

<p><b>Counsel for the State Bar</b>                  THE STATE BAR OF CALIFORNIA                  OFFICE OF THE CHIEF TRIAL COUNSEL                  ENFORCEMENT                  KEVIN B. TAYLOR, No. 151715                  1149 South Hill Street, 9th Floor                  Los Angeles, CA 90015-2299                  Telephone: (213) 765-1000</p>	<p><b>Case number(s)</b>                  02-0-11301                  02-0-14293</p> <p><b>Inv. Numbers</b>                  03-0-03542                  03-0-03698</p> <p style="text-align: center;">kwiktag® 035 117 074  </p>	<p style="text-align: center;">(for Court's use)  <b>PUBLIC MATTER</b></p> <p style="text-align: center; font-size: 2em; font-weight: bold;">FILED <i>[Signature]</i></p> <p style="text-align: center;">MAR 03 2004</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE                  SAN FRANCISCO</p>
<p><b>Counsel for Respondent</b>                  James DiFrank, Esq.                  Attorney at Law                  12227 Philadelphia Street                  Whittier, CA 90601-3931                  Phone: (562) 789-7734</p>	<p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION                  AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p><b>In the Matter of</b>                  Gustavo G. Ceballos</p> <p>Bar # 189807</p> <p>A Member of the State Bar of California                  (Respondent)</p>		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted September 22, 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 11 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - costs added to membership fee for calendar year following effective date of discipline
  - costs to be paid in equal amounts prior to February 1 for the following membership years:  
2005 and 2006  
 (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth under "Partial Waiver of Costs"
  - costs entirely waived

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

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

- (1)  Prior record of discipline [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case \_\_\_\_\_
- (b)  date prior discipline effective \_\_\_\_\_
- (c)  Rules of Professional Conduct/ State Bar Act violations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (d)  degree of prior discipline \_\_\_\_\_
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".
- (2)  Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances (see Standard 1.2(e).) Facts supporting mitigating circumstances are required.

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

Additional mitigating circumstances:

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of Eighteen (18) months

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of \_\_\_\_\_, plus 10% per annum accruing from \_\_\_\_\_, and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- iii. and until Respondent does the following: \_\_\_\_\_

B. The above-referenced suspension shall be stayed.

2. Probation.

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

E. Additional Conditions of Probation:

- (1)  During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, <sup>5</sup> of the State Bar of California all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3)  Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next quarter 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.
- (4)  Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (5)  Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (6)  Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended.
- (7)  Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (8)  The following conditions are attached hereto and incorporated:
- Substance Abuse Conditions       Law Office Management Conditions
- Medical Conditions                       Financial Conditions
- (9)  Other conditions negotiated by the parties:

- Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit ~~of the Office of the Chief Trial Counsel~~ within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- No MPRE recommended.

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

IN THE MATTER OF: GUSTAVO G. CEBALLOS, State Bar No. 189807

CASE NUMBERS: 02-O-11301 & 02-O-14293

INVESTIGATION NUMBERS: 03-O-03542 & 03-O-03698

**FACTS AND CONCLUSIONS OF LAW**

**Case Number 02-O-11301**

On or about August 17, 2001, the California Supreme Court issued and filed an order, number S099547, effective September 1, 2001, suspending Respondent from the practice of law for his failure to pay State Bar of California membership fees. Respondent was properly served with the Supreme Court's order of August 17, 2001. Respondent received notice of the suspension prior to September 1, 2001. The suspension continued until November 21, 2001.

Also on or about September 1, 2001, Respondent was placed on administrative inactive status by the State Bar of California for his failure to comply with the State Bar's minimum continuing legal education requirements. Respondent remained on inactive status for failing to comply with his MCLE obligations until March 18, 2002.

The State Bar properly served Respondent notice of his inactive status prior to September 1, 2001. However, Respondent contends that he did not receive the notice regarding his MCLE obligations because he moved his office about that time.

Respondent further contends that he mailed proof of his MCLE compliance to the State Bar in January 2001. However, the State Bar did not receive such proof about that time.

On or about December 7, 2001, the State Bar sent Respondent another letter notifying him of his failure to comply with his MCLE obligations. Respondent received this notice, but did not complete his compliance until March 18, 2002.

From September 1, 2001 to March 18, 2002, Respondent was not entitled to practice law or hold himself out as entitled to practice law in the State of California.

On November 23, 2001, Respondent sent a letter to a State Bar investigator advising her that he would be representing another attorney who was the subject of a State Bar investigation.

Respondent's letter was mailed on letterhead which indicated that he was an attorney licensed to practice law in California at that time

Legal Conclusion

By publishing the above-described letter and letterhead indicating that he was an attorney licensed to practice law in California, Respondent held himself out as entitled to practice law when he was not an active member of the State Bar of California. Respondent thereby engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, section 6125 and 6126 and failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

Case Number 02-O-14293

On or about August 17, 2001, the California Supreme Court issued and filed an order, number S099547, effective September 1, 2001, suspending Respondent from the practice of law for his failure to pay State Bar of California membership fees. Respondent was properly served with the Supreme Court's order of August 17, 2001. Respondent received notice of the suspension prior to September 1, 2001. The suspension continued until November 21, 2001.

