



## PUBLIC MATTER

ORIGINAL  
~~CONFIDENTIAL~~

(Do not write above this line.)

State Bar Court of California		
Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE AND MENTAL HEALTH ISSUES		
Counsel for the State Bar <b>THE STATE BAR OF CALIFORNIA</b> OFFICE OF THE CHIEF TRIAL COUNSEL - ENFORCEMENT CHARLES A. MURRAY 1149 South Hill Street, 9 <sup>th</sup> Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1000 Bar #    146069	Case Number(s)  01-O-00973- 02-O-10223- 02-O-11334- 02-O-12079- 02-H-14163-	(for Court use)  <div style="text-align: center;"> <b>LODGED</b>            FEB - 8 2006            STATE BAR COURT            CLERK'S OFFICE            LOS ANGELES         </div> <div style="text-align: center;"> <b>FILED</b>            AUG 25 2009 <i>[Signature]</i>            STATE BAR COURT            CLERK'S OFFICE            LOS ANGELES         </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per  James R. DiFrank 12227 Philadelphia Street Whittier, California 90601-3931 Telephone: (562) 789-7734  Bar #    105591	Submitted to Program Judge  <div style="text-align: center;"> <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b> </div> <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of Joseph Felix McNulty  Bar #    151907 A Member of the State Bar of California (Respondent)	<input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted January 22, 1991 (date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on Respondent or the State Bar.
- (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, except for Probation Revocation Proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consists of 12 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."  
See attached.
- (5) Conclusions of law, drawn from and specifically referring to the facts, are also included under "Conclusions of Law."  
See attached.

(Do not write above this line.)

- (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 and will pay timely any disciplinary costs imposed in this proceeding.

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

- (1)  **Prior Record of Discipline [see standard 1.2(f)]**
- (a)  State Bar Court Case # of prior case 99-0-11764
- (b)  Date prior discipline effective November 15, 2000
- (c)  Rules of Professional Conduct/State Bar Action violations B&P Code Sections 6068(o)(3) and 6103
- (d)  Degree of prior discipline Private reproof; Restricted One Year Probation; Ethics School; and MPRE
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline" (above)
- (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 the victims of his/her misconduct or the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrong doing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

(Do not write above this line.)

**C. Mitigating Circumstances [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 of 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 were directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drugs 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:**

**ATTACHMENT TO**  
**ADP STIPULATION RE FACTS & CONCLUSIONS OF LAW**

IN THE MATTER OF:       **JOSEPH FELIX McNULTY** (Respondent"), SB#151907  
CASE NUMBERS:           **01-O-00973; 02-H-14163; 02-O-10223;**  
                                  **02-O-11334; 02-O-12079**

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was October 14, 2005.

**PARTIES ARE BOUND BY THE STIPULATED FACTS:**

The parties intend to be and are hereby bound by the stipulated facts contained in this stipulation. This stipulation as to facts and the facts so stipulated shall independently survive even if the conclusions of law and/or stipulated disposition set forth herein are rejected or changed in any manner whatsoever by the Hearing Department or the Review Department of the State Bar Court, or by the California Supreme Court.

**STIPULATION AS TO FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct, or has otherwise committed acts of misconduct warranting discipline:

**Case No. 01-O-00973**

**FACTS**

On or about February 20, 1997, Charles T. Flynn ("Flynn") filed a lawsuit against Respondent entitled *Charles T. Flynn v. J. Felix McNulty, et al.* in the Superior Court of California, County of Orange, case number 775608 (the "lawsuit"), alleging legal malpractice arising out of Respondent's legal representation of Flynn in 1995 and 1996. Respondent was properly served with the lawsuit.

On or about August 8, 1998, judgement was entered against Respondent in favor of Flynn for \$100,000 in the lawsuit. Notice of Judgement was properly served upon Respondent and Respondent's attorney.

On or about May 11, 1999, Flynn properly served Respondent as Judgement Debtor and Respondent's attorney with Special Interrogatories and a Demand for Production of Documents in the lawsuit. Respondent failed to respond to this discovery.

