



(Do not write above this line.)

| State Bar Court of California   |  |  |
|---|--|--|
| Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco   |  |  |
| Counsel for the State Bar<br>Diane J. Meyers<br>1149 S. Hill Street<br>Los Angeles, CA 90015<br>(213) 765-1496<br><br>Bar # 146643  | Case number(s)<br>02-0-10638-RAP<br>02-0-14520-RAP<br>03-0-00493-RAP<br>04-0-10155-RAP<br>04-0-10405-RAP<br>05-0-00014 (INV.)<br><br><b>PUBLIC MATTER</b>  | (for Court's use)<br><br><div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em;">JAN 24 2006 <i>AOC</i></div> <div style="text-align: center; font-size: 0.8em;">STATE BAR COURT<br/>CLERK'S OFFICE<br/>LOS ANGELES</div> |
| <input checked="" type="checkbox"/> Counsel for Respondent<br><input type="checkbox"/> In Pro Per, Respondent<br>ARTHUR L. MARGOLIS<br>Margolis & Margolis LLP<br>2000 Riverside Drive<br>Los Angeles, CA 90039-3758<br><br>Bar # 57703 | Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge<br><br><b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br/>DISPOSITION AND ORDER APPROVING</b><br><br><b>ACTUAL SUSPENSION</b><br><br><input type="checkbox"/> PREVIOUS STIPULATION REJECTED |  |
| In the Matter of<br>DANIEL EDOUARD CHIEN<br><br>Bar # 190061<br>A Member of the State Bar of California<br>(Respondent)   |  |  |

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

#### A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted November 25, 1997  
(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 31 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(Do not write above this line.)

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- 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 in a separate attachment entitled "Partial Waiver of Costs"
- costs entirely waived

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

(1)  Prior record of discipline [see standard 1.2(f)]

(a)  State Bar Court case # of prior case 02-0-10358

(b)  Date prior discipline effective August 17, 2003

(c)  Rules of Professional Conduct/ State Bar Act violations: Rule 4-100(A), Rules of Professional Conduct; Section 6106, Business and Professions Code.

(d)  Degree of prior discipline 30-Day Actual Suspension, One Year Stayed Suspension, One Year Probation.

(e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

(2)  Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3)  Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4)  Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(Do not write above this line.)

- (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.  
See Attachment at p. 28.
- (8)  **No aggravating circumstances are involved.**

**Additional aggravating circumstances:**

Respondent's misconduct in the present matter is similar to his prior misconduct in case number 02-O-10358 in that he attributed his prior misconduct to his failure to supervise his employee's handling of his trust account. (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149-1150.)

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

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

(Do not write above this line.)

- (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:**

See attachment to Stipulation at p. 29.

**D. Discipline:**

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of three years.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following: \_\_\_\_\_
- (b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of Four years which will commence upon the effective date of the Supreme Court order in this matter.  
(See rule 953, Calif. Rules of Ct.)

(Do not write above this line.)

(3)  Actual Suspension:

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

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

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(Do not write above this line.)

- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Respondent completed Ethics School on February 5, 2004 in connection with case number 02-0-10358.
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  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             |

#### F. Other Conditions Negotiated by the Parties:

- (1)  Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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. Reason: Respondent passed the MPRE on November 7, 2003 in connection with case number 02-0-10358. (See Authorities Supporting Discipline at P. 58)
- (2)  Rule 955, California Rules of Court: Respondent must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3)  Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  Credit for Interim Suspension [conviction referral cases only]: Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: \_\_\_\_\_
- (5)  Other Conditions: Respondent shall maintain complete records of the notification and the certified or registered mailings sent pursuant to rule 955, California Rules of Court, and shall provide such records upon the request of the Office of The Chief Trial Counsel.

#### G. WAIVER OF ISSUANCE OF NOTICE OF DISCIPLINARY CHARGES

It is agreed by the parties that the investigative matter designated as case number 05-0-00014 shall be incorporated in this stipulated disposition. The parties waive the issuance of a Notice of Disciplinary Charges and the right to a formal hearing and any other procedures necessary with respect to this investigative matter in order to accomplish the objectives of this agreement.

(Do not write above this line.)

|  |                                       |
|--|---------------------------------------|
| In the Matter of<br><br>DANIEL EDOUARD CHIEN | Case Number(s):<br><br>02-0-10638-RAP |
|--|---------------------------------------|

### Law Office Management Conditions

- a.  Within \_\_\_ days/ \_\_\_ months/ 2 years of the effective date of the discipline herein, Respondent must develop a law office management/ organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within \_\_\_ days/ \_\_\_ months \_\_\_ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than \_\_\_ hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney-client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will 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 must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for \_\_\_ year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.
- d. (X) Within two years of the effective date of discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than four hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney-client relations, and/or general legal ethics, and no less than two hours of any other MCLE approved courses. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (rule 3201, Rules of Procedure of the State Bar).

(Do not write above this line.)

|  |                                   |
|--|-----------------------------------|
| In the Matter of<br>Daniel Edouard Chien | Case Number(s):<br>02-0-10638-RAP |
|--|-----------------------------------|

### Financial Conditions

#### a. Restitution

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

| Payee                   | Principal Amount | Interest Accrues From                   |
|-------------------------|------------------|---|
| Gloria Lopez            | \$3,555.67       | Effective date of Supreme Court's Order |
| Esther Rizo             | \$4,777.24       | Effective date of Supreme Court's Order |
| Humberto Hernandez Cruz | \$3,049.00       | Effective date of Supreme Court's Order |
|                         |                  |   |

- Respondent must ~~pay the above-referenced restitution to~~ provide satisfactory proof of payment to the Office of Probation not later than 30 days after the restitution is made.

#### b. Installment Restitution Payments

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

| Payee/CSF (as applicable) | Minimum Payment Amount | Payment Frequency |
|---------------------------|------------------------|-------------------|
|                           |                        |                   |
|                           |                        |                   |
|                           |                        |                   |
|                           |                        |                   |

#### c. Client Funds Certificate

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



(Do not write above this line.)

|  |                                   |
|--|-----------------------------------|
| In the Matter of<br>DANIEL EDOUARD CHIEN | Case Number(s):<br>02-0-10638-RAP |
|--|-----------------------------------|

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

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

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

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

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

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.
- No Client Trust Accounting School is recommended as Respondent Completed Client Trust Accounting School on February 17, 2004 in connection with Case number 02-0-10358.

