

State Bar Court of California
Hearing Department
San Francisco

<p>Counsel For The State Bar</p> <p>Office of the Chief Trial Counsel Maria J. Oropeza 180 Howard Street San Francisco, CA 94105 (415) 538-2569</p> <p>Bar # 182260</p>	<p>Case Number (s) 04-O-11383 05-O-02813</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>[Signature]</i></p> <p>MAY 17 2006</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Jerome Fishkin 369 Pine Street, Suite 627 San Francisco, CA 94104 (415) 403-1300</p> <p>Bar # 47798</p>	<p>Submitted to: Settlement Judge</p>	
<p>In the Matter Of: Ricardo Saria</p> <p>Bar # 74999</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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 June 28, 1977.
- (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 consists of 25 pages, not including the order.
- (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."



(Do not write above this line.)

- (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.
- (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 **94-O-13692**
 - (b) Date prior discipline effective **October 11, 1996**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **4-100(B)(4)**
 - (d) Degree of prior discipline **Public Reprimand**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

S048011, discipline effective date: November 03, 1995, violations of Business and Professions Code Sections 6068(a) and 6103, degree of prior discipline one year stayed, two years probation. S032916, discipline effective date: August 27, 1993, violations of former rule 8-101(A) and Business and Professions Code Section 6068(c), degree of discipline one year stayed, 30-day actual suspension, two years probation. BM4377, discipline effective date: May 22, 1981, violation of Business and Professions Code Section 6103, degree of discipline 5 years stayed, two years actual suspension and the first three months of respondent's probation term beginning on August 22, 1983, and five years probation.
- (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/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.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

- (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 in his/her dealings with 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.
- (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

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law 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:

(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.)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California 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:

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.
- (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:
 - Substance Abuse Conditions
 - Law Office Management Conditions
 - Medical Conditions
 - 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:

(Do not write above this line.)

- (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:** Mr. Richard Van Rooy has filed a suit against respondent entitled *Vanrooy v. Saria*, Santa Clara Superior Court case number 1-04-CV-029615. As part of that lawsuit Mr. Van Rooy seeks a refund of funds received in the Mitre Case. The parties agree that respondent should pay either (1) \$8,000.00, with any accrued interest of 10% per annum from August 27, 2002 or (2) such other sum as is specified in any final judgement in *Van Rooy v. Saria*, or (3) such sum as maybe specified in any settlement of *Van Rooy v. Saria*, or (4) If there is a judgement in respondent's favor in *Van Rooy v. Saria*, which states that respondent does not owe Van Rooy any funds from the Mitre Case, respondent is not required to make any restitution, but is required to submit the judgement to the State Bar probation unit once it becomes effective.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Actual Suspension

In the Matter of
Ricardo Saria, Bar No. 74999

Case number(s):
04-O-11383 and 05-O-02813

A Member of the State Bar

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 in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Richard Van Rooy	\$8,000.00	August 27, 2002
Or		
(2) such other sum as is specified in any final judgement in Van Rooy v. Saria, Santa Clara Superior Court case number 1-04-CV-029615 or (3) such sum as maybe specified in any settlement of Van Rooy v. Saria, or(4) if there is a judgement in respondent's favor in Van Rooy v. Saria, which states that respondent does not owe Van Rooy any funds from the Mitre Case, respondent is not required to make any restitution, but is required to submit the judgement to the State Bar probation unit once it becomes effective.		

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than prior to filing his Standard 1.4(c)(ii) or when the Superior Court in case number 1-04-CV-029615, requires respondent to pay such judgement, or when the settlement of case number 1-04-CV-029615.

Respondent is required to notify the probation unit of the outcome of Van Rooy v. Saria, Case number 1-04-CV-029615 within 30 days of the final judgement or the settlement taking effect.

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

(Financial Conditions form approved by SBC Executive Committee 10/16/2000)

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 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";

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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Ricardo Saria, Bar No. 74999

CASE NUMBER(S): 04-O-11383 and 05-O-02813 ET AL.

FACTS AND CONCLUSIONS OF LAW.