On or about April 12, 2000, Flynn properly served Respondent and Respondent's attorney with a Motion to Compel Responses to Special Interrogatories and a Motion to Compel Responses to the Demand for Production. The hearing on the motions was to be held on or about May 26, 2000. Respondent and/or his attorney did not file any Opposition to these motions.

On or about May 26, 2000, Flynn's discovery motions were heard in Orange County Superior Court. Neither Respondent nor his counsel appeared for the hearing. The Court ordered Respondent to respond to all discovery within 20 days and to pay sanctions to Flynn of \$473 within 20 days. Respondent and his attorney were properly served with Notice of the Court's Order. To date, Respondent has failed to respond to the discovery and failed to pay the sanctions to Flynn.

On or about March 19, 2001, Flynn had Respondent personally served with an Application and Order for Appearance at a Judgement Debtor's Examination in Orange County Superior Court on or about March 26, 2001.

On or about March 26, 2001, Respondent appeared at the Judgement Debtor's Examination in Orange County Superior Court. The Court ordered that the hearing be continued to April 10, 2001 and ordered Respondent to return and produce documents on April 10, 2001 without further order or notice from the Court. The Court admonished Respondent that if he failed to appear, sanctions may be imposed or a warrant may be issued for his arrest.

On or about April 10, 2001, Respondent failed to appear at the continued Judgment Debtor's Examination as ordered by the Court.

Flynn took no further action with respect to this matter as Respondent filed a Chapter 7 Bankruptcy on or about September 14, 2001.

On or about March 1, 2001, the State Bar opened an investigation, case number 01-O-00973, pursuant to a complaint filed by Charles T. Flynn (the "Flynn matter").

On or about August 28, 2001, State Bar Investigator Sandra Burnett wrote to Respondent regarding the Flynn matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar membership records address. The investigator's letter was properly mailed by first class mail, postage prepaid, by depositing 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 investigator's letter as undeliverable or for any other reason.

Investigator Burnett's letter to Respondent requested that he respond in writing to specified allegations of misconduct being investigated by the State Bar in the Flynn matter. On or about September 12, 2001, Respondent sent a letter to Investigator Burnett requesting a thirty day extension to respond the allegations in the Flynn matter. Respondent did not further respond to Investigator Burnett's letter or otherwise communicate with Investigator Burnett.

### **CONCLUSIONS OF LAW**

By failing to comply with the Orders of the Court to respond to discovery and pay sanctions to Flynn and failing to comply with the Court's Order to appear at the continued Judgement Debtor's Examination and produce documents, Respondent wilfully disobeyed the Orange County Superior Court's Orders in violation of Business and Professions Code section 6103.

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

### **Case No. 02-H-14163**

### **FACTS**

On or about October 18, 2000, Respondent entered into a Stipulation re Facts, Conclusions of Law and Disposition (the "Stipulation") with the State Bar of California in Case Number 99-O-11764.

On or about October 27, 2000, the Hearing Department of the State Bar Court filed an Order approving the Stipulation and imposing upon Respondent a Private Repeval with conditions (the "Order").

On or about October 30, 2000, the Order was properly served upon Respondent by State Bar Court Case Administrator Johnnie L. Smith ("Mr. Smith").

The Order and the Private Repeval became effective on or about November 19, 2000.

Pursuant to the Order, Respondent was required to comply with certain terms and conditions attached to the Private Repeval during the period of one year from the effective date of the Order, including the condition that Respondent take and provide proof of passage of the MultiState Professional Responsibility Examination ("MPRE") to the Probation Unit of the State Bar ("Probation Unit") within one year of the effective date of the Order.

As of on or about November 21, 2001, Respondent had not provided proof of successful passage of the MPRE to the Probation Unit.

On or about December 4, 2001, Respondent filed a motion in State Bar Court seeking an extension until June 30, 2002, to successfully complete the MPRE and provide proof of passage to the Probation Unit (the "Motion").

On or about December 5, 2001, the State Bar filed a Notice of No Opposition to Respondent's Motion.

On or about December 6, 2001, the State Bar Court granted Respondent's Motion and extended the compliance period for taking and passing and reporting proof of passage of the MPRE to June 30, 2002. The Order granting Respondent's Motion was filed in State Bar Court on or about December 11, 2001. On or about December 11, 2001, the Order granting Respondent's Motion was properly served upon Respondent by Mr. Smith.