(Do not write above this line.)

|  |                                       |
|--|---------------------------------------|
| In the Matter of<br><br>DANIEL EDOUARD CHIEN | Case Number(s):<br><br>02-0-10638-RAP |
|--|---------------------------------------|

### NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

### RULE 133, Rules of Procedure of the State Bar of California STIPULATIONS AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

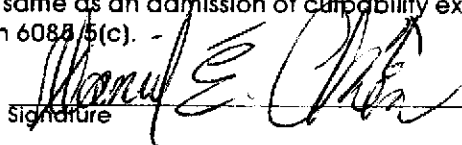
(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

- (5) a statement that Respondent either
  - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
  - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
    - (a) **an acknowledgment that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
    - (b) **if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter. (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as stated in Business and Professions Code section 6088.5(c).

Date 11/15/06

Signature



Print name  
DANIEL E. CHIEN

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

IN THE MATTER OF:        DANIEL E. CHIEN  
CASE NUMBER(S):        02-O-10638, ET AL.

**FACTS AND CONCLUSIONS OF LAW.**

The parties enter into this agreement solely for the purpose of resolving this proceeding. 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.

**Introductory Facts**

1. On December 8, 1999, Respondent filed articles of incorporation for Thunderdome, A Law Corporation ("TLC"), for the purpose of engaging in the profession of law. Respondent was listed as TLC's chief executive officer, secretary and chief financial officer. A non-attorney, Luis Salas ("Salas"), was listed as the agent for service of process for TLC. TLC's address was listed as 2640 E. South Garvey Avenue, Suite 202, West Covina, California 91791 ("the West Covina office"). The West Covina office was opened as Respondent's satellite office, but Respondent spent most of his time at his primary office. Respondent was not often present at the West Covina office because he understood that the amount of work generated from that office was not sufficient to warrant his being there more often. Respondent maintains that Salas opened an office for TLC at 3516 Ninth St., Suite D, Riverside, CA 92501 ("the Riverside office") without Respondent's authority or knowledge.
2. Prior to incorporating TLC, Salas had worked at the same address as the West Covina office with attorney Humberto Samuel Hernandez ("Hernandez"), until his employment relationship with Hernandez was terminated around December 1999. On December 7, 1999, Salas had renewed the lease agreement on behalf of Hernandez's firm for the West Covina office. Previously, on December 30, 1998, Salas had entered into a lease agreement on behalf of Hernandez's firm for the West Covina office.
3. On December 22, 1999, Respondent opened a general account at Bank of America, account number 09802-01770 ("TLC's general account"). Respondent and Salas were signatories for the general account.
4. Unknown to Respondent, Salas prepared bankruptcy petitions falsely purporting that they were prepared in connection with TLC and listing Respondent as the attorney of record. Salas was paid on a case-by-case basis for his services for those cases of which Respondent was aware and which he authorized. Salas also arranged for other attorneys to make appearances in the bankruptcy cases that he filed falsely listing Respondent as the attorney of record.

5. Unknown to Respondent, in 2000, Salas mailed solicitations falsely purporting to be under the TLC name for bankruptcy services to persons whose homes were in foreclosure proceedings ("the solicitation").
6. Unknown to Respondent, on January 22, February 4, March 20, April 18, May 12, July 25, and October 2, 2000, Salas made rent payments from TLC's general account for the West Covina office.
7. In or about October 2000, Respondent terminated his business relationship with Salas, but did not dissolve TLC or close TLC's general account.

### The Gloria Lopez Bankruptcy - Case No. 02-O-10638

#### Facts

8. Paragraphs 1 through 7 are incorporated by reference.
9. In June 2000, Salas falsely led Gloria Lopez ("Lopez") to believe that she had hired TLC for a bankruptcy after she received the solicitation from Salas. Salas, without Respondent's knowledge or authorization, directed Edith Lopez, a non-attorney, to Lopez's home falsely purporting to be a representative of TLC. Edith Lopez told Lopez that Respondent was the attorney that could help her save her home. In June 2000, Lopez met with Salas at the West Covina office. Salas falsely told Lopez that Respondent was the attorney who would be in charge of the bankruptcy, but that Salas would be handling the bankruptcy. Lopez paid Salas approximately \$450 as a partial payment of what Salas falsely represented to be Respondent's \$1,200 fee.
10. On June 27, 2000, and without Respondent's knowledge and/or authorization, Salas filed a Chapter 13 bankruptcy petition for Lopez in the United States Bankruptcy Court, case number 00-19702. The petition listed Respondent as the attorney of record.
11. On June 30, 2000, the court ordered Respondent to collect from Lopez and forward the current monthly payments on any debt secured by Lopez's residence to the secured lienholder. The court also ordered that plan payments be sent directly to the trustee. Because Salas concealed the order from Respondent, he was not aware of it.
12. On July 7, 2000, Salas received \$1,160.37 from Lopez for her post-petition mortgage payment to Wells Fargo Home Mortgage, Inc. ("Wells Fargo"). Salas did not send the \$1,160.37 to Wells Fargo or deposit the funds in a client trust account.
13. On or about August 7, 2000, a 341(a) meeting was held. Salas hired attorney Valerie Simmons to appear in place of Respondent. Salas was also present. Salas received from Lopez a \$460.30 money order and a \$700 money order for post-petition mortgage payments, and a \$488.87 money order for the plan payment. The \$460.30 and \$700 money orders were not sent

to Wells Fargo or deposited into a client trust account. Salas altered and cashed the money orders. The \$488.87 plan payment was given to the trustee.

14. On September 6, 2000, Wells Fargo filed a motion for relief from the automatic stay in Lopez's bankruptcy because Lopez's mortgage payments had not been received. The motion for relief was properly served on Respondent's address of record, but Salas concealed the motion from Respondent. As Respondent was unaware of the Lopez bankruptcy, Respondent did not oppose the motion for relief and the court was not informed that Lopez's delinquency was attributable to Salas's failure to forward the mortgage payments received from Lopez.

15. On September 13, 2000, Lopez's bankruptcy plan was confirmed by the court.

16. On September 19, 2000, the court entered an order confirming Lopez's amended plan.

17. On October 2, 2000, Wells Fargo's motion for relief was granted.

18. On October 27, 2000, the court entered an order granting Wells Fargo's motion for relief, thereby permitting Wells Fargo to foreclose on Lopez's residence.

19. Respondent did not take sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity, which contributed to Salas' ability to mishandle Lopez's case and funds without Respondent's knowledge or authorization.

20. In or about December 2000, Lopez hired attorney Susan Jordan ("Jordan") to stop the sale of her home.

21. On December 27, 2000, Jordan faxed a letter to Respondent's office in Irvine, California ("the Irvine office") at (949) 253-5728. In the letter, she requested, on Lopez's behalf, that Respondent provide an accounting of the \$1,160.37 received by Salas from Lopez on July 7, 2000 for her mortgage. Respondent did not respond to Jordan's request. Respondent maintains that he was not in the country when the fax was sent and never saw the letter.