Statement of Facts: Count One (Case No. 04-O-11383)

1. Ricardo Saria ("respondent") was admitted to the practice of law in the State of California on June 28, 1977, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.
2. Respondent wilfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:
3. On or about September 1, 1997 Richard Van Rooy ("Van Rooy") retained respondent to assist him in enforcing a civil judgment *Van Rooy v. Susan Mitre* Santa Clara County Superior Court Case No. CV 415286. ("Mitre Case").
4. Van Rooy paid respondent the sum of \$2,000.00 in a refundable retainer and respondent promised to provide Van Rooy with a receipt, but never did provide a receipt to Van Rooy.
5. On December 16, 1998, respondent submitted an "Application for Issuance of Order for Sale of Judgment Debtor's Interest in Dwelling in the Mitre Case.
6. On April 5, 1999, the Court filed its order granting the application for the sale of the judgment debtor's interest in the dwelling located at 702 Alamo Drive in the Mitre Case. The order determined that Van Rooy was entitled to \$28,324.92 as of November 30, 1998.
7. At all times relevant to Count One through Count Five of this Notice of Disciplinary Charges respondent maintained client trust account 0285-094439 at Wells Fargo ("trust account").
8. On May 4, 1999, Fidelity National Title Company ("Fidelity") issued check number 1060096 in the amount of \$30,000.00 to respondent. The sum represented the amount of money plus interest obtained from the sale of the judgment debtor's interest in the Mitre Case which Van Rooy was entitled to receive from the Fidelity.
9. Prior to the deposit of Fidelity's check number 1060096, respondent's client trust account balance was \$0.00.
10. Between May 5, 1999 through October 1999 respondent made the following transactions after receiving check number 1060096 from Fidelity for the Van Rooy/Mitre Case.

- (1) On or about May 5, 1999, respondent deposited check number 1060096 from Fidelity into his client trust account bringing the balance to \$ 30,000.
- (2) On or about May 5, 1999, respondent issued check number 5266 to Meredith Fahn in the amount of \$6,000.00, bringing his trust account balance to \$24,000.00. This disbursement was not for the benefit of Van Rooy.
- (3) On or about May 11, 1999, respondent made a deposit of \$1,250.00 bringing his client trust account balance to \$25,250.00.
- (4) On or about May 13, 1999 respondent issued check number 5267 in the amount of \$25,150.00 to himself, bringing his client trust account balance to \$100.00. This disbursement was not for the benefit of Van Rooy.
- (5) On or about May 14, 1999, respondent withdrew the sum of \$1,250.00 from his client trust account bringing his client trust account balance to -\$1,150.00. This disbursement was not for the benefit of Van Rooy.
- (6) On or about May 21, 1999, respondent issued check number 5268 in the amount of \$250.00 to himself, bringing his client trust account balance to -\$1,400.00. This disbursement was not for the benefit of Van Rooy.
- (7) On or about May 21, 1999, respondent made a deposit in the sum of \$11,084.00, bringing his trust account balance to \$9684.00. The deposit was not funds received for Van Rooy's benefit.
- (8) On or about May 24, 1999, respondent issued check number 5269 in the amount of \$684.00 to himself, bringing his client trust account balance to \$9,000.00 This disbursement was not for the benefit of Van Rooy.
- (8) On or about May 25, 1999, respondent issued check number 5270 in the amount of \$3,000.00 to Meredith Fahn, bringing his client trust account balance to \$6,000.00. This disbursement was not for the benefit of Van Rooy.
- (9) On or about June 1, 1999, respondent issued check number 5271 in the amount of \$250.00 to Brian Galbraff, bringing his trust account balance to \$5,750.00. This disbursement was not for the benefit of Van Rooy.
- (10) On or about June 1, 1999, respondent issued check number 5273 in the amount of \$500.00 to himself, bringing his trust account balance to \$5,250.00. This disbursement was not for the benefit of Van Rooy.
- (11) On or about June 2, 1999, respondent issued check number 5272 in the amount of \$250.00 to Dennis Sarya, bringing his client trust account balance to \$5,000.00. This disbursement was not for the benefit of Van Rooy.
- (12) On or about June 3, 1999, respondent issued check number 5274 in the amount of \$500.00 to himself, bringing his client trust account balance to \$4,500.00. This disbursement was not for the benefit of Van Rooy.
- (13) On or about June 7, 1999, respondent issued check number 5275 in the amount of \$1,000.00 to himself, bringing his client trust account balance to \$3,500.00. This disbursement was not for the benefit of Van Rooy.
- (14) On or about June 11, 1999, respondent issued check number 5276 in the

amount of \$500.00 to himself, bringing his client trust account balance to \$3,000.00. This disbursement was not for the benefit of Van Rooy.