Respondent did not file any further motions for extensions of time to take, pass and report proof of passage of the MPRE with the State Bar Court.

Respondent did not take the MPRE on or before June 30, 2002, and therefore did not provide proof of successful passage of the MPRE to the Probation Unit on or before June 30, 2002, as ordered by the Court in its order granting Respondent's request for an extension of time. It was not until August 14, 2004, that Respondent did take and pass the MPRE.

### **CONCLUSIONS OF LAW**

By failing to comply with the Court's Order regarding the condition of taking and passing the MPRE attached to his Private Repeval, and providing appropriate proof that he had done so, Respondent wilfully violated Business and Professions Code section 6103 and the Rules of Professional Conduct, rule 1-110.

### **Case No. 02-O-10223**

### **FACTS**

On or about January 16, 2002, the State Bar opened an investigation, case number 02-O-10223, pursuant to a complaint received from Manuel Guzman (the "Guzman matter").

On or about April 16, 2002, May 13, 2002 and May 29, 2002, State Bar Investigator Patricia Taylor wrote to Respondent regarding the Guzman matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason.

The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Guzman matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

### CONCLUSIONS OF LAW

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

### Case No. 02-O-11334

### FACTS

On or about March 30, 1994, Respondent was employed by Miguel Vega ("Vega") to represent him in a workers' compensation matter. On or about May 5, 1994, Respondent filed Vega's Petition with the Workers' Compensation Appeals Board ("WCAB"), *Miguel Vega v. Robert Shaw Controls, et al.* Case Number LBO270325 ("Vega's matter").

On or about March 25, 1996, Respondent failed to appear for a regularly scheduled hearing with Judge Charles Williams ("Judge Williams") of the WCAB in Vega's matter. Judge Williams issued an Order to Show Cause ("OSC") ordering Respondent to appear on April 24, 1996 to show cause why he should not be held in contempt for his failure to appear at the March 25, 1996 hearing. The Notice of OSC was properly served upon Respondent.

On or about April 24, 1996, Respondent failed to appear at the OSC hearing before Judge Williams in Vega's matter. Judge Williams continued the hearing to a later date.

On or about February 27, 1998, the WCAB properly served Respondent with notice of the trial date of April 15, 1998.

On or about April 15, 1998, Respondent failed to appear for the scheduled Trial before Judge Williams in Vega's matter. Judge Williams denied Respondent's Request for Continuance made shortly before the trial date as not timely made and ordered defense counsel to prepare a petition for sanctions against Respondent to be considered at the next hearing on July 14, 1998.

On or about October 27, 1998, the Workers' Compensation Rehabilitation Unit issued a Decision and Order regarding Rehabilitation Benefits on behalf of Vega.

In or about October 1999, the WCAB properly served Respondent with notice of the trial date of December 1, 1999.

On or about December 1, 1999, Respondent failed to appear for the scheduled Trial before Judge Williams in Vega's matter. Judge Williams continued the Trial to February 16, 2000. The Court properly served Respondent with notice of the trial date of February 16, 2000.

On or about September 7, 2000, Judge Williams issued his Findings and Award which resolved almost all of the issues in Vega's matter other than the Rehabilitation Issues.

On or about March 12, 2001, Respondent timely submitted Points and Authorities to the WCAB challenging the Workers' Compensation Rehabilitation Unit's ("Rehab Unit") Decision and Order of October 27, 1998 in Vega's matter.

On or about May 21, 2001, Respondent sent a letter to Vega informing him that defense counsel had made a \$3,000 settlement offer to resolve the matter in its entirety. Vega informed Respondent that he would not accept the settlement offer and that Respondent should take whatever steps were necessary to bring the matter to trial.

On or about June 6, 2001, Judge Williams issued an Opinion on Decision, finding that this matter was not ripe for consideration until the Rehab Unit made a further ruling on the issue of Rehabilitation, and stating that either party may file a request for dispute resolution with the Rehab Unit.