### **Conclusion of Law**

22. By not taking sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Lopez's bankruptcy, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

### **The Esther Rizo Bankruptcy I - Case No. 02-O-14520**

### **Facts**

23. Paragraphs 1 through 7 are incorporated by reference.

24. On October 19, 1999, Salas, and his wife, Patricia Salas, came to the home of Esther Rizo ("Rizo"), unsolicited. Salas informed Rizo that he was aware that Rizo's home was subject to foreclosure and that he could prevent the foreclosure by filing a Chapter 13 bankruptcy on her behalf. Salas gave Rizo a business card indicating that he was the manager for the Law Offices of H. Samuel Hernandez ("Hernandez's firm"), located at 2640 E. South Garvey Avenue, Suites 202-203, West Covina, California 91791 ("the West Covina office"). Rizo agreed to hire Hernandez's firm for the bankruptcy. Rizo never met with H. Samuel Hernandez ("Hernandez") and Hernandez had not agreed to represent Rizo. Salas was Rizo's primary contact with Hernandez's firm. The fee agreement which Rizo signed with the Hernandez firm provided that Rizo would pay \$1,400 for the bankruptcy.
25. On October 19, 1999, Salas received \$700 from Rizo for the bankruptcy on behalf of Hernandez's firm.
26. On November 16, 1999, Salas received \$350 from Rizo for the bankruptcy on behalf of Hernandez's firm.
27. In November 1999, Hernandez severed his relationship with Salas.
28. On February 16, 2000, Salas filed a Chapter 13 bankruptcy action on Rizo's behalf identified as United States Bankruptcy Court, Central District, case number LA00-14799 ("Rizo's bankruptcy"). Respondent was listed as the attorney of record for Rizo without his knowledge or authorization.
29. As Respondent was unaware of Salas's filing of Rizo's petition, Rizo did not meet nor speak with Respondent, and did not receive any advice from Respondent regarding her need to file for bankruptcy protection before the petition was filed.
30. On March 2, 2000, Salas filed a Chapter 13 plan and motion to avoid liens on Rizo's behalf under Respondent's name without Respondent's knowledge or authorization.
31. With Rizo's bankruptcy petition, Salas filed a statement representing that the compensation paid or agreed to be paid by Rizo to Respondent was \$1,250.
32. A statement pursuant to rule 2016(B) of the Bankruptcy Rules ("rule 2016(B)") bearing Respondent's simulated and unauthorized signature was filed with Rizo's bankruptcy petition. In the statement, it was represented that prior to filing the statement, Rizo had paid or agreed to pay Respondent \$1,250.
33. The representation that Rizo agreed to pay Respondent \$1,250 was false. As of February 16, 2000, Rizo had not entered into any agreement to pay nor paid Respondent \$1,250.
34. On or about March 24, 2000, the trustee received \$607.88 from Rizo to be used toward plan payments.

35. On April 2, 2000, the trustee issued a plan in Rizo's bankruptcy which provided that Rizo was to make 36 monthly payments of \$650.99 to the trustee commencing 30 days after filing the petition, and make monthly payments of \$1,114.49 to her first mortgage holder, California Federal ("Cal Fed"), and \$339.43 to her second mortgage holder, First Plus Financial ("FPF").
36. On April 14, 2000, Salas received \$2,061.80 from Rizo in the form of three money orders payable to Salas for \$339.43, \$607.88 and \$700; and \$414.49 from Rizo in the form of a money order payable to TLC, Contractor's Warehouse, and listing Salas as the remitter. The \$2,061.80 was designated by Rizo to pay Cal Fed, FPF and the trustee for the plan. Salas received the money orders from Rizo and negotiated the money orders. None of the \$2,061.80 was forwarded to the trustee or deposited into a client trust account. Respondent was unaware of the receipt and/or handling of those funds.
37. On April 28, 2000, Salas filed an amended Schedule J and an amended Chapter 13 plan and motion to avoid liens on Rizo's behalf under Respondent's name without Respondent's knowledge or authorization.
38. On May 4, 2000, the trustee filed an objection to the confirmation of Rizo's plan on the following grounds:
- a. there was no proof of service or inadequate proof of service of the plan;
  - b. proof of all sources of income were not submitted;
  - c. debts were not disclosed;
  - d. Schedule F was not amended to include a medical debt, and the creditor for the medical debt was not served with the plan as requested by the trustee; and,
  - e. a contribution declaration and proof of income from Rizo's boyfriend had not been provided as requested by the trustee.
39. On May 10, 2000, Salas received \$2,365.87 from Rizo, or \$1,365.45 to pay Cal Fed; \$349.43 for her second mortgage payment to FPF, and \$650.99 to pay the trustee for the plan. None of the \$2,365.87 was paid to Cal Fed, FPF, or the trustee or deposited into a client trust account. Respondent was unaware of the receipt and/or handling of those funds.
40. On May 18, 2000, the Chapter 13 petition was dismissed for failure to make pre-confirmation payments. All stay and restraining orders were vacated.
41. On May 30, 2000, the trustee filed his final report in Rizo's bankruptcy. In the report, the trustee stated that he had received only \$607.88 in payment of the plan.
42. Respondent did not take sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Rizo's bankruptcy, which led to Salas's mishandling of Rizo's case and funds without Respondent's knowledge or authorization.

### Conclusion of Law

43. By not taking sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Rizo's bankruptcy, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

### The Esther Rizo Bankruptcy II - Case No. 02-O-14520

#### Facts

44. Paragraphs 1 through 7, and 24 through 42 are incorporated by reference.

45. On June 5, 2000, Salas filed a second Chapter 13 bankruptcy action for Rizo entitled, United States Bankruptcy Court, Central District, case number LA00-26461 ("Rizo's second bankruptcy"). Respondent was listed as the attorney of record for Rizo without Respondent's knowledge or authorization. As Respondent was unaware of Salas's filing of Rizo's second bankruptcy, Rizo did not meet nor speak with Respondent, and did not receive any advice from Respondent regarding her need to file for bankruptcy protection before the petition was filed.

46. With the petition in Rizo's second bankruptcy, Salas filed a rule 2016(B) statement bearing Respondent's simulated and unauthorized signature and representing that the compensation paid or agreed to be paid by Rizo to Respondent was \$250.

47. The representation that Rizo agreed to pay Respondent \$250 was false. As of June 5, 2000, Rizo had not entered into any fee agreement with Respondent.

