit. Maciel transmitted the documents to Magdalena and Christian.

65. Magdalena and Christian contacted Respondent's office by telephone after they received the notice of right to counsel and financial affidavit from Maciel. They were told by Valencia that Respondent would take care of it.

66. On or about February 21, 2002, the Court of Appeal re-sent the financial affidavit to Maciel.

67. Maciel received the notice of right to counsel and transmitted it to Magdalena and Christian.

68. Christian hand-delivered the financial affidavit to Valencia after receiving it from Maciel. Valencia told him that Respondent had already "taken care of it" and "don't worry."

69. On April 24, 2002, the Court of Appeal dismissed the appeal as abandoned for failure to respond to the Court's January 9, February 1, and February 21, 2001 notices.

70. In late April or early May, 2002, Maciel informed Magdalena and Christian by telephone that his appeal had been dismissed. In May 2002, Magdalena and Christian received the notice of dismissal from Maciel.

71. Magdalena called the Court of Appeal upon receipt of the notice of dismissal from Maciel and was told by a clerk that Respondent had never contacted the court or filed a substitution of attorney or any other documents or pleadings on Maciel's behalf.

72. On or about May 6, 2002, Magdalena sent a letter to Respondent that terminated Respondent's employment of Maciel for not responding to the two documents repeatedly provided to him from the Court of Appeals, which resulted in the dismissal of Maciel's appeal by the Court of Appeal. The letter requested that Respondent return all of all files regarding the representation and a cancellation of any amounts due under the attorney fee agreement as there had been no progress on the case.

73. Thereafter, Magdalena and Christian sought assistance from the Los Angeles Office of the California Appellate Project ("CAP"). On May 24, 2002, CAP sent a letter to the Court of Appeal requesting that Maciel's appeal be reinstated. The Court of Appeal vacated the dismissal and reinstated the appeal.

74. On June 24, 2002, Magdalena sent another letter to Respondent reiterating Respondent's termination of employment. The letter again requested that Respondent return all of all files regarding the representation.



75. Respondent did not return Maciel's file or refund any portion of the \$3,000 paid by Magdalena and Christian on Maciel's behalf.

76. Respondent did not earn all of the \$3,000 in advanced fees paid by Magdalena and/or Christian on behalf of Maciel.

77. At no time did Respondent refund any of the unused advanced fees paid by Magdalena and/or Christian on behalf of Maciel.

78. On or about June 14, 2002, the State Bar opened an investigation, case no.02-O-12948, pursuant to a complaint filed by Magdalena ("the Maciel matter").

79. On or about September 18, 2002, State Bar Investigator Lisa Foster wrote to Respondent again regarding the Maciel matter.

80. The September 18, 2002 letter was placed in sealed envelope correctly addressed to Respondent's counsel Stanley Z. White ("White") at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service in the ordinary course of business on or about the date of the letter. The United States Postal Service did not return the September 18, 2002 letter as undeliverable or for any other reason.

81. The September 18, 2002 letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Maciel matter. Respondent's counsel did not respond to the letter.

82. On or about October 15, 2002, State Bar Investigator Lisa Foster again wrote to Respondent again regarding the Maciel matter.

83. The October 15, 2002 letter was placed in sealed envelope correctly addressed to Respondent's counsel at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service in the ordinary course of business on or about the date of the letter. The United States Postal Service did not return the October 15, 2002 letter as undeliverable or for any other reason.

84. The October 15, 2002 letter attached a copy of the September 18, 2002 letter and requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Maciel matter. Respondent's counsel did not respond to the letter.

**G. Case No. 02-O-12948 - Maciel - Conclusions of Law**

85. By failing to inform Maciel, Magdalena and/or Christian that Respondent had failed to file a financial affidavit, failed to respond to the notices and affidavits sent by the Court of Appeal and failed to prosecute the appeal, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

86. By failing to file a substitution of attorney, failing to file a financial affidavit, failing to respond to the notices and affidavits sent by the Court of Appeal, failing to prosecute the appeal, failing to inform Maciel, Magdalena and/or Christian that the appellate record could be obtained free of cost, allowing the appeal to be dismissed, and failing to communicate with Maciel, Magdalena and/or Christian, Respondent intentionally, recklessly, and/or repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

87. By accepting \$3,000 to prosecute Maciel's appeal, failing to take any steps to prosecute the appeal, and then failing to refund the \$3,000 that had been paid to prosecute the appeal, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

88. By not providing a written response to the allegations in the Maciel matter or otherwise cooperating in the investigation of the Maciel matter, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code section 6068(i).

**H. Case No. 02-O-13749 - Benitez - Facts**

89. In June 2002, Raphael Padilla ("Padilla") was detained by law enforcement in relation to an immigration matter.

90. On or about June 26, Padilla's girlfriend, Susana Benitez ("Benitez"), called Respondent's law office and spoke with Valencia. Valencia told Benitez that he was Respondent's assistant and encouraged her to come in to Respondent's office to discuss Padilla's case.

91. On or about June 26, 2002, Benitez met with Valencia at Respondent's office. Valencia told Benitez that for \$3,500, Respondent could "re-open" Padilla's case, "clean" his record, "reactivat[e]" his work permit and cancel any deportation proceedings. Benitez gave Valencia the \$500 that she had with her and promised to pay the remainder.

92. Valencia told Benitez that she would receive either a \$250 credit on the amount that she owed or a \$250 payment for referring clients to Respondent's law office.

93. On or about June 27, 2002, Valencia called Benitez and told her that Padilla's bail had been set at \$5,000. Benitez told Valencia that she did not have \$5,000, and so Valencia told her that if she brought in \$2,500, he would have Padilla released in two and a half days.

94. On or about June 28, 2002, Benitez gave Valencia \$2,500 in cash. Valencia told her that Respondent had already advanced to the INS a check for Padilla's bail of \$5,000.

95. On or about Wednesday, July 3, 2002, Benitez called Valencia because Padilla had not been released. Valencia told Benitez that obtaining Padilla's release was not easy and that she would have to be patient. Benitez then demanded a refund of the \$3,000 that she had given Valencia. Valencia responded that a refund of only \$1,000 would be provided on Monday, July 8, 2003.

96. On or about July 6, 2002, Benitez contacted Millennium Bail Bonds ("Millennium") regarding posting bail for Padilla and was told that bail had not been set. An employee of Millennium called Valencia and secured Valencia's agreement to refund \$2,000.

