

**ORIGINAL**

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**THE STATE BAR OF CALIFORNIA**  
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Case number(s)  
**03-J-01119**

(for Court's use)

**PUBLIC MATTER**

**FILED**

DEC 11 2003 *WOC*

STATE BAR COURT  
 CLERKS OFFICE  
 LOS ANGELES

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In the Matter of  
**ANTHONY R. LOPEZ, JR.**

Submitted to  assigned judge  settlement judge  
 STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
 AND ORDER APPROVING  
 STAYED SUSPENSION; NO ACTUAL SUSPENSION  
 PREVIOUS STIPULATION REJECTED

Bar # **137401**

A Member of the State Bar of California  
 (Respondent)

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 7, 1988 (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 56 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:
 

(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."

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

B. Aggravating Circumstances: definition, see Standards for Attorneys' 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 (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:

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of ONE (1) YEAR

- 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 ONE (1) YEAR 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, 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.

In the Matter of

ANTHONY ROBERT LOPEZ, JR.

Case Number(s):

03-J-01119

A Member of the State Bar

Financial Conditions

- a.  Respondent shall pay restitution to \_\_\_\_\_ [payee(s)] (or the Client Security Fund, if appropriate), in the amount(s) of \_\_\_\_\_, plus 10% interest per annum accruing from \_\_\_\_\_, and provide proof thereof to the Probation Unit, Office of the Chief Trial Counsel,
- no later than \_\_\_\_\_
- or
- on the payment schedule set forth on the attachment under "Financial Conditions, Restitution."
- b.  1. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent shall file with each required report a certificate from respondent and/or a certified public accountant or other financial professional approved by the Probation Unit, certifying that:
- 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";
- 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 Probation Unit for that reporting period. In this circumstance, respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.
- c.  Within one (1) year of the effective date of the discipline herein, respondent shall supply to the Probation Unit satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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

**ATTACHMENT TO**

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

IN THE MATTER OF:        ANTHONY R. LOPEZ, JR.

CASE NUMBER:            03-J-01119

**PENDING PROCEEDINGS:**

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

**AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1.**

1. Respondent's culpability determined in the disciplinary proceeding in Arizona would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and

2. The proceeding in the above jurisdiction provided respondent with fundamental constitutional protection.

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

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

**FACTS:**

**CASE NO. 03-J-01119**

The following Exhibits are attached hereto and incorporated herein::

1. Copy of Judgment and Order of Supreme Court of Arizona, case no. SB-03-0012-D, (2 pages);
2. Copy of Disciplinary Commission Report, case no. 98-2215, (Arizona), (3 pages);
3. Copy of Tender of Admissions and Agreement for Discipline by Consent, case no. 98-2215, (21 pages);
4. Copy of Joint Memorandum in Support of Agreement for Discipline by Consent, case no. 98-2215, (15 pages);
5. Copies of Arizona Rules of Professional Conduct, and Arizona Rules of the Supreme Court (applicable to these proceedings), (10 pages).

**CONCLUSIONS OF LAW:**

Had Respondent's misconduct occurred in California, his misconduct would have involved violations of Rules of Professional Conduct, rule 4-100(A) and 4-100(B)(3).

**SUPPORTING LAW:**

Spindell v. State Bar (1975) 13 Cal.3d 253, 255 118 Cal. Rptr. 480.

"There is no 'fixed formula' in deciding what discipline should be imposed on a member of the State Bar; rather, [the Supreme Court's] determination must be based on a 'balanced consideration' of the 'relevant factors.' Those factors, in general terms, include not only the 'moral fitness' of an attorney, but also the need 'to afford protection to the public, the courts and the legal profession.' Consideration may also be given to the 'presence or absence of a prior disciplinary record,' the ordeal of enduring lengthy disciplinary proceedings, and the harm suffered by others as the result of the attorney's conduct."

In Palomo v. State Bar (1984) 36 Cal.3d 785, 205 Cal.Rptr. 834, Respondent was suspended for one year, suspension was stayed, and Respondent was placed on probation for one year for endorsing his client's name on a check payable to his client and depositing the check for \$3,000.00 into respondent's payroll account. The payroll account balance fell below \$3,000.00 on several occasions. Respondent Palomo had a prior public reproof in 1981. The court gave weight to a finding that Palomo had no specific intent to defraud his client.



**COSTS OF DISCIPLINARY PROCEEDINGS:**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 30, 2003, the estimated prosecution costs in this matter are approximately \$1,983.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**WAIVER OF REVIEW BY REVIEW DEPARTMENT:**

Pursuant to Rules of Procedure of the State Bar of California, rule 251, the parties hereto stipulate to a waiver of review by the Review Department and request that the disciplinary recommendation in this matter be transmitted to the Supreme Court on an expedited basis.

11-5-03  
Date

[Signature]  
Respondent's signature

ANTHONY R. LOPEZ, JR.  
print name

11-5-03  
Date

[Signature]  
Respondent's Counsel's signature

ROBERT GERALD MARKLE  
print name

11-6-03  
Date

[Signature]  
Deputy Trial Counsel's signature

WILLIAM F. STRALKA  
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 following is inserted on page 2 of th stipulation under "Additional aggravating circumstances:"

Respondent has a prior record of discipline in another jurisdiction. Respondent received an Informal Reprimand by order filed on July 12, 2001, for violating Rule 42, Ariz.R.S.Ct., specifically, ER 8.1, Rule 51(h) and (i), Ariz.R.S.Ct. (Exhibit 3 attached to the stipulation, page 5, paragraph 14.)

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.)

12/10/03  
Date

[Signature]  
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. 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 December 11, 2003, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION  
AND ORDER APPROVING, filed December 11, 2003**

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

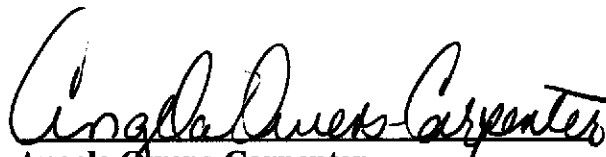
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**R GERALD MARKLE ESQ  
PANSKY & MARKLE  
1114 FREMONT AVE  
SOUTH PASADENA CA 91030**

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

**WILLIAM STRALKA, ESQ., Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **December 11, 2003.**



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