48. As Rizo's second bankruptcy was filed within six months of Rizo's first bankruptcy, Rizo was required to pay all mortgage payments due between February 16, 2000 and June 5, 2000.

49. On July 12, 2000, Rizo paid \$7,677.36 to the trustee as mortgage payments. Following the meeting, Rizo asked Salas for the status of the missing April and May 2000 mortgage payments. Salas told Rizo that he would provide an explanation.

50. On July 26, 2000, the trustee filed an objection to confirmation of Rizo's plan in Rizo's second bankruptcy on the grounds that proof of all sources of income had not been submitted; the plan was not feasible as there was insufficient proof of income to meet the plan's budget; the plan's budget was not amended to delete rental income, to include contribution income, and to correct a mortgage expense; and no contribution declaration or proof of income of the contributor was provided.

51. On August 28, 2000, Rizo paid \$2,355.87 directly to the trustee for her mortgage and plan payments.



52. On August 28, 2000, Respondent appeared at the confirmation hearing in Rizo's second bankruptcy on Rizo's behalf. During the hearing, Respondent accepted the trustee's recommendation of 36 monthly payments of \$650.99 to the trustee, and the plan was confirmed on that term.
53. On September 7, 2000, the court confirmed the plan in Rizo's second bankruptcy.
54. On September 15, 2000, Rizo paid \$1,365.45 to the trustee for mortgage payments.
55. On October 13, 2000, Rizo paid \$1,301.98 to the trustee as plan payments.
56. On October 18, 2000, Rizo was unable to locate Salas at the West Covina office to discuss her inability to pay the mortgage as Cal Fed's interest rate had caused Rizo's payment to increase from \$1,100 to \$1,300.
57. In November 2000, Rizo met with Salas. Salas informed Rizo that he had moved his office, that he could be reached at his Riverside office, and that he would be opening a new office in January 2001. Rizo again requested an explanation for the missing April and May 2000 mortgage payments. Salas said he would provide an explanation when the new office was opened.
58. On December 21, 2000, Cal Fed filed a motion for relief from the automatic stay regarding Rizo's home on the ground that Rizo had not paid three mortgage payments after confirmation of the plan. The total post-petition delinquency was \$3,688.81. Cal Fed's motion was properly served on the West Covina office, but Salas did not inform Respondent of the motion for relief. Also, by this time, Respondent had already severed his relationship with Salas. No written response or opposition to Cal Fed's motion was filed on Rizo's behalf. Rizo had stopped making payments as she did not have the money to make up the deficit created when Salas did not forward the \$4,427.67 received on April and May 10, 2000 from Rizo.
59. On January 16, 2001, a hearing was held on Cal Fed's motion for relief. Respondent did not appear at the hearing on Rizo's behalf because he was not made aware of the hearing. The court granted Cal Fed's motion for relief.
60. On January 18, 2001, the court served a copy of the order granting Cal Fed's motion for relief on the West Covina office and Rizo by mail. Respondent was not made aware of the order by Salas or by anyone else.
61. On February 2, 2001, the trustee served a motion to dismiss Rizo's bankruptcy on Rizo and on the West Covina office. Respondent did not file a written opposition to the motion to dismiss as he was not made aware of the motion to dismiss by Salas or by anyone else.
62. On April 2, 2001, Rizo's second bankruptcy was dismissed due to delinquent payments.

63. Respondent did not take sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Rizo's second bankruptcy, which made it easier for Salas to mishandle Rizo's case.

### **Conclusion of Law**

64. By not taking sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Rizo's second bankruptcy, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

### **The Gloria Lara Property Damage Claim - Case No. 03-O-00493**

#### **Facts**

65. On or about June 5, 2002, Gloria Lara ("Lara") hired Respondent's office, located at 3700 Wilshire Boulevard, Suite 550, Los Angeles, California 90010, for personal injury and property damage claims arising from a May 29, 2002 automobile collision. Lara never met with Respondent, but dealt with non-attorneys in Respondent's office.

66. On July 2, 2002, Respondent's non-attorney employee, Macaira Aguayo ("Aguayo"), sent a letter of representation to the opposing party's insurance carrier, Occidental Wilshire Insurance Company ("Wilshire").

67. On July 29, 2002, Wilshire faxed a settlement offer for Lara's property damage claim to Respondent's non-attorney employee, Joe Lopez. Wilshire concluded that the damage to Lara's vehicle was a total loss.

68. On July 30, 2002, Wilshire was informed by Respondent's employee that the property damage settlement offer was accepted and that Lara would retain the salvage. Respondent's employee requested that Wilshire send payment to the repair shop, LA Auto Body ("LA Auto"), because Lara was having the vehicle repaired at LA Auto. Lara had not agreed that LA Auto could make the repairs.

69. On July 31, 2002, Wilshire issued a property damage settlement draft for \$4,834.39 (or \$5,929.39 less \$1,095 in salvage value), payable to Lara and LA Auto.

70. On August 7, 2002, Joe Lopez advised Lara that she could not elect where her vehicle could be repaired. Joe Lopez informed Lara that Wilshire had issued a property damage draft payable to her and the repair shop selected by Wilshire. Wilshire had not selected LA Auto. Joe Lopez advised Lara to go to LA Auto and request her settlement funds. Lara was informed by LA Auto that it was keeping \$1,500 of the settlement funds for "taxes" and that Lara would have to sign a work order stating that the vehicle had been repaired although no repairs were completed. Lara declined to sign the work order and returned to Respondent's office.