(15) On or about June 21, 1999, respondent issued check number 5277 in the amount of \$1,000.00 to himself, bringing his client trust account balance to \$2,000.00. This disbursement was not for the benefit of Van Rooy.

(16) On or about June 28, 1999, respondent issued check number 5278 in the amount of \$1,000.00 to himself, bringing his client trust account balance to \$1,000.00. This disbursement was not for the benefit of Van Rooy.

(17) On or about July 13, 1999, respondent issued check number 5279 in the amount of \$20.00 to himself, bringing his client trust account balance to \$980.00. This disbursement was not for the benefit of Van Rooy.

(18) On or a July 14, 1999, respondent deposited the sum of \$1,500.00 from Dr. Epstein into his client trust account, bringing his trust account balance to \$1,520.00. This deposit did not include funds for the benefit of Van Rooy.

(19) On or about July 15, 1999, respondent issued check number 5280 in the amount of \$1,510.00 to himself, bringing his client trust account balance to \$10.00. This disbursement was not for the benefit of Van Rooy.

(20) On or about July 29, 1999, respondent deposited the sum of \$500.00 from Kirill Kirnos into his client trust account, bringing his client trust account balance to \$510.00. This deposit was not for the benefit of Van Rooy.

(21) On or about July 30, 1999, respondent deposited the sum of \$1,000.00 from Shelly Roan into his client trust account bringing the client trust account balance to \$1,510.00

(22) On or about August 2, 1999, respondent issued check number 5281 in the amount of \$510.00 to himself, bringing his client trust account balance to \$1,000.00. This disbursement was not for the benefit of Van Rooy.

(23) On or about August 9, 1999, respondent issued check number 5282 in the amount of \$990.00 to himself, bringing his trust account balance to \$10.00. This disbursement was not for the benefit of Van Rooy.

(24) On or about August 11, 1999, respondent deposited the sum of \$10,010.00, from Canto Software, Inc., for the benefit of Katherine Pfaff.

(25) On or about August 11, 1999, respondent issued check number 5283 in the amount of \$5,000.00 to himself, bringing his client trust account balance to \$5,010.00. This disbursement was not for the benefit of Van Rooy.

(26) On or about August 12, 1999, respondent issued check number 5284 in the amount of \$5,000.00 to himself, bringing his client trust account balance to \$10.00. This disbursement was not for the benefit of Van Rooy.

(27) On or about August 23, 1999, respondent deposited the sum of \$35,349.81 from Old Republic Title Company into his client trust account, bringing his client trust account balance to \$35,359.81. This deposit did not represent funds for the benefit of Van Rooy.

- (28) On or about August 24, 1999, respondent issued check number 5286 in the amount of \$10,000.00 to Wells Fargo, bringing his client trust account balance to \$25,359.81. This disbursement was not for the benefit of Van Rooy.
- (29) On or about August 25, 1999, respondent issued check number 5287 in the amount of \$10,000.00 to Van Rooy, bringing his client trust account balance to \$15,359.81.
- (30) On or about August 26, 1999, respondent issued check number 5286 in the amount of \$7,359.81 to himself, bringing his trust account balance to \$8,000.00. This disbursement was not for the benefit of Van Rooy.
- (31) On or about September 13, 1999, respondent deposited the sum of \$1,200.00 in cash into his client trust account bringing his client trust account balance to \$9,200.00. This deposit did not represent funds for the benefit of Van Rooy.
- (32) On or about September 13, 1999, respondent issued check number 5288 in the amount of \$1,200.00 to himself, bringing his trust account balance to \$8,000.00. This disbursement was not for the benefit of Van Rooy.
- (33) On or about September 16, 1999, respondent issued check number 5289 in the amount of \$4,500.00, to himself, bringing his trust account balance to \$3,500.00. This disbursement was not for the benefit of Van Rooy.
- (34) On or about September 22, 1999, respondent issued check number 5290 in the amount of \$500.00 to himself, bringing his trust account balance to \$3,000.00. This disbursement was not for the benefit of Van Rooy.
- (35) On or about September 30, 1999, respondent issued check number 5291 in the amount of \$500.00 to himself, bringing his trust account balance to \$2,500.00. This disbursement was not for the benefit of Van Rooy.
- (36) On or about October 1, 1999, respondent issued check number 5292 in the amount of \$193.00 to the Santa Clara Superior Court for the Noonan case, bringing his trust account balance to \$2,307.00. This disbursement was not for the benefit of Van Rooy.
- (37) On or about October 12, 1999, respondent issued check number 5293 in the amount of \$307.00 to himself, bringing his trust account balance to \$2,000.00. This disbursement was not for the benefit of Van Rooy.
- (38) On or about October 13, 1999, respondent issued check number 5294 in the amount of \$2,000.00 to himself, bringing his trust account balance to \$0.00. This disbursement was not for the benefit of Van Rooy.

