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State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco		
Counsel for the State Bar Shari Sveningson Office of the Chief Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004 Bar # 195298	Case number(s) 02-0-14739	(for Court's use) <div style="text-align: center;"> FILED JUN 20 2005 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
<input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent Paul Virgo 5200 W. Century Blvd., Suite 940 Los Angeles, CA 90045 (310) 788-9932 Bar # 67900	PUBLIC MATTER	
In the Matter of GUSTAVO A. ZARATE Bar # 199478 A Member of the State Bar of California (Respondent)		
Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 8, 1998
(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 12 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.

ORIGINAL

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(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:
2006, 2007 and 2008
(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 99-C-10483

(b) ☒ Date prior discipline effective September 9, 1999

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business & Professions Code Sections 6103 and 6106.

(d) ☒ Degree of prior discipline 3 years suspension, stayed, 15 months actual suspension, 3 years 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.

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- (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 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.

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- (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 page 10.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of two years, six 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 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 two years, six months which will commence upon the effective date of the Supreme Court order in this matter.
(See rule 953, Calif. Rules of Ct.)

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(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.

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- (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: _____
- (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 type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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: _____
- (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:** _____

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: GUSTAVO A. ZARATE

CASE NUMBER(S): 02-O-14739

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct:

1. On or about May 10, 1999, Respondent was convicted of 18 USC 1518 and 18 USC 2 [Obstruction of Criminal Investigation]. Prior to graduating from law school Respondent worked for medical doctors at West Olympic Surgery Center ("Surgery Center"). Respondent continued to work for Surgery Center after he was admitted to the Bar. Several doctors at Surgery Center were convicted of acts involving fraudulent insurance claims. Respondent pled guilty to the shredding of medical documents and as a result Respondent was convicted of obstructing a criminal investigation.
2. On or about September 9, 1999, the Review Department of the State Bar of California filed an order, effective October 11, 1999, placing Respondent on interim suspension in connection with case no. 99-C-10483. Respondent received notice of the order.
3. Between on or about September 9, 1999 and on or about January 11, 2001, while Respondent was actually suspended from the practice of law, Respondent was employed at Immigration Solution Center (ISC). ISC was operated by Marina Balderas ("Balderas"), a non-attorney.

4. Between on or about September 9, 1999 and on or about January 11, 2001, Respondent was paid approximately \$30,000 a month from ISC.
5. On or about October 29, 1999, while Respondent was actually suspended from the practice of law, Respondent entered into a fee agreement to provide legal services to Jose Gomez.
6. On or about June 5, 2000, while Respondent was actually suspended from the practice of law, Respondent received payment from ISC in the form of two checks, one in the amount of \$5,000 the other in the amount of \$7,500. "Legal Fees" were written in the memo portion of each of the two checks.
7. In or about August 2000, while Respondent was actually suspended from the practice of law, Respondent prepared a contract for employment services on behalf of Balderas and Torres. Respondent negotiated the terms of the contract, and the language of it was created solely by Respondent.
8. On or about January 8, 2001, the Hearing Department of the State Bar of California filed an order, effective January 11, 2001, terminating the order of interim suspension.
9. On or about October 3, 2001, Respondent was named as a defendant in an action brought by the Attorney General entitled, People V. Immigration Solution Center ("AG action"). The AG action alleged that approximately twenty defendants participated in a scheme to defraud people seeking immigration legal services and aided the unlawful practice of law.
10. On or about September 18, 2003, Respondent entered in a settlement with the Attorney General. Respondent agreed to pay a total of \$150,000 in civil penalties and restitution to several of ISC clients. Respondent also agreed to be permanently enjoined from violating the California Immigration Consultant Act, from aiding the unauthorized practice of law, to not hold himself

out as an attorney if he ceases to be licensed, to not accept compensation for legal services from a person not entitle to practice law, to not violate any provision of the Lawyer Referral Statute, to not make misleading statements to any member of the public to induce them to purchase immigration consulting services.

LEGAL CONCLUSIONS

By accepting payment for legal services, by entering into a fee agreement for legal services and by preparing the employment contract, Respondent held himself out as entitled to practice law when he was not an active member of the State Bar in wilful violation of Business and Professions Code sections 6125 and 6126, and thereby failed to support the law of the State of California in wilful violation of Business and Professions Code, section 6068(a).

By by accepting payment for legal services, by entering into a fee agreement for legal services and by preparing the employment contract when he was not entitled to practice law, Respondent committed acts of dishonesty, corruption or moral turpitude in wilful violation of Business and Professions Code, section 6106.

ADDITIONAL MITIGATION

Respondent is active in community service. He mentors youth and offers no and/or low fee public interest legal services. He has also written and published a book, "Youth Law" (A Practical Guide to Legal Issues That Affect Young Adults) and offers seminars on the law as it affects youth.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was by letter dated May 6, 2005.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of **April 8, 2005**, the estimated prosecution costs in this matter are approximately **\$1,983**. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

In the Matter of Jones, (Review Dept. 1993), 2 Cal. State Bar Ct. Rptr., 411, WL 156262.

In this case, respondent was found culpable of violating wilfully former rule 3-101(A) (aiding the unauthorized practice of law) by placing a non-lawyer in a position of being able to represent clients without adequate supervision. The court also found a violation of former rule 6-101(A)(2)(intentional or reckless failure to act competently and breached his fiduciary duties amounting to an act of moral turpitude under Business and Professions Code section 6106.

In aggravation, the court found multiple acts of wrongdoing over a three year period (Std. 1.2(b)(2); considerable harm to medical lien holders caused by respondent's gross neglect, and the failure to observe and maintain minimal standards of professional responsibility for the operation of a law practice. (Std. 1.2(b)(iv).)




The Review Department recommended a three year stayed suspension, three years probation with the first two years of probation being actually suspended. In addition, the court recommended 1.4(c)(ii) requirement.

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In the Matter of GUSTAVO A. ZARATE	Case number(s): 02-0-14739
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SIGNATURE OF THE PARTIES

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

5/28/05 Date	 Respondent's signature	GUSTAVO A. ZARATE Print name
5/23/2005 Date	 Respondent's Counsel's signature	PAUL J. VIRGO Print name
6/2/05 Date	 Deputy Trial Counsel's signature	SHARI SVENINGSON Print name

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In the Matter of
GUSTAVO A. ZARATE

Case number(s): 02-O-14739

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.)

06-16-05
Date


Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 20, 2005, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING, filed June 20, 2005**

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

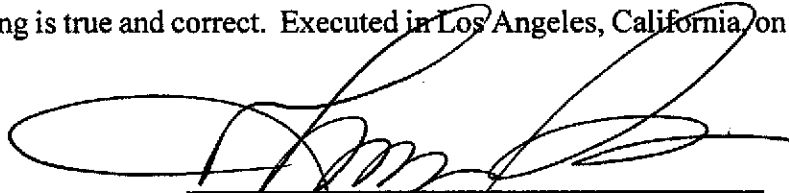
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**PAUL JEAN VIRGO
PO BOX 67682
LOS ANGELES CA 90067 0682**

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

SHARI SVENINGSON , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **June 20, 2005.**



Johnnie Lee Smith
Case Administrator
State Bar Court