

(Do not write above this line.)

**State Bar Court of California
Hearing Department
Los Angeles**

<p>Counsel For The State Bar</p> <p>Joseph R. Carlucci Supervising Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1053</p> <p>Bar # 172309</p>	<p>Case Number (s) 05-O-01314-DFM 05-O-03887-DFM</p>	<p>(for Court's use)</p> <p>FILED</p> <p>DEC - 5 2007 <i>Y/C</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Robert G. Berke Berke Law Offices 3450 Wilshire Blvd., Ste. 550 Los Angeles, CA 90010 (818) 389-0596</p> <p>Bar # 148957</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: XAVIER VEGA</p> <p>Bar # 94403</p> <p>A Member of the State Bar of California (Respondent)</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 **December 16, 1980**.
- (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 **17** 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."



- (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):
- 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: **two membership years following the effective date of the Supreme Court order. If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to Section 6086.10(c), the remaining balance of the costs is due and payable immediately and enforceable both as provided for in Business and Professions Code, section 6140.7 and as a money judgment unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286).**
(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
 - (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 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.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment Page 7.**
- (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. **See Attachment Page 8**
- (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.
- (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 **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 as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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 within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- During the period of probation, Respondent shall not share or split fees with any non-attorney. Respondent also will not accept representation of any client without first personally interviewing the client and evaluating the viability of his/her case.**

(Do not write above this line.)

Attachment language (if any):

SEE ATTACHMENT

In the Matter of
XAVIER VEGA (No. 94403)

Case number(s):
05-O-01314-DFM, 05-O-03887-DFM

A Member of the State Bar

Law Office Management Conditions

- a. Within days/**two** months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for **two** year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.
- d. As part of his law office management/organization condition, Respondent shall develop and implement procedures to ensure that he does not accept representation of a client without first personally interviewing the client and evaluating the viability of his/her case.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: XAVIER VEGA (no. 094403)

CASE NUMBERS: 05-O-01314-DFM, 05-O-03887-DFM

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 Rules of Professional Conduct.

CASE NO. 05-O-01314-DFM

FACTS

1. In May 1998, Marta Moscoso ("Moscoso") hired non-attorney Judith Gil ("Gil") and F.J.A. Associates to assist her in obtaining asylum for herself and her son Billy Blue Jimenez ("Jimenez"). Moscoso believed Gil to be an attorney. Moscoso provided Gil with newspaper articles concerning Moscoso's brother's assassination in Guatemala in 1987. Gil did not incorporate that information in the asylum application she filed on behalf of Moscoso and Jimenez, nor did she include statements regarding the psychological hardship suffered by Moscoso's family following trauma caused to two of Moscoso's daughters by a family member.

2. Moscoso's and Jimenez's asylum applications were denied by the Immigration and Naturalization Service. On April 25, 2001, Moscoso and Jimenez were then placed in removal proceedings in the Immigration Court.

3. On June 25, 2001, Gil prepared and filed an application for cancellation of

removal on behalf of Moscoso and Jimenez in the Immigration Court. Gil then referred Moscoso and Jimenez to Respondent for further representation in the Immigration Court.

4. At no time during his representation of Moscoso and Jimenez, did Respondent explain the INS proceedings to Moscoso or Jimenez, interview them for more than 10 minutes prior to each court hearing at which they appeared, or ask Moscoso about any hardships she may have experienced that would have aided her case, including but not limited to the violence her family endured in Guatemala. Had Respondent interviewed Moscoso sufficiently, Respondent would have discovered this information, as well as that in 2002, yet another of Moscoso's brothers and one of her nephews had been assassinated in Guatemala.

5. On August 8, 2001, Respondent appeared in Immigration Court with Moscoso and Jimenez. At that time, Respondent withdrew both of their asylum applications and failed to provide the court with psychological evidence regarding the hardship that Moscoso's family has suffered following the trauma to two of Moscoso's daughters. The court then scheduled a merits hearing for September 18, 2003.

6. At the merits hearing on September 18, 2003, the Immigration Court granted cancellation of removal for Moscoso, but denied it as to Jimenez because the court found that he was not eligible for that relief because he did not have the requisite qualifying relative. Respondent reserved Jimenez's right to appeal.