11. At all times from the time of the deposit on May 5, 1999 until respondent gave Van Rooy his share of the sale proceeds from the Mitre Case, respondent should have maintained the sum of \$18,000.00 (\$30,000 -40%) of the proceeds of the sale from the Mitre Case in the client trust account.

12. From May 1999 through July 1999 respondent made no disbursements to Van Rooy or to any other person or entity for his benefit.

13. Between May 5, 1999 through May 28, 1999, respondent misappropriated at least \$12,000.00 (\$18,000-\$6,000) of Van Rooy's share of the proceeds of the sale from the Mitre Case for his own use.

14. Between May 29, 1999 through June 30, 1999, respondent misappropriated at least \$17,000.00 (\$18,000-\$1,000) of Van Rooy's share of the proceeds of the sale from the Mitre Case for his own use.

15. Between May 29, 1999, through June 30, 1999, respondent made no disbursements to Van Rooy or to any other person or entity for his benefit.

16. Respondent made no further disbursements to Van Rooy after the \$10,000.00 disbursement in August of 1999.

Conclusions of Law: Count One (Case No. 04-O-11383)

17. By misappropriating at least \$17,000, between May 5, 1999 through June 30, 1999, of the proceeds of the sale in the Mitre Case, respondent committed an act of moral turpitude, dishonesty or corruption, a wilful violation of Business and Professions Code section 6106.

Statement of Facts: Count Two (Case No. 04-O-11383)

18. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession, as follows:

19. On August 25, 1999, Van Rooy and respondent met and discussed several other cases that Van Rooy wanted respondent to research and or provide legal advice/representation. According to respondent, the remainder of Van Rooy's funds from the Mitre Case a total of \$8,000.00 would be utilized either as costs or attorney fees for the six new cases.

20. Van Rooy alleges that the fee agreement regarding the six new cases was to be on a contingency fee basis, respondent alleges that the fee agreement was on a flat fee basis for the sum of \$6,500.00. In any event, respondent was holding the sum of \$8,000.00 from the Mitre Case for Van Rooy's benefit.

21. On August 27, 2002, Van Rooy wrote to respondent and delineated his request to the respondent regarding the various cases that respondent was assigned to handle, among his requests Van Rooy requested an accounting of the funds received in the Mitre Case and his client files. Van Rooy explained that the letter was being issued to close all of his cases with respondent. Van Rooy deposited the letter in the United States Mail, properly addressed to respondent's address and sent the letter via certified mail.

22. Respondent received Van Rooy's August 27, 2002 letter and did not provide an accounting to Van Rooy.

23. On September 4, 2002, respondent wrote to Van Rooy and stated the following: "My fee for the Mitre case was \$11,200. because (sic) of the total collected. We agreed on 40%

if the case went to court. It did go to court for the last \$9,000. in interest (18,600 plus 9,400) and I had to foreclose to get their attention.”

24. Van Rooy alleges that he never received the September 4, 2002 letter from respondent.

25. On October 4, 2002, Van Rooy had a telephone conversation with respondent in which respondent acknowledged receipt of the August 27, 2002 letter. Van Rooy renewed his request that respondent provide him with an accounting, his client files, and funds in respondent's possession.

26. Respondent did not provide an accounting to Van Rooy after Van Rooy renewed his request.

27. On July 16, 2003, Van Rooy wrote to respondent and renewed his previous request from August 27, 2002, Van Rooy made mention of one of the six cases that he had given respondent to pursue on a contingency fee basis and stated that he was unhappy with respondent's progress on that matter. Van Rooy then requested that respondent provide him with a check for \$6,937.40, stating that the number represented another year of interest at 10% by August 1, 2003.

28. To date, respondent has not provided an accounting to Van Rooy regarding the remaining funds, specifically the \$8,000.00 that were being held in respondent's trust account received in the Mitre matter.