Also on or about September 1, 2001, Respondent was placed on administrative inactive status by the State Bar of California for his failure to comply with the State Bar's minimum continuing legal education requirements. Respondent remained on inactive status for failing to comply with his MCLE obligations until March 18, 2002.

The State Bar properly served Respondent notice of his inactive status prior to September 1, 2001. However, Respondent contends that he did not receive the notice regarding his MCLE obligations because he moved his office about that time.

Respondent further contends that he mailed proof of his MCLE compliance to the State Bar in January 2001. However, the State Bar did not receive such proof about that time.

On or about December 7, 2001, the State Bar sent Respondent another letter notifying him of his failure to comply with his MCLE obligations. Respondent received this notice, but did not complete his compliance until March 18, 2002.

From September 1, 2001 to March 18, 2002, Respondent was not entitled to practice law or hold himself out as entitled to practice law in the State of California.

On or about March 2, 2002, Respondent met with Maria Solano regarding her immigration status and a hearing that was schedule to be held regarding same on or about March 12, 2002 in the United States Immigration Court, case number A 75 706 809. At that meeting, Respondent held himself out as an attorney licensed to practice law in the State of California at that time, discussed Solano's immigration status with her, and gave Solano legal advice regarding her immigration status and her upcoming hearing. Also at that meeting, Respondent lead Solano to believe that he would represent her at her March 12, 2002 hearing. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

On or about March 12, 2002, Respondent appeared in the United States Immigration Court on behalf of Solano in case number A 75 706 809. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

### Legal Conclusion

By holding himself out as entitled to practice law, giving legal advice to Solano and appearing in court on behalf of Solano when he was not an active member of the State Bar of California, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, section 6125 and 6126. Respondent thereby failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

### Investigation Number 03-O-03542

On or about August 17, 2001, the California Supreme Court issued and filed an order, number S099547, effective September 1, 2001, suspending Respondent from the practice of law for his failure to pay State Bar of California membership fees. Respondent was properly served with the Supreme Court's order of August 17, 2001. Respondent received notice of the suspension prior to September 1, 2001. The suspension continued until November 21, 2001.

Also on or about September 1, 2001, Respondent was placed on administrative inactive status by the State Bar of California for his failure to comply with the State Bar's minimum continuing legal education requirements. Respondent remained on inactive status for failing to comply with his MCLE obligations until March 18, 2002.

The State Bar properly served Respondent notice of his inactive status prior to September 1, 2001. However, Respondent contends that he did not receive the notice regarding his MCLE obligations because he moved his office about that time.

Respondent further contends that he mailed proof of his MCLE compliance to the State Bar in January 2001. However, the State Bar did not receive such proof about that time.

On or about December 7, 2001, the State Bar sent Respondent another letter notifying him of his failure to comply with his MCLE obligations. Respondent received this notice, but did not complete his compliance until March 18, 2002.

From September 1, 2001 to March 18, 2002, Respondent was not entitled to practice law or hold himself out as entitled to practice law in the State of California.

On or about September 26, 2001, Respondent appeared in the United States Immigration Court on behalf of Isidro Ramos. Respondent thereby held himself out as an attorney licensed to practice law and engaged in the practice of law in the State of California at that time.

#### Legal Conclusion

By holding himself out as entitled to practice law and appearing in court on behalf of Ramos when he was not an active member of the State Bar of California, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code, section 6125 and 6126. Respondent thereby failed to support the laws of the State of California in wilful violation of Business and Professions Code, section 6068(a).

#### Investigation Case 03-O-03698

In or about March 2001, Respondent made an appearance at was essentially a status conference in United States Immigration Court on behalf of Hilda Rivas-Quintero. Respondent made this single appearance in place of and as a favor to another attorney who he believed was responsible for the Quintero matter. At the status conference, Quintero's case was scheduled for a hearing in April 2003.

Respondent performed no legal services for Quintero other than the court appearance referenced above. However, Respondent did not sufficiently notify Quintero that he would not represent her beyond the subject court appearance. Therefore, Quintero concluded that Respondent was her attorney in the immigration matter.

#### Legal Conclusion

By failing to give Quintero due notice of the fact that he would not represent her in her

immigration case beyond his one appearance in court and then failing to perform any further legal services on her behalf, Respondent improperly withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to his client in wilful violation of California Rules of Professional Conduct, rule 3-700 (A)(2).

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Notices of Disciplinary Charges filed on March 6, 2003 and November 19, 2003, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**PENDING PROCEEDINGS**

The disclosure date referred to, on page one, paragraph A.(6), was February 27, 2004.

**DISMISSALS**

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
02-O-11301	TWO	B&P 6106

2/27/04  
Date

Gustavo Ceballos  
Respondent's signature

Gustavo G. Ceballos  
print name

2/27/04  
Date

[Signature]  
Respondent's Counsel's signature

James Di Frank  
print name

2/27/04  
Date

[Signature]  
Deputy Trial Counsel's signature

Kevin B. Taylor  
print name

ORDER

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

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

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.)

3-1-04  
Date

[Signature]  
Judge of the State Bar Court  
**ROBERT M. TALCOTT**

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

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 3, 2004, 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 San Francisco, California, addressed as follows:

**JAMES RICHARD DIFRANK  
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:

**KEVIN TAYLOR, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **March 3, 2004**.



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**Bernadette C. O. Molina**  
Case Administrator  
State Bar Court