97. On July 8, 2002, Benitez met with Valencia and was provided with a refund of \$2,500. Benitez demanded a refund of the \$3,000 and a copy of Padilla's file. Valencia told Benitez that he would try to obtain a refund of the remaining \$500, but that they had done the paperwork and gone to the INS. Valencia did not provide Benitez with a copy of Padilla's file.

98. No one from Respondent's office contacted Benitez after July 8, 2002.

99. Respondent provided no services to Padilla with respect to the immigration matter. Respondent did not earn any of the advanced fees paid by Benitez on behalf of Padilla and only refunded \$2,500 of the \$3,000 paid by Benitez.

100. On or about July 16, 2002, the State Bar opened an investigation, case no.02-O-12749, pursuant to a complaint filed by Benitez ("the Benitez matter").

101. On or about September 18, 2002, State Bar Investigator Lisa Foster wrote to Respondent again regarding the Benitez matter.

102. The September 18, 2002 letter was placed in sealed envelope correctly addressed to Respondent's counsel White at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service in the ordinary course of business on or about the date of the

letter. The United States Postal Service did not return the September 18, 2002 letter as undeliverable or for any other reason.

103. The September 18, 2002 letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Benitez matter. Respondent's counsel did not respond to the letter.

104. On or about October 15, 2002, State Bar Investigator Lisa Foster wrote to Respondent again regarding the Benitez matter.

105. The October 15, 2002 letter was placed in sealed envelope correctly addressed to Respondent's counsel at his State Bar of California membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service in the ordinary course of business on or about the date of the letter. The United States Postal Service did not return the October 15, 2002 letter as undeliverable or for any other reason.

106. The October 15, 2002 letter attached a copy of the September 18, 2002 letter and requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Benitez matter. Respondent's counsel did not respond to the letter.

**I. Case No. 02-O-13749 - Benitez - Facts**

107. By telling Benitez that Padilla's bail had been set at \$2,500 when bail had not been set, by informing Benitez that Respondent had sent a check for \$5,000 to the INS for Padilla's bail when no money had been sent, and by telling Benitez that Respondent's office had gone to the INS when no work had been done, Respondent committed acts involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

108. By not refunding all of the money paid by Benitez, Respondent failed to refund unearned fees in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

109. By failing to supervise Valencia, Respondent intentionally, recklessly and/or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

110. By allowing Valencia to have unsupervised contact with clients, allowing Valencia to enter into agreements employing Respondent, and allowing Valencia to make agreements with clients that Respondent could not honor, Respondent aided Valencia in the unauthorized practice of law in violation of rule 1-300(A) of the Rules of Professional Conduct.

111. By not providing a written response to the allegations in the Benitez matter or otherwise cooperating in the investigation of the Benitez matter, Respondent failed to cooperate in a disciplinary investigation in violation of Business and Professions Code section 6068(i).

**J. Case No. 01-O-05371 - Judge Goodman - General Background Information**

112. On or about October 26, 2001, E & S Ring Management Corporation ("E & S") filed an unlawful detainer complaint against VIP Services ("VIP"), case number 01A01044 ("first unlawful detainer complaint"). The first unlawful detainer complaint sought possession of the premises located at 13911 Old Harbor Lane #207, Marina Del Rey, California 90292. The first unlawful detainer complaint was prepared by counsel for E & S, Kimball, Tirey & St. John.

113. On or about October 26, 2001, the first unlawful detainer complaint was set for an initial status conference on November 20, 2001 at 8:30 a.m. before the Honorable Allan J. Goodman ("Judge Goodman").

114. On or about October 29, 2001, E & S filed a second unlawful detainer complaint against VIP, case number 01A01052 ("second unlawful detainer complaint"). The second unlawful detainer complaint sought possession of the premises located at 4626 Via Marina #109, Marina Del Rey, California 90292.

115. On or about October 29, 2001, the second unlawful detainer complaint was set for an initial status conference on November 29, 2001 at 8:30 a.m. before Judge Goodman.

**K. Case No. 01-O-05371 - Judge Goodman - Facts**

116. On or about November 2, 2001, Eduardo Cuomo ("Cuomo") filed an answer to the first unlawful detainer complaint on behalf of VIP. Cuomo was the President of VIP.

117. On or about November 9, 2001, Cuomo retained Respondent to represent VIP in defending the two unlawful detainer complaints. Cuomo, on behalf of VIP, paid Respondent between \$100 and \$300 to represent VIP in the two complaints.

118. On or about November 9, 2001, Cuomo and Respondent executed a Substitution of Attorney substituting Respondent as attorney of record for VIP in the first unlawful detainer complaint. The Substitution of Attorney was filed with the court on November 9, 2001.

119. On or about November 9, 2001, Respondent filed an answer to the second unlawful detainer complaint on behalf of VIP.

120. On November 20, 2001, neither counsel for E & S nor Respondent appeared for the initial status conference before Judge Goodman on the first unlawful detainer complaint. Judge Goodman set the first matter for a court trial on December 14, 2001 at 8:30 a.m.

121. On November 20, 2001, the court notified Respondent of the December 14, 2001 trial date. The notification was received by Respondent at his official membership address, *i.e.*, 3350 Wilshire Boulevard Suite 575, Los Angeles, California 90010 ("official membership address").

122. On November 29, 2001, neither counsel for E & S nor Respondent appeared for the initial status conference before Judge Goodman on the second unlawful detainer complaint. Judge Goodman set the second matter for a court trial on December 13, 2001 at 8:30 a.m.

123. On November 29, 2001, the court notified Respondent of the December 13, 2001 trial date on the second unlawful detainer complaint. The notification was received by Respondent at his official membership address.

124. On or about November 29, 2001, the court notified Respondent that VIP's \$89 answer fee had been returned for non-sufficient funds. The court further notified Respondent that VIP was required to redeem the returned check by cashier's check or money order on or before December 19, 2001.

125. On December 13, 2001, counsel for E & S, Danielle Kussler ("Kussler"), witnesses for E & S, and Cuomo appeared for the trial of the second unlawful detainer complaint. Respondent did not appear even though he had received notice of the trial. Consequently, Judge Goodman continued the matter until December 14, 2001, as the parties were scheduled to appear on for trial of the first unlawful detainer complaint on December 14<sup>th</sup>.

126. On December 13, 2001, Cuomo called Respondent's office on three occasions to discuss Respondent's failure to appear at the trial of the second unlawful detainer matter and the upcoming trial of the first unlawful detainer matter on December 14<sup>th</sup>. Cuomo was unable to contact Respondent.