Conclusions of Law: Count Two (Case No. 04-O-11383)

29. By failing to provide to Van Rooy an accounting of the remaining funds from the Mitre Case respondent failed to render appropriate accounts to a client regarding all funds of the client coming into respondent's possession, a wilful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

Statement of Facts: Count One (Case No. 05-O-02813)

30. Respondent wilfully violated Business and Professions Code, section 6068(o)(3), by failing to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of any judicial sanctions against respondent, as follows:

31. On January 22, 2004, Mark Epstein filed a motion in *Rubinstein v. Kathryn Waters Optometry, Optometry@eyecareeyecare.com, Case No. CIV433440*, in San Mateo Superior Court seeking a change of venue and sanctions against the plaintiff, who was represented by respondent.

32. On February 4, 2004, Judge Mittlesteadt held a hearing on the motion for change venue as to defendant Waters. The Court minutes reflect the following:

NO appearance is made by any parties herein or their counsel of record.

Tentative ruling adopted and becomes the order:

Defendant Waters' motion to change venue (unopposed) is GRANTED. Pursuant to CCP Section 396(a), San Francisco County is the proper venue for this action.

* *

Defendant Water' request for sanctions pursuant to CCP Section 396b(b) is GRANTED. Plaintiff's counsel shall pay Defendant Waters sanctions in the sum of \$825.00 within 15 days of notice.

* *

Moving party shall prepare and submit a formal order complying with CRC 391 for the Court's signature.

33. On February 6, 2004, respondent filed his response to Epstein's motion for change of venue and sanctions.

34. On February 18, 2004, the Court held a hearing on the motion for change venue as to defendant Optometry@eyecareeyecare.com. The Court minutes reflect the following:

Attorney RICARDO C. SARIA appearing with/for Plaintiff(s).

Also present is Douglas Chaikian who is to be appointed by plaintiff as his new counsel. The has been no substitution of attorney filed.

Attorney MARK W. EPSTEIN appearing with/for Defendant(s).

* *

GRANTED Defendant Optometry@Eyecareeyewear.com's motion for change of venue to San Francisco County. Defendant has met its burden of negating the propriety of venue in San Mateo County on all possible grounds. Plaintiff has failed to rebut Defendant's showing by admissible evidence in that the Declaration of Yano Rubenstein was not made under the penalty of perjury. Accordingly, San Francisco County is the proper venue for this action.

* *

Defendant's request for attorney's fees and costs pursuant to CCP Section 396b(b) is GRANTED.

Plaintiff's counsel shall pay Defendant its reasonable expenses and attorney's fees in the sum of \$1,136.30.

* *

Plaintiff shall pay the transfer costs and fees pursuant to CCP Section 399.

* *

Defendant's responsive pleadings to the complaint to be filed and served within 30 days from the date the transferee court mails notice of receipt of the case and its new case number. SEE CRC 326.

* *

Formal order submitted by Defendant's counsel Mark W. Epstein and signed by the Court.

Order CHANING VENUE Signed by JUDGE MITTLESTEADT ON 02/18/04, filed.

35. On February 18, 2004, the Court granted Epstein's motion for change of venue and sanctions. The Court imposed sanctions in the amount of \$1,136.30, pursuant to California Code of Civil Procedure §396b(b) and §399.

36. On February 20, 2004, Mark Eptstein filed the proof of service of the Order granting defendant's motion for change of venue.

37. Respondent received the Court's February 18, 2004 order imposing sanctions in the amount of \$1,136.30 and did not appeal the order.

38. Judge Middlesteadt signed the court order changing venue to San Francisco Superior Court, thereby removing the matter from San Mateo Superior Court's jurisdiction.

39. On March 4, 2004, Judge Kopp, San Mateo Superior Court held a case management conference. His case management minutes reflects the following information:

Yano Rubinstein present in pro per.

NO APPEARANCE BY DEFENSE ATTORNEY

Sanctions in the sum of \$250.00 are imposed against MARK W. EPSTEIN per/for failure of authorized attorney or assoc. to attend, to be paid on or before MARCH 25, 2004.

PLAINTIFF STATED THAT THERE WAS AN ORDER TO CHANGE VENUE.

PLAINTIFF IS NOW FILING A MOTION TO VACATE THAT ORDER AND THE MOTION IS TO BE HEARD NEXT WEEK. THE REQUEST BY DEFENDANT TO VACATE SANCTIONS IS DENED. HE SHOULD KNOW THE RULES OF COURT AND THE LAW.

FINAL CONTINUANCE.

PLAINTIFF to give notice

Hearing continued to 03/024/04 at 9:00 in Department 6.