Respondent failed to file a request for dispute resolution with the Rehab Unit and took no further action with respect to Vega's matter.

Between in or about May 2001 to in or about November 2001, Vega attempted to reach Respondent several times each month at the telephone number Respondent gave him. Vega always left a message on the voice mail system or with whoever answered the telephone requesting Respondent to return his call regarding the status of his case. Respondent failed to respond to any of Vega's messages between May 2001 and November 2001.

On or about November 20, 2001, Vega attempted to reach Respondent by telephone and found that Respondent's telephone number had changed. Vega called the new telephone number three times and left three messages for Respondent with a receptionist by the name of Marie requesting that Respondent return his calls. Respondent failed to return any of Vega's telephone messages.

At no time did Respondent inform Vega of Judge Williams' Opinion that the Rehabilitation matter was not ripe for consideration and that either party may file a request for dispute resolution with the Rehab Unit.

By failing to file a request for dispute resolution, failing to set Vega's matter for trial and failing to communicate with Vega, Respondent effectively withdrew from representation of Vega.

At no time did Respondent inform Vega that he was withdrawing from employment in Vega's case. Nor did Respondent take any other steps whatsoever to avoid reasonably foreseeable prejudice to Vega's rights.

On or about March 15, 2002, the State Bar opened an investigation, case number 02-O-11334, pursuant to a complaint received from Miguel Vega (the "Vega matter").

On or about May 13, 2002 and May 29, 2002, State Bar Investigator Patricia Taylor wrote to Respondent regarding the Vega matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason.

The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Vega matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

### CONCLUSIONS OF LAW

By failing to appear at the March 25, 1996 and the April 24, 1996 hearings; failing to appear for the April 15, 1998 and December 1, 1999 trial dates; failing to file a request for

dispute resolution as requested by Vega; and failing to complete Vega's matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By not returning Vega's telephone messages or otherwise responding to Vega's inquiries regarding the status of his case, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code section 6068(m).

By failing to inform Vega of Judge William's Opinion, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

By failing to provide the necessary services with respect to Vega's matter, failing to inform Vega of his intent to withdraw from employment and failing to take any other steps to avoid prejudice to Vega's rights, Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

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

#### Case No. 02-O-12079

#### FACTS

On or about November 28, 2000, Maria Lopez ("Lopez") employed Respondent to represent her in a personal injury claim on a contingency basis.

On or about December 6, 2000, Respondent filed a complaint in Orange County Superior Court on behalf of Lopez entitled, *Maria Lopez, et al v. Linda Huff, et al*, Case Number 00CC14669 (the "Lopez case").

On or about January 31, 2001, the Court properly served Respondent with Notice of the first Evaluation Conference scheduled for May 16, 2001 in the Lopez case.

On or about May 16, 2001, Respondent failed to appear for the regularly scheduled Evaluation Conference in the Lopez case. The Judge set an Order to Show Cause hearing for June 22, 2001, requiring Respondent to appear to show cause why he had failed to appear at the May 16, 2001 Evaluation Conference. The Court properly served Respondent with Notice of the OSC.

On or about June 22, 2001, Respondent failed to appear at the OSC hearing in the Lopez case. The Judge continued the OSC to July 11, 2001. The Court properly served Respondent with Notice of the continued OSC.

On or about July 11, 2001, Respondent did appear at the continued OSC and was sanctioned \$200 for his repeated failures to appear in the Lopez case. At this hearing, the Court scheduled a Mandatory Settlement Conference to take place on January 18, 2002 and scheduled trial dates to begin on February 19, 2002 in the Lopez case. On or about July 20, 2001, Respondent served Notice on defense counsel of these dates.

On or about January 18, 2002, Respondent failed to appear for the Mandatory Settlement Conference in the Lopez case. The Judge scheduled an Order to Show Cause hearing for January 30, 2002 requiring Respondent to appear and show cause why he failed to

appear at the January 18, 2002 Mandatory Settlement Conference. The Court properly served Respondent with Notice of the OSC.

On or about January 30, 2002, Respondent failed to appear for the OSC hearing and the Judge continued the hearing to the trial date of February 19, 2002. The Court properly served Respondent with notice of the continued OSC.