127. On December 14, 2001, Kussler, witnesses for E & S, and Cuomo appeared for the trial. Respondent did not appear even though he had received notice of the trial of the first unlawful detainer complaint. Consequently, Judge Goodman continued the matter until December 20, 2001, to allow Cuomo to obtain a new attorney after Cuomo informed Judge Goodman that Cuomo had been unable to contact Respondent and had consulted a new attorney.

**L. Case No. 01-O-05371 - Judge Goodman - Conclusions of Law**

128. By failing to appear for the trial of the second unlawful detainer complaint on December 13, 2001, and to inform Cuomo that he would be unavailable on December 13, 2001, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

129. By failing to appear for the trial of the first unlawful detainer complaint on December 14, 2001, and to inform Cuomo that he would be unavailable of December 14, 2001, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct

130. By failing to appear for trial on December 13, 2001, and to inform Cuomo that he would be unavailable on December 13, 2001, Respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

131. By failing to appear for trial on December 14, 2001, and to inform Cuomo that he would be unavailable on December 14, 2001, Respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

132. By failing to inform Cuomo that he would be unavailable of December 13 and 14, 2001, and failing to return telephone calls made by Cuomo on December 13, 2001, Respondent failed respond promptly to reasonable status inquiries of a client in violation of Business and Professions Code section 6068(m).

**M. Case No. 01-O-00797 - Archuletas - Background Information**

133. Miguel Archuleta and Gregorian Llanes are married. They have at least one child, Rosario Gabriela Archuleta.

134. On or about March 9, 1999, Miguel Archuleta, Gregorian Llanes and Rosario Gabriela Archuleta (the "Archuletas") employed Needles to prosecute an immigration case them. The Archuletas agreed to pay Needles \$2,500 for Miguel Archuleta, \$2,500 for Gregorian Llanes and \$1,500 for Rosario Gabriela Archuleta, or a total of \$6,500. The Archuletas paid Needles a retainer of \$1,300 and agreed to pay a balance of \$5,200.

135. The Archuletas made payments to Needles on the immigration case as follows:

DATE	AMOUNT	BALANCE
March 20, 1999	\$500	Not credited to account
April 15, 1999	\$500	\$4,700
May 15, 1999	\$100	\$4,600
June 15, 1999	\$100	\$4,500
July 15, 1999	\$100	\$4,400
August 16, 1999	\$100	\$4,300
September 15, 1999	\$100	\$4,200
October 15, 1999	\$100	\$4,100
November 15, 1999	\$100	\$4,000
December 15, 1999	\$100	\$3,900

136. Needles continued to accept payment from the Archuletas on the immigration case after her conviction of Title 18 U.S.C. section 1341, *i.e.*, mail fraud, on January 12, 2000, as follows:

DATE	AMOUNT	BALANCE
January 17, 2000	\$100	\$3,800
February 15, 2000	\$100	\$3,700
March 15, 2000	\$100	\$3,600
March 18, 2000	\$500	Not credited to account.



137. Needles continued to accept payment from the Archuletas on the immigration case after she had been placed on interim suspension on April 17, 2000, as follows:

DATE	AMOUNT	BALANCE
April 17, 2000	\$100	\$3,500
May 15, 2000	\$100	\$3,400
June 16, 2000	\$100	\$3,300
July 17, 2000	\$100	\$3,200
August 15, 2000	\$100	\$3,100

138. Needles started to accept payment from the Archuletas on a second matter involving the Archuletas' residency status ("residency matter") after she had been placed on interim suspension as follows:

DATE	AMOUNT	BALANCE
April 17, 2000	\$500	\$3,000
May 15, 2000	\$500	\$2,500
June 16, 2000	\$300	\$2,200
July 17, 2000	\$500	\$1,700
August 15, 2000	\$300	\$1,400

139. On September 15, 2000, the Archuletas made a payment of \$100 on the immigration case to an unidentified payee, reducing the balance owed on the immigration case to \$3,000. The payment was accepted by the same employee who accepted the past payments, Sonia Jimenez ("Jimenez"), and the Receipt was taken from the same booklet used for recent receipts. However, Needles' name and address had not been hand-stamped in the "Notes" section of the receipt as in prior receipts and Respondent's name and address had not been hand-stamped in the "Notes" section of the receipt as in future receipts.

140. On September 15, 2000, the Archuletas made a payment of \$400 on the residency matter to an unidentified payee, reducing the balance owed on the residency matter to \$1,000. The payment was accepted Jimenez and the receipt was taken from the same receipt booklet used for recent receipts. However, Needles' name and address had not been hand-stamped in the

"Notes" section of the receipt as in prior receipts and Respondent's name and address had not been hand-stamped in the "Notes" section of the receipt as in future receipts.

141. On or about September 27, 2000, Respondent notified the State Bar that he had changed his official membership address to 3350 Wilshire Boulevard, Suite 575, Los Angeles, California, 90010, which had been Needles' official membership address from September 23, 1999 to July 10, 2000. Respondent agreed to assume responsibility for Needles' cases, including but not limited to the Archuletas' cases.

**N. Case No. 01-O-00797 - Archuletas - Facts**

142. Respondent accepted payments from the Archuletas on the immigration case after he assumed responsibility for the Archuletas' cases as follows:

DATE	AMOUNT	BALANCE
October 16, 2000	\$100	\$2,900
November 15, 2000	\$100	\$2,900
December 16, 2000	\$150	\$2,650

143. The Archuletas paid Respondent at least \$350 on the immigration case after he assumed responsibility for the case.

144. Respondent accepted payments from the Archuletas on the residency matter after he assumed responsibility for Needles' cases as follows:

DATE	AMOUNT	BALANCE
October 16, 2000	\$400	\$600
November 15, 2000	\$600	\$0

145. The Archuletas paid Respondent at least \$1,000 on the residency matter after he assumed responsibility for the case.

146. Respondent received at least \$1,350 from the Archuletas between October 16, 2000 and December 16, 2000.

147. On or about December 5, 2000, Respondent sent a one-page letter to the Consulate General of Mexico on behalf of the Archuletas requesting documents necessary to prepare an immigration request to the U.S. Department of Justice, Immigration and Naturalization Service.