40. On March 10, 2004, the San Mateo Superior Court held a hearing on a motion to vacate order to transfer venue filed by Rubinstein. The court minutes reflect the following:

No appearance is made by any parties herein or their counsel of record.

Tentative ruling adopted and becomes the order:

GRANTED Plaintiff's motion to vacate the 2/4/04 order to transfer venue (unopposed). Plaintiff has met his burden under CCP section 473(b) of showing that the 2/4/04 order was taken against him through his counsel's excusable neglect. SEE *Badella v. Miller* (1955) 44 Cal. 2d 81, 86. This Court's minute order filed 2/4/04 is hereby vacated nunc pro tunc effective as of 2/4/04.

**

The merits of Defendant Waters' motion for change of venue are MOOT in light of this Court's 2/18/04 order granting Defendant Optometry@eyecareeyewear.com's motion for change of venue to San Francisco County.

.

Moving party shall prepare and submit formal order complying with CRC 391 for the Court's signature.

41. Respondent was to notify the State Bar about the sanctions issued against him in the February 18, 2004 Order changing venue by March 19, 2004. Respondent did not notify the State Bar.

42. On April 6, 2004, Judge Mittlesteadt signed the court order from the March 10, 2004 motion hearing.

43. On April 8, 2004, Rubinstein filed a request for default against defendant Waters and the San Mateo Superior Court entered defendant Waters default.

44. On April 9, 2004, the San Mateo Superior Court held a hearing on a motion to withdraw as attorney of record of Ricardo Saria. The court minutes reflect the following:

No appearance is made by any parties herein or their counsel of record.

Tentative ruling adopted and becomes the order:

MOOT. A substitution of attorneys filed on 3/24/04. Furthermore, this entire action has been transferred to San Francisco County Superior Court by this Court's order filed 2/18/04.

45. On May 11, 2004, San Mateo Superior Court, held a default hearing as to defendant Waters and ordered the plaintiff to personally serve the defendant with the motion.

46. On May 17, 2004, San Mateo Superior Court held a hearing on a motion to vacate the February 18, 2004 order complete transferring venue by Yano Rubinstein. The court's minutes reflect the following:

Plaintiff Yano Rubinstein in pro per appeared by telephone.

Attorney MARK W. EPSTEIN appearing with/for Defendant(s).

THERE WAS NO NOTICE OF INTENT TO APPEAR - NO ARGUMENT WAS HEARD.

Tentative ruling adopted and becomes the order:

Plaintiff's request for a continuance is DENIED.

DENIED Plaintiff's motion to vacate 2/18/04 order transferring venue.

.

On the Court's own motion, the default of Defendant Waters entered on 4/8/04 is hereby set aside and vacated. Such default is void since this transferor Court lacked jurisdiction to enter the same after making its 2/18/04 order transferring venue to San Francisco County. SEE Weil & Brown, California Practice Guide:

Civil Procedure Before Trial, 3:588, London v. Morrison (195) 99 Cal. App. 2d 876, 879; and Badella v. Miller (1955) 44 Cal. 2d 81, 85-89.

* *

Defendants' counsel shall prepare and submit a formal order complying with CRC 391 for the Court's signature.

47. On June 15, 2004, Epstein served Julian Summers with the court's May 17, 2004 order and sent a copy of the order to respondent.

48. To date, respondent has not notified the State Bar of the sanctions imposed on February 18, 2004.

Conclusions of Law: Count One (Case No. 05-O-02813)

49. By failing to report to the State Bar, in writing, within 30 days of the time respondent had knowledge of the imposition of the \$1,136.30 in sanctions, respondent wilfully failed to report the imposition of judicial sanctions against him, a wilful violation of Business and Professions Code section 6068(o)(3).

Statement of Facts: Count Two (Case No. 05-O-02813)

50. Respondent wilfully violated Business and Professions Code, section 6103, by wilfully disobeying or violating an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, as follows:

51. The allegations contained in paragraphs 31-48 of Count One, Case No. 05-O-02813 of this stipulation are herein incorporated by reference as if set forth in full.

52. On February 4, 2004, the Court imposed sanctions in the amount of \$825.00 against respondent pursuant to California Code of Civil Procedure §396b(b) and ordered respondent to pay the sanctions within 15 days of the notice.

53. Respondent was properly served with the February 4, 2004 sanction order.

54. Respondent received the Court's February 4, 2004 order imposing sanctions in the amount of \$825.00 and did not appeal the order.

55. To date, respondent has failed to pay the ordered sanctions from the February 4, 2004 order to the defendant in the matter.