71. On August 7, 2002, Joe Lopez advised Lara that she had to sign the work order as instructed by LA Auto in order to receive her settlement funds.
72. On August 7, 2002, Lara returned to LA Auto and signed the work order as instructed, but no repairs were completed by LA Auto.
73. On August 7, 2002, LA Auto issued to Lara a \$3,034 check, postdated for August 28, 2002. LA Auto told Lara that the funds would not be available for three to four weeks.
74. On August 15, 2002, LA Auto informed Lara that the \$4,834.39 settlement draft could not be cashed unless Lara went to the bank with an LA Auto representative. Lara went to the bank as instructed and the draft was negotiated at a bank on August 15, 2002.
75. Between August 15 to August 27, 2002, Lara complained to Aguayo regarding the handling of her property damage claim by Respondent's office and requesting the entire \$4,834.39. Aguayo informed Lara that she would not be able to cash the \$3,034 check from LA Auto as LA Auto had filed for bankruptcy protection.
76. In late September 2002, after Lara threatened to file a complaint with the State Bar of California against Respondent, Aguayo instructed Lara to try and cash the \$3,034 check as LA Auto's secretary said that the funds were available. Lara tried to cash the \$3,034 check but a stop payment had been placed on the check. Lara advised Aguayo of the stop payment.
77. On October 2, 2002, Respondent's non-attorney law clerk, Jay Levy ("Levy"), sent a letter to Wilshire. In the letter, Levy demanded that Wilshire reissue, "the property damage draft in the amount of \$4,834.38 (sic)" in Lara's name only within five days or a lawsuit would be filed and served. Levy further stated that LA Auto was returning a property damage check to Wilshire.
78. On October 16, 2002, Wilshire faxed a reply to Levy's October 2, 2002 letter. In the reply, Wilshire asserted that it had requested LA Auto to return the property damage draft to Wilshire, but received no reply from LA Auto. Wilshire asserted that it could not reissue the draft until the initial property damage draft was returned to Wilshire.
79. On November 5, 2002, Respondent sent a letter to Wilshire. In the letter, Respondent claimed that Wilshire erroneously issued the property damage draft to Lara and LA Auto, and that Wilshire had ignored Respondent's October 2, 2002 request that the draft be reissued in Lara's name only. Respondent claimed that Wilshire's failure to reissue the draft resulted in LA Auto converting the funds. Respondent further claimed that he was contemplating filing a lawsuit against Wilshire for negligence.

80. On November 14, 2002, Wilshire sent a letter to Respondent in response to his November 5, 2002 letter. In Wilshire's reply, Wilshire stated that the property damage draft was not erroneously issued as Joe Lopez had requested that the draft be issued to Lara and LA Auto because Lara was having her vehicle repaired by LA Auto. Wilshire further stated that there was no other reason to issue the draft with LA Auto as a payee since the vehicle was considered a total loss and Lara was retaining the salvage. Wilshire stated that it could not reissue the draft on October 2, 2002 because the original draft had been cashed and the funds were never returned by LA Auto as promised.
81. On January 9, 2003, Respondent filed a lawsuit for Lara against LA Auto in the Los Angeles County Superior Court, case number 03K00241 to recover damages for alleged fraud and breach of contract by LA Auto. Also, on January 9, 2003, Lara submitted a complaint to the State Bar of California ("State Bar") alleging that Respondent had mishandled her property damage claim.
82. On March 11, 2003, State Bar Investigator Nelson Santiago sent a letter to Respondent's counsel regarding Lara's State Bar complaint.
83. On March 30, 2003, Respondent sent a letter to Santiago in response to Lara's complaint. In the letter, Respondent's counsel informed the State Bar that Respondent would pay Lara's property damage.
84. On April 2, 2003, Respondent issued a \$4,834.38 check to Lara from his general account as payment of her property damage.
85. On April 3, 2003, Respondent dismissed the lawsuit against LA Auto.
86. On April 3 and 4, 2003, Lara attempted to cash the \$4,834.38 check, but there were insufficient funds in Respondent's account to honor the check.
87. On April 4, 2003, Lara sent a letter to Respondent. In the letter, Lara informed Respondent that she would be complaining to the State Bar about the bounced check.
88. On April 8, 2003, Respondent sent a letter to Lara in response to her April 4, 2003 letter. In the letter, Respondent said, "When we gave you the check, we did tell you that possibly the funds would not be available and we suggested any other place where that check might be cashed, but you insisted." On April 8, 2003, Respondent's employee took Lara to a check cashing facility where the check was cashed.
89. Respondent issued the \$4,834.38 check to Lara when he knew that there were insufficient funds in his account to honor the check.

90. Respondent permitted his non-attorney employees to handle and resolve Lara's property damage claim without proper supervision by Respondent which caused LA Auto to be erroneously named as a payee on the settlement draft. Respondent's failure to supervise his employees resulted in a delay in payment of the settlement funds to Lara.

#### **Conclusions of Law**

91. By failing to supervise his employees handling of Lara's property damage claim, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

92. By issuing the \$4,834.38 check when he knew that there were insufficient funds in his account to honor the check and by suggesting that Lara could cash the check at a check cashing facility despite the insufficient funds in the account, Respondent committed an act involving dishonesty in wilful violation of section 6106, Business and Professions Code.

#### **The Omar Amaya Injury Claim - Case No. 04-O-10155**

#### **Facts**

93. On August 24, 2002, Omar Amaya ("Amaya") was involved in an automobile collision. Amaya employed Respondent to represent him in claims arising from the collision.

94. On February 4, 2003, Amaya's claim was settled for \$6,000.

95. On or about February 10, 2003, the \$6,000 draft was deposited into Respondent's client trust account located at Wilshire State Bank, account number 8303363 ("the CTA").

96. Respondent failed to promptly inform Amaya of his receipt of the \$6,000.

97. Respondent failed to pay Amaya his share of the settlement funds, or \$2,000, until February 2004.

98. From the date that the \$6,000 was deposited into the CTA to the date that Amaya received his share of the settlement, the balance in the CTA fell below the \$2,000 that Respondent should have maintained in the CTA on Amaya's behalf. The deficiencies were due to Respondent's grossly negligent handling of his client trust account.

#### **Conclusions of Law**

99. By failing to promptly notify Amaya of the receipt of the settlement funds, Respondent wilfully violated rule 4-100(B)(1), Rules of Professional Conduct.

100. By failing to promptly distribute \$2,000 to Amaya, Respondent wilfully violated rule 4-100(B)(4), Rules of Professional Conduct.

101. Respondent wilfully violated rule 4-100(A), Rules of Professional Conduct, though his gross neglect, by allowing the balance in the CTA to fall below the \$2,000 he should have maintained in the CTA for Amaya.

**The Humberto Hernandez Cruz Bankruptcy - Case No. 04-O-10405**

102. Paragraphs 1 through 7 are incorporated by reference.

103. In or about June 2000, Humberto Hernandez Cruz ("Cruz") received the solicitation in the mail from Salas.

104. On July 24, 2000, Cruz went to the West Covina office in response to the solicitation and met with Salas. Salas told Cruz that he was an attorney. Salas advised Cruz to file a Chapter 13 bankruptcy. Without Respondent's knowledge or authorization, Salas agreed to provide legal representation to Cruz for his bankruptcy. As such, Cruz did not meet nor speak with Respondent, and did not receive any advice from Respondent regarding his need to file for bankruptcy protection. Cruz paid Salas \$900 as an advance fee and \$185 for filing fees.

105. On July 25, 2000, Salas filed a bankruptcy petition for Cruz in which Respondent was identified as Cruz's attorney. The West Covina office was listed as Respondent's address of record.