148. The letter dated December 5, 2000, is the only document prepared by Respondent on behalf of the Archuletas.

149. On or about January 15, 2001, Miguel Archuleta went to Respondent's law office and spoke with an employee of Respondent, Carlos Valencia ("Valencia"). Miguel Archuleta told Valencia that he was frustrated by the lack of progress on the Archuletas' cases, declined to make another payment on the immigration case and requested that Respondent contact him to discuss the status of the cases.

150. Respondent did not contact the Archuletas.

151. On or about February 15, 2001, Miguel Archuleta went to Respondent's law office and spoke with Valencia. Valencia told Miguel Archuleta that Respondent was working on the Archuletas' cases. Miguel Archuleta told Valencia that he was frustrated by the lack of progress on the Archuletas' cases and demanded a complete refund of all legal fees paid to Respondent and Needles.

152. Respondent did not refund the Archuletas' unearned legal fees or contact the Archuletas

153. On or about September 19, 2001, the Archuletas filed a Notice of Hearing before the Committee of Arbitration of the Los Angeles County Bar Association, Dispute Resolution Services, County of Los Angeles, State of California, against Respondent and Needles ("Fee Arbitration").

154. On or about September 20, 2001, the Archuletas filed a small claims action in the Los Angeles Municipal Court against Respondent and Needles, Case Number 01M17703.

155. On or about September 29, 2001, Respondent sent a letter to the State Bar stating that he (a) had "no knowledge" of the Archuletas, (b) did not believe that he ever met the Archuletas in his office, (c) did not believe that he had received directly from the Archuletas any amount of money, (d) did not personally sign any Receipt for money received from the Archuletas, and (e) had no contact with Needles about the Archuletas' matter.

156. The Fee Arbitration was cancelled after it was determined that the Archuletas had filed suit a small claims action against Respondent and Needles.

157. On or about October 23, 2001, the Archuletas' small claims action against Respondent and Needles was heard by the Honorable Linda P. Elliott, Commissioner Presiding ("Commissioner Elliott"). Commissioner Elliott found in favor of the Archuletas and ordered Respondent to pay \$1,650 to the Archuletas. Respondent promised Commissioner Elliott that he would pay the Archuletas \$1,650 on or before November 2, 2001. Commissioner Elliott continued the action to November 6, 2001, to allow Respondent to pay the Archuletas. Commissioner Elliott held that the matter would be dismissed if no appearances were made on November 6, 2001.

158. Respondent did not pay \$1,650 to the Archuletas on or before November 2, 2001, as he had promised Commissioner Elliott.

159. On November 6, 2001, a \$1,650 cashier's check payable to the Archuletas was purchased from Washington Mutual.

160. On November 7, 2001, a letter from Respondent's law office dated November 5, 2001, containing the \$1,650, was mailed to the Archuletas. In the November 5, 2001 letter, Respondent's legal assistant, Alma Veronia Spencer, admitted that:

"[Respondent] took all the cases that Francine Diane Needles' had, and she as well as us in good faith are attempting to resolve this situation, if you are interested in reaching an agreement for the rest of the money, call us to make arraignments ..."

161. Respondent provided no services to the Archuletas, the Archuletas demanded repayment of the legal fees that they had paid to Respondent, and the Archuletas were required to pursue a small claims action against Respondent to compel Respondent to refund \$1,650 in unearned legal fees.

**O. Case No. 01-O-00797 - Archuletas - Conclusions of Law**

162. By only sending one letter on the Archuletas' case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

163. By charging and/or collecting at least \$1,350 to assist the Archuletas, by failing to provide any legal services to the Archuletas, by failing to refund unearned legal fees of at least \$1,350 to the Archuletas, and by requiring that the Archuletas pursue a small claims action against Respondent to compel Respondent to refund unearned legal fees of \$1,650, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

**P. Case No. 01-O-02206 - Corona - Facts**

164. On April 6, 2001, Bhupesh Parikh ("Parikh") filed an unlawful detainer complaint against Elena Corona and Roberto Corona (the "Coronas") entitled *Bhupesh Parikh v. Roberto Corona & Elena Corona*, Case Number 01U07481 ("unlawful detainer proceeding"). The unlawful detainer complaint was personally served on April 9, 2001 and served by mailed on April 10, 2001.

165. On or about April 12, 2000, Elena Corona went to Respondent's office located at 3350 Wilshire Boulevard, Suite 575, Los Angeles, California, 90010, in search of the Law Offices of Francine Diane Needles.

166. Elena Corona is disabled and has limited English proficiency.

167. When Elena Corona arrived at Respondent's law office, she was told by an individual who identified herself as Respondent's secretary that Needles had moved out of the office, but that Respondent's office would be able to assist her in an unlawful detainer proceeding that had been brought against her.

168. Elena Corona was introduced to an individual who identified himself as an employee of Respondent, Carlos Valencia ("Valencia"), who told her that he was an attorney.

169. Elena Corona paid Respondent's office \$730 dollars to represent her in the unlawful detainer proceeding.

170. Valencia drafted an Answer to the unlawful detainer proceeding and filed it on April 12, 2001. Although Valencia had prepared the Answer, the Answer indicated that Elena Corona and Roberto Corona were "In Pro-Per" and was signed by Elena Corona and Roberto Corona. Furthermore, although Valencia had prepared the Answer and signed the proof of service, his name was not set forth as having provided "advice or assistance" in the "unlawful detainer assistant" section of the Answer as required by Business and Professions sections 6400 through 6415.

171. On April 18, 2001, a notice of trial was mailed setting the trial for May 3, 2001, at 8:30 a.m.

172. On May 3, 2001, the trial on the unlawful detainer proceeding was conducted before the Honorable James Winetrobe, Judge Pro Tem Presiding (Judge Winetrobe). Valencia was sworn in as the "Spanish Interpreter" for the Coronas. Judge Winetrobe found in favor of Parikh and granted possession of the property to him.

173. The Coronas lost the unlawful detainer proceeding in part because Respondent's office failed to assert as a defense that the unlawful detainer proceeding had been initiated by Parikh in retaliation for the Coronas' complaint that the property was uninhabitable.<sup>1</sup>

174. In May and June 2001, the Coronas placed approximately half-a-dozen telephone calls to Respondent's office to complain to Respondent that their case had been mishandled and that they wanted their money back, but were told by Respondent's secretary and Valencia that Respondent was not in the office. When the Coronas demanded that Respondent return the \$730 that they had paid, Valencia told them that Respondent knew about their complaints, that there was nothing that they could do and that it was "a losing battle" to fight against an attorney, especially because the Coronas had not been provided a receipt for the \$730 that they had paid. The Coronas asked Respondent's secretary and Valencia to ask Respondent to return their telephone calls at the conclusion of each conversation.