56. On February 18, 2004, the Court imposed sanctions in the amount of \$1,136.30 against respondent pursuant to California Code of Civil Procedure §396b(b) and ordered respondent to pay the sanctions to defendant's counsel Mark Epstein.

57. Respondent was properly served with the February 18, 2004 sanction order.

58. Respondent received the Court's February 18, 2004 order imposing sanctions in the amount of \$1,136.30 and did not appeal the order.

59. Mark Epstein attempted to collect the sanctions owed to the defendants on seven

different occasions and was unsuccessful.

60. To date respondent has failed to pay the sanctions ordered in the Court's February 18, 2004 order to Mark Epstein.

Conclusions of Law: Count Two (Case No. 05-O-02813)

61. By failing to abide by the Court's orders issued on February 4, 2004 and February 18, 2004, respondent wilfully disobeyed or violated an order from the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith do or forbear, a wilful violation of Business and Professions Code section 6103.

Respondent admits that the afore mentioned facts are true and that he is culpable of the aforementioned violations of the specified statutes and/or Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was April 6, 2006.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 6, 2006, the estimated prosecution costs in this matter are approximately \$2,150.00. Respondent acknowledges that this figure is an estimate only. 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.

Weller v. State Bar of California, (1989) 40 Cal. 3d. 670. The Supreme Court imposed a five year suspension, stayed the execution, placed Weller on probation for five years conditioned on a three-year actual suspension, and probation conditions, and ordered Weller to comply with Rule 955.

Weller was admitted to the practice of law in May 1979. He had been disciplined twice before. He had a private reproof imposed for engaging in a business transaction with a client without first allowing the client a reasonable opportunity to seek independent counsel. He had a one-year stayed suspension imposed for misappropriation of funds from a client trust account. In the proceeding involved in Weller, he had two further incidents of misappropriation of client trust account funds, one spanning from December 1982 to February 1985 and the other from February 1984 to June 1985. In December 1982, he received on his client's behalf a settlement

check in the amount of \$15,000.00. Weller was entitled to a \$5,000.00 fee. He told the client he would hold the remaining \$10,000.00 in his client trust account to finance further litigation in the case. Soon the funds held in the account were far less than the amount to which the client was entitled. For example, as of January 1983, Weller's trust account balance was \$1,380.00, only \$979.74 had been expended on the client's behalf, however the balance that Weller should have held for the client should have been at least \$9,020.26. This pattern continued over the next year as Weller by his own admission misused his client's funds for his own personal and office expenses. In February 1985, Weller finally paid the client \$5,885.11.

In the second incident, Weller was retained by the Ramos' in a hospital bill collection dispute. He successfully settled the matter, and in February 1994 received two checks totaling \$6,316.36 from his client's insurer. Weller told his client he would use those funds to pay the hospital bill. He did not do so. After depositing the funds into his client trust account, he proceeded to misuse the funds for his personal use. By December 1984, only \$50.00 remained in the account and the hospital bill was still unpaid. Garnishment proceedings were initiated against his clients, and once he was notified of the garnishment proceedings he reimbursed the client's each week for the amount of funds withheld and eventually resolved the matter.

Standard 1.7(b) states in pertinent part "if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f) the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate."

Standard 2.2(a) states in pertinent part "culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of the funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed."

Standard 2.3 adds, that a crime involving moral turpitude shall result in disbarment or actual suspension depending on the gravity of the offense and the degree to which it relates to the member's acts within the practice of law.

Misappropriation of client funds is a grievous breach of an attorney's ethical responsibilities and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. (See *Grim v. State Bar* (1991) 53 Cal. 3d 21, 29; *Chang v. State Bar* (1989) 49 Cal. 3d 114, 128; *Kelly v. State Bar* (1988) 45 Cal. 3d 649, 656; *Howard v. State Bar* (1990) 51 Cal. 3d 215, 221; *Gordon v. State Bar* (1982) 31 Cal. 3d 748, 757; *Friedman v. State Bar* (1990) 50 Cal. 3d 235, 244; *Weller v. State Bar* (1989) 49 Cal. 3d 670, 677; *Murray v. State Bar* (1985) 40 Cal. 3d 575, 583.)

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

AGGRAVATING CIRCUMSTANCES.

PRIOR DISCIPLINE.

Respondent has four priors, involving the imposition of discipline and has been admitted since June 28, 1977.