106. A statement pursuant to rule 2016(B) of the Bankruptcy Rules ("rule 2016(B)") bearing Respondent's simulated and unauthorized signature was filed with Cruz's bankruptcy petition. In the rule 2016 (B) statement, it was represented that prior to filing the statement, Cruz had paid Respondent \$1,250.

107. The representation in the statement that Cruz had paid Respondent \$1,250 was false. As of July 25, 2000, Cruz had not paid any fees to Respondent.

108. On July 27, 2000, the court ordered that Respondent was to collect from Cruz and forward the current monthly payments on any debt secured by Cruz's residence to his secured lien holder.

109. On July 29, 2000, the clerk of the court served a copy of the court's July 27, 2000 order by mail on the West Covina office. Respondent was not made aware of the order by Salas.

110. On August 3, 2000, Salas received \$1,150 from Cruz, or \$800 for Cruz's mortgage payment due on August 1, 2000, and \$350 for the balance of Respondent's \$1,250 fee. Salas did not make Cruz's mortgage payment with the \$800.

111. On August 4, 2000, Salas filed a Chapter 13 plan and motion to avoid liens under Respondent's name without Respondent's knowledge or authorization. In the plan, Cruz agreed to continue making his monthly mortgage payments.

112. In or about August or September 2000, Salas received \$814 from Cruz for Cruz's mortgage payment due on September 1, 2000. Salas did not make Cruz's mortgage payment with the \$814.

113. On or about September 12, 2000, Cruz paid \$814 directly to the mortgage holder for his payment due on October 1, 2000. The funds were applied to Cruz's mortgage payment due on August 1, 2000.

114. On September 18, 2000, the court confirmed the plan and ordered that Cruz was to pay \$405 by the 25<sup>th</sup> day of each month for 36 months. Respondent was awarded \$1,250 in attorney fees. A copy of the order was properly served by mail on the West Covina office, but Respondent was not made aware of the order by Salas.

115. On or about October 23, 2000, Cruz paid \$813 directly to the mortgage holder for his payment due on November 1, 2000. The mortgage holder credited the \$813 toward the payment due on September 1, 2000 as Salas had not forwarded the \$814 received from Cruz in August or September 2000 to the mortgage holder.

116. In or about December 2000, Cruz received notices from the mortgage holder that he was delinquent with his mortgage payments. Cruz attempted to contact TLC to discuss the notice in light of the payments Cruz had requested Salas to forward to the mortgage holder, but discovered that TLC had closed its office without notice to him.

117. On January 9, 2001, the mortgage holder filed a motion for relief from the automatic stay because \$2,984.92 in post-confirmation payments had not been received from Cruz, including four mortgage payments due on October 1, November 1, and December 1, 2000 and January 1, 2001. A copy of the motion was properly served by mail on Cruz and on the West Covina office. Respondent was not made aware of the motion by Salas.

118. On January 22, 2001, the trustee filed a motion to dismiss Cruz's bankruptcy based upon \$810.22 in delinquent plan payments due on November 25 and December 25, 2000. A copy of the motion was properly served by mail on the West Covina office. Respondent was not made aware of the motion by Salas. As Respondent was unaware of Cruz's bankruptcy, he did not file any opposition or response to the motion to dismiss on Cruz's behalf and the court was not informed that Cruz's delinquency was attributable to Salas's failure to forward the mortgage payments received from Cruz.

119. On February 8, 2001, a hearing was held on the mortgage holder's motion for relief from the automatic stay. As Respondent was unaware of Cruz's bankruptcy, Respondent did not appear at the hearing. Cruz appeared at the hearing on his own behalf. Cruz informed the court that Respondent had disappeared from his office and Respondent's telephone was disconnected.

120. On or about February 15, 2001, Cruz contacted Respondent about his bankruptcy after obtaining Respondent's telephone number in Irvine, California.

121. On or about February 15, 2001, Cruz met with Salas at the Riverside office and demanded proof that Salas had forwarded the mortgage payments to the mortgage holder. Salas issued check number 1181 from TLC's general account at Bank of America, account number 09802-01770, to PNC Mortgage in the amount of \$814 and promised to pay the balance to Cruz at a later date.

122. On or about February 15, 2001, another hearing was held on the mortgage holder's motion for relief. Cruz gave the mortgage holder's attorney check number 1181.

123. On February 16, 2001, the trustee filed a declaration in support of the motion to dismiss in which it was noted that Cruz owed \$1,215.22 in delinquent payments.

124. On February 16, 2001, a hearing was held on the trustee's motion to dismiss. As Respondent was unaware of the motion, Respondent did not appear at the hearing. The court ordered Cruz's case dismissed. On February 16, 2001, the clerk of the court properly served notice of the dismissal on the West Covina office. Respondent was not made aware of the dismissal because Salas did not notify Respondent of it.

125. On or about February 28, March 2, and March 7, 2001, check number 1181 was presented for payment. There were insufficient funds in TLC's account and check number 1181 was not paid.

126. Respondent did not take sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Cruz's bankruptcy, which led to Salas's mishandling of Cruz's case and funds without Respondent's knowledge or authorization.

### **Conclusions of Law**

127. By not taking sufficient steps to diminish Salas's ability to fraudulently use Respondent's identity in Cruz's bankruptcy, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

### **Failure to Cooperate - Case No. 04-O-10405**

### **Facts**

128. Paragraphs 1 through 7, and 103 through 126 are incorporated by reference.

129. On February 3, 2004, the State Bar of California ("State Bar") opened an investigation, identified as case number 04-O-10405, in connection with a complaint received from Cruz regarding TLC's handling of his bankruptcy.



130. On February 26, 2004, State Bar Investigator Nelson Santiago ("Santiago") sent a letter to Respondent's counsel regarding Cruz's complaint. Santiago's letter was placed in a sealed envelope addressed to Respondent's counsel at his State Bar of California membership records address of 2000 Riverside Dr., Los Angeles, CA 90039-3758 ("counsel's address"). Santiago's letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service ("USPS") in the ordinary course of business. The USPS did not return Santiago's letter as undeliverable or for any other reason.

131. In Santiago's letter, he requested that by March 11, 2004, Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar regarding Cruz's complaint. Respondent did not respond to Santiago's letter.

132. On March 11, 2004, Santiago sent another letter to Respondent's counsel at counsel's address. Santiago's letter was mailed by first class mail, postage prepaid, by depositing for collection by the USPS in the ordinary course of business. The USPS did not return Santiago's letter as undeliverable or for any other reason.