175. The half-a-dozen messages that Robert Corona and Elena Corona left for Respondent to call them in May and June 2001 with Respondent's secretary and Valencia were not returned by Respondent.

176. In May 2001, Cristina Rico, a Housing Discrimination Coordinator from Housing Rights Center ("Rico"), called Respondent's office and spoke with Valencia on behalf of Elena Corona. Rico requested a refund of the \$730 that the Coronas paid Respondent's office to represent the Coronas them in the unlawful detainer proceeding.

177. In May 2001, Rico called Respondent's office and spoke with Valencia a second time on behalf of Elena Corona. Valencia refused to refund the \$730 that the Coronas had paid or to provide a receipt for the money that they had paid.

178. On or about May 16, 2001, Elena Corona sent a letter to Respondent that complained about the lack of assistance provided by Respondent's office, Respondent's failure to accept her telephone calls, Respondent's failure to return her telephone calls, and Respondent's refusal to refund the \$730 that she had paid.

179. Respondent never responded to Elena Corona's letter dated May 16, 2001.

180. Respondent did not earn all of the advanced fees paid by the Coronas.

181. At no time did Respondent refund any of the unused advanced fees paid by the Coronas.

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<sup>1</sup> See Civil Code section 1942.5.

**Q. Case No. 01-O-02206 - Corona - Conclusions of Law**

182. By failing to provide services by a licensed attorney, failing to supervise his staff, allowing non-attorneys to provide legal services, failing to assert that the rental property was uninhabitable, failing to accept telephone calls and failing to return telephone calls, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

183. By failing to accept the telephone calls made by the Coronas and failing to return the telephone messages left by the Coronas, Respondent failed respond promptly to reasonable status inquiries of a client in violation of Business and Professions Code section 6068(m).

184. By collecting \$730, allowing non-attorneys to provide legal services, failing to assert that the rental property was uninhabitable and then failing to refund any portion of the \$730 paid by the Coronas, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct

185. By failing to supervise his staff, permitting his office staff to refer to Valencia as an attorney and permitting Valencia to hold himself out as an attorney, Respondent intentionally aided a person in the unauthorized practice of law in violation of rule 1-300(A) of the Rules of Professional Conduct.

**R. Case No. 00-O-15388 - Macharia - Facts**

186. Jane W. Macharia, Joseph M. Macharia and Kevin Maiako (the "Macharias") are natives and citizens of Kenya, who were admitted as visitors to the United States on or about April 9, 1989.

**R-1. Macharia - The Application for Alien Employment Certification**

187. In 1995, the Macharias retained Respondent to represent Jane Macharia in a priority an Application for Alien Employment Certification with the Employment Development Department of the State of California ("EDD").

188. The Macharias paid Respondent \$4,000 to represent Jane Macharia in her Application for Alien Employment Certification.

189. On or about February 14, 1996, Hank Hernandez, the Manager of the Alien Labor Certification Office of the EDD ("EDD Manager") sent a letter entitled "Assessment Notice" to Respondent, which required Respondent to submit responses to the EDD on behalf of Jane

Macharia for the Employment Certification. The notice advised Respondent that Jane Macharia's response must be postmarked by March 31, 1996 or the application would be returned and Jane Macharia would lose her priority status.

190. Respondent did not inform the Macharias that Jane Macharia was required to submit responses to the Assessment Notice to the EDD

191. Respondent did not submit responses to the Assessment Notice on behalf of Jane Macharia to the EDD.

192. On or about February 14, 1996, the EDD Manager sent a letter entitled "Cancellation Notice" to Respondent, which informed Respondent that he had failed to submit responses of behalf of Jane Macharia, her priority date had been canceled and her Application for Alien Employment Certification was being returned.

193. Respondent did not inform the Macharias that Jane Macharia's Application for Alien Employment Certification had been cancelled and returned for failure to submit responses.

194. On or about April 15, 1996, the EDD Manager sent another letter entitled "Cancellation Notice" to Respondent. Respondent forwarded a copy of the April 15, 1996 letter from the EDD to the Macharias by letter dated April 19, 1996.

195. Respondent concealed from the Macharias that the Application for Alien Employment Certification had been cancelled and returned because he had failed to submit responses.

## **R-2. Macharia - The Asylum Application**

196. In or around 1996, the Macharias retained Respondent to represent them in their asylum application to the U.S. Department of Justice, Immigration and Naturalization Service ("INS").

197. Respondent agreed to provide the Macharias with a \$2,500 credit towards payment for the asylum application from the \$4,000 payment that the Macharias had made for the failed Application for Alien Employment Certification. The Macharias paid Respondent an additional amount of approximately \$1,000 to represent additional them on the asylum application (for a total of approximately \$5,000).

198. On or about March 12, 1998, a "Notice to Appear in Removal Proceedings" was served by the INS on the Macharias for a hearing on May 18, 1998.



199. Prior to the hearing, Respondent submitted documents which reflected unfavorable conditions in Kenya.

200. On or about May 18, 1998, the Macharias appeared with Respondent at a hearing before an Immigration Judge. The Macharias requested for asylum at the hearing or in the alternative sought voluntary departure.

201. The Immigration Judge permitted Respondent until March 26, 1999, to file a supplementary brief and documents on behalf of the Macharias. The Immigration Judge set a Merits Hearing for May 27, 1999.

202. Respondent advised the Macharias that he would file all necessary documents to support their application for asylum for the Merits Hearing on May 27, 1999, but did not explain that the Immigration Judge would enter his decision on the Macharias application for asylum based upon the evidence presented at the Merits Hearing.

203. The Macharias spoke with Respondent approximately one-week prior to the Merits Hearing on May 27, 1999, at which time Respondent indicated that he would appear and represent them.

204. Respondent did not submit supplemental briefs, affidavits, declarations or documents on behalf of the Macharias prior to the Merits Hearing.

205. On May 27, 1999, the Macharias appeared for the Merits Hearing. Respondent did not appear for the hearing. Although Respondent did not appear, the Immigration Judge conducted the Merits Hearing.

206. After Merits Hearing, the Immigration Judge entered an order denying the Macharias' application for asylum or in the alternative for voluntary departure.