In September 1996, the Hearing Department imposed a **public reproof** in case no. 94-O-13692 for a violation of rule 4-100(B)(4).

In October 1995, the Supreme Court filed Order No. S048011, suspending respondent from the practice of law for **one-year suspension, execution stayed conditioned on a two-year probation term**, for violations of Business and Professions code sections 6103 and 6068(a) by way of 6125.

In July 1993, the Supreme Court filed Order No. S032916, suspending respondent from the practice of law for **one-year, execution stayed conditioned on a thirty-day actual suspension, and a two-year probation term**, for violations of former rule 8-101(A), and Business and Professions Code section 6068(c).

In August 1983 the Supreme Court filed Order No. 4377, suspending respondent from the practice of law for a **period of five years, commencing on May 22, 1981 (the effective date of respondent's interim suspension) execution stayed conditioned on respondent's actual suspension until August 22, 1983, (actual suspension of two years and the first three months of respondent's probation term) and a five-year probation term** for other conduct warranting discipline and a violation of Business and Professions code section 6103 for failing to file his rule 955 declaration.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

Mr. Richard Van Rooy has filed a suit against respondent entitled Van Rooy v. Saria, Santa Clara Superior Court case number 1-04-CV-029615. As part of that lawsuit Mr. Van Rooy seeks a refund of funds received in the Mitre Case. The parties agree that respondent should pay either (1) \$8,000.00 with any accrued interest of 10% per annum from August 27, 2002 or (2) such other sum as is specified in any final judgement in Van Rooy v. Saria, or (3) such sum as maybe specified in any settlement of Van Rooy v. Saria, or (4) If there is a judgement in respondent's favor in Van Rooy v. Saria, which states that respondent does not owe Van Rooy any funds from the Mitre Case, respondent is not required to make any restitution, but is required to submit the judgement to the State Bar probation unit once it becomes effective.

(Do not write above this line.)

In the Matter of Ricardo Saria, Bar No. 74999	Case number(s): 04-O-11383 & 05-O-02813
--	--

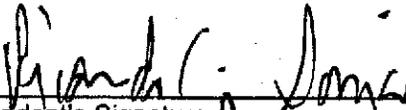
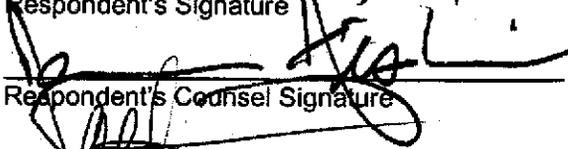
SIGNATURE OF THE PARTIES

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 Fact, Conclusions of Law and Disposition.

4-10-06
Date

4-11-06
Date

4-17-06
Date

	_____ Respondent's Signature	Ricardo Saria Print Name
	_____ Respondent's Counsel Signature	Jerome Fishkin Print Name
	_____ Deputy Trial Counsel's Signature	Maria J. Oropeza Print Name

(Do not write above this line.)

In the Matter of Ricardo Saria	Case number(s): 04-O-11383; 05-O-02813
-----------------------------------	---

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.

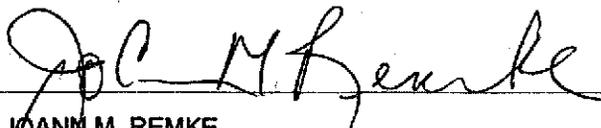
On page 4, under section E(1), the "x" is deleted from the box imposing a conditional standard 1.4(c)(ii). This is not conditional; respondent is required to comply with the standard.

On page 7, under "Financial Conditions," respondent understands that he will remain suspended until he satisfies one of the four conditions of restitution set forth in that section. Thus, if Van Rooy v. Saria is not resolved by the time respondent seeks to be relieved from his actual suspension under standard 1.4(c)(ii), respondent would be required to pay the \$8,000 plus interest to be relieved from his actual suspension.

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.)

Date

5/17/06


JOANN M. REMKE
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 San Francisco, on May 17, 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:

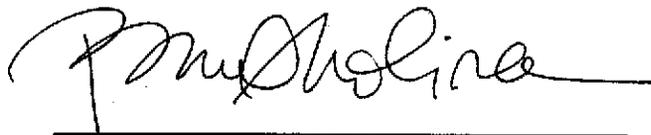
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**JEROME FISHKIN
369 PINE ST #627
SAN FRANCISCO, CA 94104**

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

MARIA OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 17, 2006.



Bernadette C. O. Molina
Case Administrator
State Bar Court