On or about February 19, 2002, Respondent failed to appear for the Trial and the OSC hearing in the Lopez case. The Judge dismissed the Lopez case for Respondent's repeated failure to appear for hearings. The Court properly served Respondent with Notice of the Dismissal.

At no time did Respondent inform Lopez of the scheduled dates of the Mandatory Settlement Conference and/or the Trial in the Lopez case. At no time did Respondent inform Lopez of the dismissal of her case.

By failing to appear at regularly scheduled hearings and the trial of the Lopez case or take any other steps to litigate the Lopez case, and by failing to communicate with Lopez, Respondent effectively withdrew from representation of Lopez.

On or about April 24, 2002, the State Bar opened an investigation, case number 02-O-12079, pursuant to a complaint received from Maria Lopez (the "Lopez matter").

On or about May 20, 2002 and July 8, 2002, State Bar Investigator Patricia Taylor wrote to Respondent regarding the Lopez matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return the investigator's letters as undeliverable or for any other reason.

The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Lopez matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

### **CONCLUSIONS OF LAW**

By failing to appear at regularly scheduled court appearances, including the order to show cause hearings and the trial of the Lopez case, which lead to the ultimate dismissal of Lopez's case, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to inform Lopez of the significant dates in the Lopez case and failing to inform her that her case had been dismissed, Respondent wilfully failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

By failing to provide the necessary services with respect to Lopez's case, failing to inform Lopez of his intent to withdraw from employment and failing to take any other steps to avoid prejudice to Lopez's rights, Respondent wilfully failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

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

(Do not write above this line.)

In the Matter of JOSEPH FELIX McNulty # 151907	Case number(s): 01-0-00973, et al.
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### SIGNATURE OF THE PARTIES

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

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

10-21-05  
Date

  
Respondent's signature

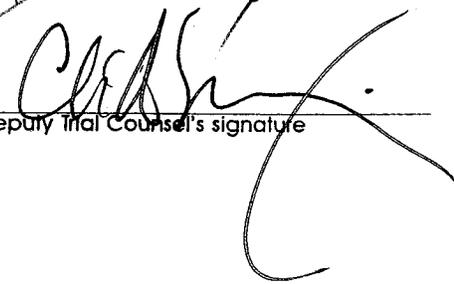
JOSEPH FELIX McNulty  
Print name

10/21/05  
Date

  
Respondent's Counsel's signature

JAMES R. DiFrank  
Print name

10-21-05  
Date

  
Deputy Trial Counsel's signature

Charles A. MURRAY  
Print name

(Do not write above this line.)

In the Matter of Joseph F. McNulty	Case number(s): 01 O 00973 RAH
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## 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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All Hearing dates are vacated.

1. On page 2 of the Stipulation, the "x" in the box at paragraph B.(6) is deleted.
2. On page 4 of the Stipulation, under the heading "Parties Are Bound by the Stipulated Facts," third line, "and/or stipulated disposition set forth herein" is deleted.

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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(d), Rules of Procedure.)

2/8/06  
Date

  
RICHARD A. HONN  
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 17, 2006, I deposited a true copy of the following document(s):

**STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS;**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW;**

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S  
ALTERNATIVE DISCIPLINE PROGRAM**

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

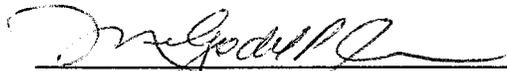
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JAMES R DiFRANK  
ATTORNEY AT LAW  
12227 PHILADELPHIA ST  
WHITTIER, CA 90601 3931**

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

**Charles Murray, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 17, 2006.**

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

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 11, 2009, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN DOCUMENTS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

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

JOSEPH F. MCNULTY  
4765 BELLFLOWER AVE APT B  
NORTH HOLLYWOOD, CA 91602

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

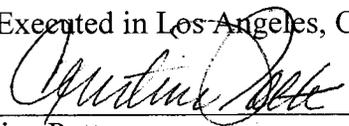
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Charles A. Murray, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 11, 2009.

  
\_\_\_\_\_  
Cristina Potter  
Case Administrator  
State Bar Court