207. On or about April 21, 2000, Respondent filed a two-page appellate brief on behalf of the Macharias to contest the order entered by the Immigration Judge denying the Macharias' application for asylum or in the alternative for voluntary departure. The appellate brief did not contest the Immigration Judge's order denying the Macharias' application for asylum or in the alternative for voluntary departure, or cite any legal authority, documentary evidence or learned treatises to support the Macharias' request for an 11-month voluntary departure.

208. The Macharias terminated Respondent and retained Duane M. Hamilton of Chow & Hamilton ("Hamilton") to represent them in their asylum application with the INS.

209. On or about August 16, 2000, Hamilton sent a letter to Respondent requesting that Respondent transmit the Macharias' file to Hamilton. Hamilton's August 16<sup>th</sup> letter notified Respondent that the Macharias were filing a supplemental appeal and were considering action against him for malpractice.

210. On or about August 30, 2000, Hamilton sent a letter to Respondent requesting that Respondent transmit the Macharias' file to Hamilton.

211. On or about August 30, 2000, Hamilton spoke with Respondent who agreed to transmit the Macharias' file to Hamilton.

212. On or about September 5, 2000, Hamilton sent a letter to Respondent requesting that Respondent transmit the Macharias' file to Hamilton.

213. On or about September 11, 2000, Respondent sent a letter to Hamilton acknowledging receipt of Hamilton's letter dated August 16, 2000. Respondent informed Hamilton that Respondent had just moved his office and requested until September 20, 2000 to provide the files.

214. On or about September 12, 2000, Hamilton sent a letter to Respondent requesting that Respondent transmit the Macharias' file to Hamilton.

215. Respondent did not transmit the Macharias' file to Hamilton before the Macharias filed their supplemental brief and motion for remand for violation of the Macharias' right to counsel and as a result of ineffective assistance of counsel on September 14, 2000.

216. On or about September 18, 2000, Respondent sent a letter to Hamilton acknowledging receipt of Hamilton's letter dated September 12, 2000. Respondent informed Hamilton that Respondent could not locate the Macharias' files, not to contact Respondent in the future and to direct further correspondence to Respondent's attorney, Stanley Z. White.

**S. Case No. 00-O-15388 - Macharia - Conclusions of Law**

217. By failing to submit a timely response to the Assessment Notice on behalf of Jane Macharia to the EDD, failing to submit supplemental briefs, affidavits, declarations or documents prior to the Merits Hearing, failing to appear for the Merits Hearing on May 27, 1999, failing to file a responsive appellate brief on behalf of the Macharias to contest the order entered by the Immigration Judge denying the Macharias' application for asylum and failing to release the Macharias' file, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

218. By failing to inform the Macharias that the reason that Jane Macharia's Application for Alien Employment Certification had been cancelled and returned was because he had failed to submit responses to the EDD, failing to inform Jane Macharia that he was not going to pursue her Application for Alien Employment Certification, failing to inform the Macharias that the Immigration Judge was going to decide their application for asylum during the Merits Hearing, failing to inform the Macharias that they needed to file supplemental briefs, affidavits, declarations or documents for the Merits Hearing, Respondent failed to keep clients reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

219. By failing to inform the Macharias that the reason that Jane Macharia's Application for Alien Employment Certification had been cancelled and returned was because he had failed to submit responses to the EDD, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

**T. Case No. 02-O-15014 - State Bar Investigation I - Facts**

**T-1 State Bar Investigation I - The Ninth Circuit Referral of *Bernardo v. Ashcroft***

220. In or around August through October 2002, Respondent appeared before the United States Court of Appeals for the Ninth Circuit ("9th Circuit") in *Bernardo Vosas-Esquivel v. John Ashcroft*, Case No. 02-71564 ("*Bernardo v. Ashcroft*").

221. During the time that Respondent appeared before the 9th Circuit in *Bernardo v. Ashcroft*, Respondent was not a member of the bar of that court.

222. On or about August 1, 2002, the 9th Circuit ordered Respondent to file a response within 14 dates to an order to show cause.

223. Respondent failed and/or refused to file a timely response to the 9th Circuit's order to show cause.

224. On or about October 10, 2002, the 9th Circuit imposed a monetary sanction upon Respondent in the amount of \$500 for failure to comply with that court's rules and orders. The sanction was imposed as a judgement and was to be paid to the Clerk of that court within 21 days of the filing date of the order. The 9th Circuit also ordered Respondent to either submit the date of his /admittance to the bar of that court or to file an application for admission within 14 days of the filing date of the order.

225. Respondent did not timely submit the date of his admittance to the bar of that court or file an application for admission.

**T-2 State Bar Investigation I - The State Bar Investigation of the Ninth Circuit Referral of *Bernardo v. Ashcroft***

226. On or about May 7, 2003, the State Bar opened an investigation, case no.02-O-15267, pursuant to a complaint filed by the 9th Circuit ("the State Bar investigation").

227. On or about May 7, 2003, State Bar Investigator Lisa Foster ("Investigator Foster") wrote to Respondent regarding the State Bar investigation.

228. The May 7, 2003 letter was placed in sealed envelope correctly addressed to Respondent's counsel, Stanley Z. White, at his State Bar of California membership records address. Respondent's counsel received the letter.

229. The May 7, 2003 letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar concerning Respondent's appearances before the 9th Circuit. Respondent's counsel did not respond to the letter.

230. On or about July 2, 2003, Investigator Foster wrote to Respondent's counsel again regarding the State Bar investigation.

231. The July 2, 2003, letter was placed in sealed envelope correctly addressed to Respondent's counsel at his State Bar of California membership records address. Respondent's counsel received the letter.

232. The July 2, 2003 letter attached a copy of the May 7, 2003 letter and requested that Respondent's counsel respond in writing to specified allegations of misconduct being investigated by the State Bar. Respondent's counsel did not respond to the letter.

233. A courtesy copy of the July 2, 2003 letter was sent to Respondent at his official membership address. Respondent received the letter.

234. The July 2, 2003 letter attached a copy of the May 7, 2003 letter and requested that Respondent's counsel respond in writing to specified allegations of misconduct being investigated by the State Bar. Respondent did not respond to the letter.

**U. Case No. 02-O-15267 - State Bar Investigation I - Conclusions of Law**

235. By practicing law before the 9th Circuit where practicing without admission to the bar of that court is in violation of the regulations of the profession in that jurisdiction, Respondent wilfully practiced law in a jurisdiction where practicing is in violation of the regulations of the profession in that jurisdiction in violation of rule 1-300(B) of the Rules of Professional Conduct.