7. Respondent agreed to file the appeal and prepare a brief in support of the appeal on Jimenez's behalf.

8. Despite his agreement to do so, Respondent never filed the appeal or the brief in

support of the appeal on Jimenez's behalf.

9. On October 17, 2003, the Department of Homeland Security ("DHS") appealed Moscoso's cancellation of removal to the Board of Immigration Appeals ("BIA").

10. From September 23, 2003 through June 1, 2004, Moscoso received no communication from Respondent relative to her or Jimenez's case. As a result, on July 21, 2004, Moscoso hired Attorney Jessica Dominguez ("Dominguez") to review Jimenez's and her cases and oppose DHS's appeal of Moscoso's cancellation of removal.

11. On February 10, 2005, the BIA reversed the Immigration Court's decision granting Moscoso cancellation of removal.

12. On March 25, 2005, Dominguez filed a Motion to Reconsider and/or Motion to Remand with the BIA, contending that Moscoso and Jimenez were prejudiced by Respondent's ineffective assistance of counsel.

13. On June 1, 2005, the BIA issued an order and made findings that Moscoso established that she received ineffective assistance of counsel by Respondent and that "competent counsel would have acted differently [than Respondent] by properly preparing [Moscoso's] case, meeting with her sufficiently to understand the facts of her case for presentation before the Immigration Judge, exploring [Moscoso's] possible asylum claim, pursuing [Moscoso's] desire to apply for asylum, and providing psychological evidence regarding the hardship that [Moscoso's] family has already suffered following the [trauma] to two of [Moscoso's] daughters. . . ."

14. The BIA further found that Respondent's actions prejudiced Moscoso because she

was not allowed to pursue an asylum application because the evidence of her brothers' assassination was not contained on the asylum application prepared by Gil and because Respondent failed to present psychological evidence regarding Moscoso's family's therapy.

15. On or about June 5, 2005, the BIA found that Jimenez received ineffective assistance of counsel from Respondent and that he was also prejudiced by Respondent in that "any possible opportunity to retain [Jimenez's] colorable eligibility for cancellation of removal was completely foreclosed by [Respondent's] actions in failing to file an appeal for [Jimenez] as he had been retained and paid to do." Both Moscoso and Jimenez's matters were remanded back to the Immigration Court.

CONCLUSIONS OF LAW

16. By failing to properly prepare Moscoso's case, including meeting with her sufficiently to understand the facts of her case for presentation before the Immigration Court, dismissing her application for asylum instead of providing the court with psychological evidence regarding the hardship that Moscoso's family has suffered following the trauma to two of Moscoso's daughters, and by failing to file an appeal on behalf of Jimenez, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A), Rules of Professional Conduct.

17. By failing to inform Moscoso or Jimenez that he had not filed an appeal in Jimenez's case, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).

CASE NO. 05-O-03887-DFM

FACTS

18. In the Summer or Fall 2000, Sebastian Tejada and his wife, Blanca (collectively "the Tejadas") hired non-attorney Salvador Rodriguez ("Rodriguez") to assist them and their minor daughter with legalizing their status in the United States. The Tejadas paid Rodriguez \$1,800. At or about that time, Rodriguez told the Tejadas that they qualified for relief under the Nicaraguan Adjustment and Central American Relief Act ("NACARA") and Rodriguez prepared and filed a NACARA application with the Immigration Court. In support of their application, the Tejadas provided Rodriguez with additional relevant documentation. However, Rodriguez did not attach those documents to the Tejadas' application when he filed it with the court.

19. The Tejada's application for asylum was denied and removal proceedings were initiated against them in Immigration Court.

20. On September 26, 2000, Rodriguez told the Tejadas that for a fee of \$250 per court appearance, Respondent would make all appearances in Immigration Court on their behalf.

21. Respondent appeared in court as counsel for the Tejadas on October 11, 2000, February 9, 2001, August 17, 2001, and April 1, 2003. Respondent never met with, nor spoke to, either of the Tejadas before meeting them minutes prior to the first court appearance on October 11, 2000, and Respondent only spoke with the Tejadas at the court house for a few minutes prior to each scheduled court appearance thereafter.