133. With the March 11, 2004 letter, Santiago provided a copy of his February 26, 2004 letter. Santiago requested that Respondent provide a response to Cruz's complaint by March 25, 2004. Respondent did not respond to Santiago's letter and did not otherwise cooperate in the investigation of Cruz's complaint.

#### **Conclusion of Law**

134. By not providing a written response to the allegations or otherwise cooperating in the investigation of Cruz's complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in wilful violation of section 6068(i), Business and Professions Code.

#### **Aiding the Unauthorized Practice of Law - Case Nos. 02-O-10638, 02-O-14520, and 04-O-10405**

#### **Facts**

135. Paragraphs 1 through 7; 9 through 19; 24 through 42; 45 through 63; and 103 through 126 are incorporated by reference.

136. At Salas's direction, and without Respondent's knowledge, in June 2000 approximately, Edith Lopez appeared unsolicited at the home of Erica Moreno ("Moreno") after Moreno and her husband had fallen behind in their mortgage payments. Edith Lopez advised Moreno that TLC was a law firm owned by Respondent, who was the senior partner. Edith Lopez advised Moreno that bankruptcy was the only option for her to save her home. Moreno did not meet nor speak with Respondent, and did not receive any advice from Respondent regarding her need to file for bankruptcy protection.

137. Edith Lopez and Salas misrepresented to Moreno that Salas was an attorney and misled Moreno into believing that she was hiring TLC. Further, they told Moreno that Salas would be handling her bankruptcy. Moreno paid \$1,500 to Salas. Salas told Moreno that he could not appear with Moreno in court because his father was ill. Salas represented that another attorney would be appearing for her matter.

138. On August 4, 2000, Salas filed a Chapter 13 bankruptcy petition for Moreno, United States Bankruptcy Court, case number 00-21558, under Respondent's name without his knowledge or authorization. As such, Respondent had not reviewed nor signed the petition and Respondent's unauthorized signature was simulated on the petition.

139. Respondent did not take sufficient steps to diminish Salas's ability to hold himself out as an attorney, and he did not take sufficient precautions to diminish Salas's and other non-attorneys' ability to give legal advice.

### **Conclusion of Law**

140. By not taking sufficient steps to diminish Salas's ability to hold himself out as an attorney, and by not taking sufficient precautions to diminish Salas's and other non-attorneys' ability to give legal advice, Respondent aided persons in the unauthorized practice of law in wilful violation of rule 1-300(A), Rules of Professional Conduct.

### **The Zazueta Injury Claims - Case No. 05-O-10014**

#### **Facts**

141. On or about October 1, 2002, Martin and Georgina Zazueta ("the Zazuetas") hired Respondent for personal injury claims related to an automobile accident which occurred on or about September 26, 2002.

142. Respondent also represented Sergio Galvez ("Galvez") and Carlos Flores ("Flores"), who were passengers in the Zazuetas's vehicle at the time of the accident. Respondent did not obtain the Zazuetas's, Galvez's or Flores's informed written consent to his representation of more than one client in a matter in which the interests of the clients potentially conflicted, as required by rule 3-310(C)(1), Rules of Professional Conduct.

143. Respondent permitted non-attorney staff, including Jay Levy ("Levy"), to handle the Zazuetas's claims. Because Respondent had not properly supervised his staff, the Zazuetas were incorrectly informed by Respondent's staff that the other party's insurance company would be paying off the Zazuetas' vehicle as a total loss. However, the Zazuetas received notices from the lien holder for their vehicle which indicated that they were still responsible for a balance owed to the lien holder of approximately \$3,000.

144. In May 2003, the Zazuetas's claims were settled without their being informed of the settlement offers prior to settlement. Respondent's fee agreement contained a special power of attorney giving him the authority to settle the Zazuetas's claims if he deemed the settlement fair and reasonable under the circumstances.

145. Because Respondent had not properly supervised his staff, on or about May 7, 2003, the settlement releases were signed by someone in Respondent's office as a witness, who falsely attested to the Zazuetas's, Galvez's and Flores's endorsement of the releases.

146. Prior to July 2003, the Zazuetas left telephone messages for Respondent in which they requested the status of their claims. No one returned their calls.

### **Conclusions of Law**

147. By not obtaining his clients' informed written consent to Respondent's representation, Respondent accepted representation of more than one client in a matter in which the interests of the clients potentially conflicted, without the informed written consent of each client, in wilful violation of rule 3-310(C)(1), Rules of Professional Conduct.

148. By not supervising his non-attorney staff's handling of the property damage claim and endorsement of the settlement releases, Respondent failed to perform legal services with competence in wilful violation of rule 3-110(A), Rules of Professional Conduct.

149. By not responding to the Zazuetas's telephone messages, Respondent failed to respond promptly to reasonable status inquiries of clients in wilful violation of section 6068(m), Business and Professions Code.

150. By not informing the Zazuetas of the receipt of their settlement funds in May 2003, Respondent failed to promptly notify clients of the receipt of the clients' funds in wilful violation of rule 4-100(B)(1), Rules of Professional Conduct.

### **Respondent's Gross Negligence - Case Nos. 02-O-10638, 02-O-14520, 03-O-00493, 04-O-10155, 04-O-10405, 05-O-10014**

### **Facts**

151. Paragraphs 1 through 7; 9 through 21; 24 through 42; 45 through 63; 65 through 80; 93 through 98; 103 through 126; and 141 through 146 are incorporated by reference.

152. Respondent acted with gross negligence by failing to take sufficient steps to diminish Salas' ability to fraudulently use Respondent's identity in Lopez's, Rizo's, and Cruz's bankruptcies, and in not supervising the settlement and distribution of settlement funds in Lara's and the Zazuetas's claims.

153. By not maintaining \$2,000 in the CTA from the date that the \$6,000 was deposited into the CTA to the date that Amaya received his share of the settlement, Respondent misappropriated client funds through gross neglect of the CTA.

### **Conclusions of Law**

154. By acting with gross negligence in not taking steps to diminish Salas' and other non-attorneys' ability to fraudulently use Respondent's identity, and by failing to adequately supervise his staff in those cases about which he was aware, Respondent committed acts involving moral turpitude in wilful violation of section 6106, Business and Professions Code.

155. By misappropriating Amaya's funds through gross neglect of the CTA, Respondent committed an act of moral turpitude in wilful violation of section 6106, Business and Professions Code.

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was January 11, 2006.