236. By failing and/or refusing to file a timely response to the 9th Circuit's August 1, 2002 order to show cause, and failing and/or refusing to file a timely application for admittance to the bar of the 9th Circuit, Respondent wilfully disobeyed or violated orders of the court requiring him to do or forbear acts connected with or in the course of Respondent's profession which he ought in good faith to do or forbear in violation of Business and Professions Code section 6103.

237. By not providing a written response to the allegations in the State Bar investigation or otherwise cooperating in the investigation, Respondent failed to cooperate in a disciplinary investigation.

**V. Case No. 02-O-15267 - State Bar Investigation II - Facts**

**V-1 State Bar Investigation II - The Ninth Circuit Referral of *Cardenas v. Ashcroft***

238. In or around June through October 2002, Respondent appeared before the United States Court of Appeals for the Ninth Circuit ("9th Circuit") in Beatrice Cardenas v. John Ashcroft, Case No. 02-71561 ("Cardenas v. Ashcroft").

239. During the time that Respondent appeared before the 9th Circuit in Cardenas v. Ashcroft, Respondent was not a member of the bar of that court.

240. On or about June 4, 2002, the 9th Circuit ordered Respondent to file a response within 14 dates to an order to show cause why he should not be sanctioned for failing to follow 8 U.S.C. 1252(c)(1) [Judicial review of orders of removal] and court rules. The 9th Circuit warned Respondent that failure to comply might result in the imposition of sanctions.

241. Respondent did not file a timely response to the 9th Circuit's June 4, 2002 order to show cause.

242. On or about October 21, 2002, the 9th Circuit ordered Respondent to file a response within 14 days why that Court should not impose monetary sanctions of not less than \$500. The 9th Circuit warned Respondent that failure to comply might result in the imposition of sanctions. The 9th Circuit also ordered Respondent to either submit the date of his admittance to the bar of that court or to file an application for admission within 14 days of the filing date of the order.

243. Respondent did not file a timely response to the 9th Circuit's October 21, 2002 order to show cause. However, on or about October 28, 2002, Respondent filed a "Motion for an Order Extending Time Until March 15, 2003 in Which to Pay All Sanctions and to Comply with All Others Contained Under the Order of October 21, 2002." The motion requested until March 15, 2003 to pay the sanctions and to allow processing of his application to the bar of the 9th Circuit, but was otherwise non-responsive to the order to show cause.

244. Respondent did not timely submit the date of his admittance to the bar of that court or file an application for admission.

**V-2 State Bar Investigation II - The State Bar Investigation of the Ninth Circuit Referral of *Cardenas v. Ashcroft***

245. On or about May 7, 2003, the State Bar opened an investigation, case no.02-O-1526, pursuant to a complaint filed by the 9th Circuit ("the second State Bar investigation").

246. On or about May 7, 2003, Investigator Foster wrote to Respondent regarding the State Bar investigation.

247. The May 7, 2003 letter was placed in sealed envelope correctly addressed to Respondent's counsel Stanley Z. White at his State Bar of California membership records address. Respondent's counsel received the letter.

248. The May 7, 2003 letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar concerning Respondent's appearances before the 9th Circuit. Respondent's counsel did not respond to the letter.

249. On or about July 2, 2003, Investigator Foster wrote to Respondent's counsel again regarding the State Bar investigation.

250. The July 2, 2003, letter was placed in sealed envelope correctly addressed to Respondent's counsel at his State Bar of California membership records address. Respondent's counsel received the letter.

251. The July 2, 2003 letter attached a copy of the May 7, 2003 letter and requested that Respondent's counsel respond in writing to specified allegations of misconduct being investigated by the State Bar. Respondent's counsel did not respond to the letter.

252. A courtesy copy of the July 2, 2003 letter was sent to Respondent at his official membership address. Respondent received the letter.

253. The July 2, 2003 letter attached a copy of the May 7, 2003 letter and requested that Respondent's counsel respond in writing to specified allegations of misconduct being investigated by the State Bar. Respondent did not respond to the letter.

**W. Case No. 02-O-15267 - State Bar Investigation - Conclusions of Law**

254. By practicing law before the 9th Circuit where practicing without admission to the bar of that court is in violation of the regulations of the profession in that jurisdiction, Respondent wilfully practiced law in a jurisdiction where practicing is in violation of the regulations of the profession in that jurisdiction in violation of rule 1-300(B) of the rules of Professional Conduct.

255. By failing and/or refusing to file a timely response to the 9th Circuit's June 4, 2002 order to show cause, failing and/or refusing to file a timely and appropriate response to the 9th Circuit's October 21, 2002 order to show cause, and failing and/or refusing to file a timely application for admittance to the bar of the 9th Circuit, Respondent wilfully disobeyed or violated orders of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear in violation of Business and Professions Code section 6103.

256. By not providing a written response to the allegations in the State Bar investigation or otherwise cooperating in the investigation, Respondent failed to cooperate in a disciplinary investigation.

**PENDING PROCEEDINGS**

The disclosure date referred to, on page one, paragraph A.(6), was December 5, 2003.

## **COSTS OF DISCIPLINARY PROCEEDINGS**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 6, 2003, the estimated prosecution costs in this matter are approximately \$2,134.00. 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.

The parties agree that disciplinary costs shall be added to and become a part of the State Bar membership fees for the year 2005.

## **AUTHORITIES SUPPORTING DISCIPLINE**

Standard 2.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") provides for suspension or disbarment for acts of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person.<sup>2</sup> In *Lebbos v. State Bar* (1991) 53 Cal.3d 37, 278 Cal.Rptr. 845, the Supreme Court held that multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment.<sup>3</sup>

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<sup>2</sup> Standard 2.3 provides as follows:

"Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law."

<sup>3</sup> In *Lebbos v. State Bar* (1991) 53 Cal.3d 37, 46, 278 Cal.Rptr. 845, the Supreme Court held as follows:

"Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3, Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare *Dixon v. State Bar* (1982) 32 Cal.3d 728, 739, 740, 187 Cal.Rptr. 30, 653 P.2d 321.) Petitioner's pattern of serious, recurrent misconduct is a factor in aggravation. (*Garlow v. State Bar* (1988) 44 Cal.3d 689, 711, 244 Cal.Rptr. 452, 749 P.2d 1307.) Further, unrestrained personal abuse and disruptive behavior characterized petitioner's conduct during the State Bar proceedings. (See *Alberton v. State Bar* (1984) 37 Cal.3d 1, 11, fn. 18, 206 Cal.Rptr. 373, 686 P.2d 1177.) Failure to cooperate with the State Bar during disciplinary proceedings itself may support severe discipline. (*Middleton v. State Bar* (1990) 51 Cal.3d 548, 560, 273 Cal.Rptr. 321, 796 P.2d 1326.)"