22. At the October 11, 2000 hearing, Immigration Judge Dorothy Bradley ("Judge

Bradley”) informed Respondent that it was possible that the Tejadas were eligible for cancellation of removal, as well as relief under NACARA. Despite this information, Respondent never sought cancellation of removal on behalf of the Tejadas.

23. The February 9, 2001 and August 17, 2001, hearings were continued by the court to provide Respondent with the opportunity to submit documents in support of the Tejadas’ NACARA application. Respondent did not submit any supporting documents on behalf of the Tejadas.

24. On April 1, 2003, a merits hearing was held. The court noted that Respondent had almost three years to support the Tejadas’ NACARA application with documentation, but because he failed to do so, the Tejadas’ application was rejected for failure to prosecute.

LEGAL CONCLUSIONS

25. By failing to file any documents in support of the Tejadas’ NACARA application, by failing to request cancellation of removal as noted by the court at the October 11, 2000 hearing, and by failing to meet with the Tejada’s to review their cases and to obtain the facts necessary to assist them with legalizing their status, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A), Rules of Professional Conduct.

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

The parties waive any variance between the Notice of Disciplinary Charges filed on March 20, 2007, and the facts and/or conclusions of law contained in this stipulation.

Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

DISMISSALS.

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

<u>Case Nos.</u>	<u>Count</u>	<u>Alleged Violation</u>
05-O-01314-DFM 05-O-03887-DFM	FOUR	Rules of Professional Conduct, rule 1-600

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 28, 2007.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 28, 2007, the costs in this matter are \$4,920.00. 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.

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Standard 1.2(b)(ii))

The current misconduct acknowledged by respondent evidences multiple acts of wrongdoing.

MITIGATING CIRCUMSTANCES.

No Prior Discipline (Standard 1.2(e)(i))

Respondent was admitted to the State Bar on December 16, 1980 and has no prior record of discipline since his admission.

AUTHORITIES SUPPORTING DISCIPLINE.

In this matter, Respondent has admitted to violating the following statutes and rules: Business and Professions Code, section 6068(m) and Rules of Professional Conduct, rule 3-110(A). The stipulated discipline of one year stayed suspension and two years probation in this matter is supported by applicable law.

Standard 1.3 provides that the primary purpose of discipline is the protection of the public, the courts and legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 1.6(a) states that if two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Regarding Respondent's violations of rule 3-110(A), standard 2.4(b) provides that culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 states that culpability of a member of a wilful violation of Business and

Professions Code, section 6068, including section 6068(m), shall result in suspension or disbarment depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in Standard 1.3.

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.

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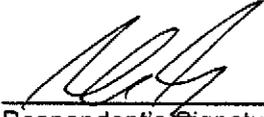
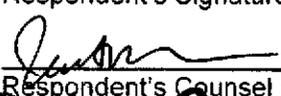
Attachment Page 9

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In the Matter of XAVIER VEGA (No. 94403)	Case number(s): 05-O-01314-DFM, 05-O-03887-DFM
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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 Fact, Conclusions of Law and Disposition.

<u>12/4/07</u> Date	 Respondent's Signature	<u>XAVIER VEGA</u> Print Name
<u>12/4/07</u> Date	 Respondent's Counsel Signature	<u>ROBERT G. BERKE</u> Print Name
<u>12/4/07</u> Date	 Deputy Trial Counsel's Signature	<u>JOSEPH R. CARLUCCI</u> Print Name

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In the Matter Of
XAVIER VEGA (No. 94403)

Case Number(s):
05-O-01314-DFM, 05-O-03887-DFM

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 9.18(a), California Rules of Court.)**

December 5, 2007

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 December 5, 2007, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL
SUSPENSION**

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

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

**ROBERT G. BERKE
BERKE LAW OFCS
3450 WILSHIRE BLVD STE 550
LOS ANGELES, CA 90010**

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

JOSEPH CARLUCCI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 5, 2007.



Tammy R. Cleaver
Case Administrator
State Bar Court