### **DISMISSALS.**

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

| <b><u>Case No.</u></b> | <b><u>Count</u></b> | <b><u>Alleged Violation</u></b>                  |
|------------------------|---------------------|--|
| 02-O-10638             | Three               | Rule 4-100(B)(4), Rules of Professional Conduct. |
| 02-O-10638             | Four                | Rule 4-100(A), Rules of Professional Conduct.    |
| 02-O-10638             | Five                | Rule 4-100(B)(3), Rules of Professional Conduct. |
| 02-O-10638             | Six                 | Section 6106, Business and Professions Code.     |
| 02-O-10638             | Seven               | Section 6106, Business and Professions Code.     |
| 02-O-10638             | Eight               | Section 6106, Business and Professions Code.     |
| 02-O-10638             | Nine                | Section 6106, Business and Professions Code.     |
| 02-O-14520             | Eleven              | Section 6068(d), Business and Professions Code.  |
| 02-O-14520             | Twelve              | Section 6106, Business and Professions Code.     |
| 02-O-14520             | Fourteen            | Rule 4-100(B)(4), Rules of Professional Conduct. |
| 02-O-14520             | Fifteen             | Rule 4-100(A), Rules of Professional Conduct.    |
| 02-O-14520             | Sixteen             | Rule 4-100(B)(3), Rules of Professional Conduct. |
| 02-O-14520             | Seventeen           | Section 6068(d), Business and Professions Code.  |
| 02-O-14520             | Eighteen            | Section 6106, Business and Professions Code.     |
| 02-O-14520             | Nineteen            | Section 6068(i), Business and Professions Code.  |
| 02-O-14520             | Twenty              | Section 6106, Business and Professions Code.     |
| 03-O-00493             | Twenty-Two          | Section 6068(a), Business and Professions Code.  |
| 03-O-00493             | Twenty-Four         | Rule 4-100(B)(4), Rules of Professional Conduct. |
| 03-O-00493             | Twenty-Five         | Section 6106, Business and Professions Code.     |

|            |             |  |
|------------|-------------|--|
| 04-O-10155 | Thirty      | Section 6106, Business and Professions Code.     |
| 04-O-10155 | Thirty-Two  | Rule 1-300(A), Rules of Professional Conduct.    |
| 04-O-10405 | Thirty-Four | Rule 4-100(B)(4), Rules of Professional Conduct. |
| 04-O-10405 | Thirty-Five | Rule 4-100(A), Rules of Professional Conduct.    |
| 04-O-10405 | Thirty-Six  | Rule 4-100(B)(3), Rules of Professional Conduct. |
| 04-O-10405 | Thirty-Nine | Rule 3-700(A)(2), Rules of Professional Conduct. |
| 04-O-10405 | Forty       | Section 6068(d), Business and Professions Code.  |
| 04-O-10405 | Forty-One   | Section 6106, Business and Professions Code.     |

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

*In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411.

For over two years, Jones delegated to a non-attorney, without proper supervision, all aspects of a plaintiff personal injury practice which resulted in illegal solicitations, unauthorized practice of law by the non-attorney and mishandling of client settlement funds.

Jones received two years actual, three years stayed suspension and three years probation. Jones fully cooperated in the criminal prosecution of the non-lawyer who engaged in the unauthorized practice of law; fully cooperated with the State Bar; displayed spontaneous candor to the State Bar; took objective steps to make lienholders whole upon learning that they had not been paid by the non-attorney; and provided evidence in support of his good character and community activities. Little weight was given to Jones's prior discipline-free record as he was in practice just over two years when his misconduct began.

*In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108, 119, passage of the Professional Responsibility Examination ("PRE") was not recommended where the attorney had passed the PRE a little less than three years earlier. Further, while the PRE is relevant to a Standard 1.4(c)(ii) proceeding, it is not a condition precedent. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 516.)

#### **AGGRAVATING CIRCUMSTANCES.**

##### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

###### Multiple Acts of Misconduct

Respondent violated rules 1-300(A), 3-110(A), 3-310(C), 4-100(A), 4-100(B)(1), and 4-100(B)(4), Rules of Professional Conduct; and sections, 6068(i), 6068(m) and 6106, Business and Professions Code.

## MITIGATING CIRCUMSTANCES.

### ADDITIONAL MITIGATING CIRCUMSTANCES.

During the period in question, Respondent, who was admitted in November 1997, was trying to run his own office. He admits that his skills in office management left much to be desired.

Before and at the time of the misconduct, Respondent devoted a great deal of his time and resources to public service. He has been particularly active in the Orange County Asian American Bar Association, has lectured to law students at Chapman University, regularly participates in feeding the homeless, has been of substantial assistance to Boys Hope/Girls Hope charity, and he has provided a great deal of work for community service activities of the Alumni Association of the University of California. He has continued in those activities to the present.

Respondent reported Salas' illegal activities to the police, the United States Trustee, and to the State Bar. Further, he contacted Salas' victims to inform them of the situation.

Respondent recognizes that he has not properly handled his practice and he desires to withdraw from practice for a period of re-evaluation. He accepts that a period of suspension would be beneficial.




Respondent has agreed to pay restitution to Gloria Lopez, Esther Rizo, and Humberto Cruz for the funds improperly taken by Salas. (Cf., *In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411, 421.)

(Do not write above this line.)

|  |                                       |
|--|---------------------------------------|
| In the Matter of<br><br>DANIEL EDOUARD CHIEN | Case number(s):<br><br>02-O-10638-RAP |
|--|---------------------------------------|

### SIGNATURE OF THE PARTIES

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

|  |   |   |
|--|---|---|
| Date<br><u>Jan 11<sup>th</sup> '06</u> | Respondent's signature<br>            | Print name<br><u>DANIEL EDOUARD CHIEN</u> |
| Date<br><u>1/11/06</u>                 | Respondent's Counsel's signature<br>  | Print name<br><u>ARTHUR L. MARGOLIS</u>   |
| Date<br><u>1/11/06</u>                 | Deputy trial counsel's signature<br> | Print name<br><u>DIANE J. MEYERS</u>      |

(Do not write above this line.)

|  |                                       |
|--|---------------------------------------|
| In the Matter of<br><br>DANIEL EDOUARD CHIEN | Case number(s):<br><br>02-O-10638-RAP |
|--|---------------------------------------|


### ORDER

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

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

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

1-20-06  
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 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 January 24, 2006, I deposited a true copy of the following document(s):

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

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

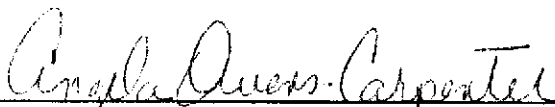
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ARTHUR MARGOLIS ESQ  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DRIVE  
LOS ANGELES CA 90039 3758**

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

**DIANE MEYERS A/L, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 24, 2006**.

  
**Angela Owens-Carpenter**  
Case Administrator  
State Bar Court