Standard 2.4(a) provides for disbarment where patterns of willful failure to perform services demonstrate the member's abandonment of cases.<sup>4</sup> In *Read v. State Bar*, *supra*, 53 Cal.3d 394, 427, 53 Cal.3d 1009A, 279 Cal.Rptr. 818, the Supreme Court held that the habitual disregard by an attorney of the interest of his or her clients combined with the failure to communicate with such clients constitute acts of moral turpitude justifying disbarment.<sup>5</sup>

Standard 2.7 provides for at-least a six-month actual suspension for charging or collecting an unconscionable fee for legal services.<sup>6</sup> In *Bushman v. State Bar* (1974) 11 Cal.3d 558, 113 Cal.Rptr. 904, the Supreme Court suspended an attorney for one-year for attempting to collect an unconscionable fee and being involved in the impermissible solicitation of employment.<sup>7</sup>

The Supreme Court further held that "[i]t is appropriate to repeat the observation of this court in *Recht v. State Bar* (1933) 218 Cal. 352, 355, that the right to practice law 'is not a license to mulct the unfortunate.' " *Id.* at 565. The Supreme Court found that it was an aggravating factor that the attorney "was dealing with persons in clearly impecunious circumstances," which is the case in these matters where it was a hardship for each of Respondent's clients to pay him or Valencia the funds that they charged for the inadequate legal work. *Id.* at 565.

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<sup>4</sup> Standard 2.4(a) provides as follows:

"Culpability of a member of a pattern of wilfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment.

<sup>5</sup> In *Read v. State Bar* (1991) 53 Cal.3d 394, 427, 53 Cal.3d 1009A, 279 Cal.Rptr. 818, the Supreme Court held as follows:

"Petitioner also failed on numerous occasions to perform services for clients and to communicate with them. 'Habitual disregard by an attorney of the interest of his or her clients combined with the failure to communicate with such clients constitute acts of moral turpitude justifying disbarment.' (McMorris v. State Bar (1983) 35 Cal.3d 77, 85, 196 Cal.Rptr. 841, 672 P.2d 431; see also Standards, std. 2.4(a).)"

<sup>6</sup> Standard 2.7 provides as follows:

"Culpability of a member of willful violation of that portion of rule 4-200, Rules of Professional Conduct re entering into an agreement for, charging or collecting an unconscionable fee for legal services shall result in at least a six-month actual suspension from the practice of law, irrespective of mitigating circumstances."

<sup>7</sup> In *Bushman v. State Bar* (1974) 11 Cal.3d 558, 564 the Supreme Court held as follows:

"It is settled that gross overcharge of a fee by an attorney may warrant discipline. The test is whether the fee is "so exorbitant and wholly disproportionate to the services performed as to shock the conscience." (*Herrscher v. State Bar* (1935) 4 Cal.2d 399, 401, 402 [49 P.2d 832], quoting from *Goldstone v. State Bar* (1931) 214 Cal. 490, 498 [6 P.2d 513, 80 A.L.R. 701].) In *Herrscher* this court stated that most cases warranting discipline on this ground involve an element of fraud or overreaching by the attorney, so that the fee charged, under the circumstances, constituted a practical appropriation of the client's funds. (4 Cal.2d at p. 403.)"

In *Barum v. State Bar* (1990) 52 Cal.3d 104, 276 Cal.Rptr. 147, the Supreme Court disbarred an attorney for collecting \$10,000 in a bankruptcy without court approval, ignoring three orders to account or return the fee, and only returning the fee after he was arrested for contempt of the court's orders.

Standard 2.10 provides as follows:

“Culpability of a member of a violation of any provision in the Business and Professions Code not specified in these standards or a wilful violation of any Rule of Professional Conduct not specified in these 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.”

## RESTITUTION

Respondent shall pay restitution to the following individuals (and/or the Client Security Fund, if appropriate) in the following amounts plus 10 percent interest per annum accruing from the following dates:

1. Payment to Loise M. Kagiri (and/or the Client Security Fund, if appropriate) of \$710 plus 10% interest from September 23, 2000, in Case No. 02-O-12749.
2. Payment to Magdalena Maciel and Christian Maciel (and/or the Client Security Fund, if appropriate) of \$3,000 plus 10% interest from November 19, 2001, in Case No. 02-O-12748.
3. Payment to Susana Benitez (and/or the Client Security Fund, if appropriate) of \$500 plus 10% interest from June 26, 2002, in Case No. 02-O-1379.
4. Payment to Elena Corona (and/or the Client Security Fund, if appropriate) of \$730 plus 10% interest from April 12, 2000, for Case No. 01-O-02206.

Payments to the above must be made prior to within two years of the Supreme Court Order concerning this Stipulation, in part, because payment of restitution is an important step towards rehabilitation. *In the Matter of Broderick* (Review Dept.) 3 Cal. State Bar Ct. Rptr. 138.

05-10-04  
Date

OK  
Respondent's signature

36# 101427  
ERIC TARANKOW  
print name

04-05-04  
Date

Respondent's Counsel's signature

STANLEY Z. WHITE  
print name

5-10-04  
Date

Deputy Trial Counsel's signature

CHARLES T. CALIX  
print name

### 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.

1. On page 3, under C(13), insert an "X" on the box before "No Mitigating circumstances are involved.";
2. On page 4, "page 37" referred to at D(1)(A)(ii) and D(3)(A)(ii) is deleted and replaced by "page 42"; and,
3. All references to "Probation Unit" or "Probation Unit of the Office of the Chief Trial Counsel" shall be deemed deleted and replaced with "Office of Probation."

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.)

6/10/04  
Date

Judge of the State Bar Court  
**RICHARD A. HONN**

**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 June 14, 2004, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed June 14, 2004**

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:

**STANLEY ZEIGLER WHITE  
ATTORNEY AT LAW  
8500 WILSHIRE BLVD #829  
BEVERLY HILLS, CA 90211**

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

**Charles T. Calix, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 14, 2004**.

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