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State Bar Court of California
Hearing Department
Los Angeles

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>ELI D. MORGENSTERN State Bar of California 1149 S. Hill Street Los Angeles, CA 90015-2299 (213)765-1334</p> <p>Bar # 190560</p>	<p>Case Number (s) 05-O-01395, 05-O-01853, 05-O-02291</p> <p>Inv. Opn. Case No.: 06-O-12706</p>	<p>(for Court's use)</p> <p>FILED</p> <p>SEP 24 2007</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Susan L. Margolis Margolis & Margolis 2000 Riverside Drive Los Angeles, CA 90039 (310)953-8996</p> <p>Bar # 104629</p>	<p>Submitted to: Assigned Judge</p>	
<p>In the Matter Of: MANUEL E. GONZALEZ</p> <p>Bar # 212463</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 **February 10, 2001**.
- (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):
- 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: **Please see page 14**
(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
- (9) The parties waive any variance between the basis for the action agreed to in this agreement and any charge(s) set forth in the Notice of Disciplinary Charges.

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.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation 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

Respondent is deserving of mitigation for cooperating with the State Bar by entering into this stipulation.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two (2) 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 **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)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **90 days**.

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:

<input type="checkbox"/> Substance Abuse Conditions	<input checked="" type="checkbox"/> Law Office Management Conditions
<input type="checkbox"/> Medical Conditions	<input checked="" type="checkbox"/> Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure. *Respondent's satisfactory passage of the MPRE any time after this Stipulation is signed and before the effective**
 - No MPRE recommended. Reason: **date of discipline will be deemed to satisfy this condition.**
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, 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:**

In the Matter of
MANUEL E. GONZALEZ
Bar # 212463

Case number(s):
05-O-01395, 05-O-01853, 05-O-02291

Inv. Opn. Case Nos: 06-O-12706

A Member of the State Bar

Law Office Management Conditions

- a. Within days/**six (6)** 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/**one (1)** 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 **six (6)** 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 **one (1)** 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.

Thereafter, Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California by the March 10 Quarterly Report for the following year.

In the Matter of MANUEL E. GONZALEZ Bar # 212463	Case number(s): 05-O-01395, 05-O-01853, 05-O-02291 Inv. Opn. Case No.: 06-O-12706
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
Ramon Hernandez	\$1,350	01-27-05
Bertha Martinez	\$1,600	02-25-05
Gerardo Amezquita	\$1,100	08-01-05

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **one year and nine months from the effective date of the discipline herein.**

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 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
Ramon Hernandez	\$100	* Monthly
Bertha Martinez	\$115	* Monthly
Gerardo Amezquita	\$ 90	* Monthly

* (due on or before the 15th of each month)

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/or 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";

(Financial Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004; 12/13/2006.)

- 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: MANUEL ELI GONZALEZ

CASE NUMBERS: 05-O-01395, 05-O-01853, 05-O-02291
 Inv. Opn. Case No. 06-O-12706

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified Rules of Professional Conduct.

Case No. 05-O-01853

Facts

1. On December 17, 2004, the Los Angeles County District Attorney filed a felony complaint against Gabriela Hernandez (“Gabriela”) in the matter titled *People v. Gabriela Hernandez*, Los Angeles County Superior Court Case No. YA060389 (“*People v. Hernandez*”). Gabriela was charged with violations of Penal Code sections 476 (forgery) and 459 (second degree commercial burglary).

2. On December 31, 2004, Ramon Hernandez (“Mr. Hernandez”), Gabriela’s father, and Maria Luz Hernandez, Gabriela’s sister, went to Respondent’s office in order to employ Respondent to represent Gabriela in *People v. Hernandez*. At the meeting, Mr. Hernandez decided to hire Respondent to represent his daughter in *People v. Hernandez*. During the course of the December 31, 2004 meeting, Mr. Hernandez signed a fee agreement which was prepared by Ulysses Maldonado (“Maldonado”), Respondent’s office assistant, and also signed by Maldonado on behalf of Respondent. Pursuant to the agreement, Respondent agreed to represent Gabriella in *People v. Hernandez* up to and including the preliminary hearing for \$5,000. On December 31, 2004, Maria Luz Hernandez provided Maldonado with a cashier’s check in the sum of \$1,000 made payable to “abogado”. On January 3, 2005, she provided Maldonado with another cashier’s check in the sum of \$1,500. In total, the Hernandezes paid Respondent \$2,500 in advanced attorney fees.

3. At no time during the initial meeting was Respondent present to explain to Mr. Hernandez or Maria Luz Hernandez the terms and conditions of the retainer agreement. Respondent relied on Maldonado to explain the agreement and to answer any of their questions. Maldonado was not an attorney and was not authorized to give legal advice.

4. On January 27, 2005, Respondent appeared for the preliminary hearing in *People v. Hernandez*. Gabriela advised the Court that she wished to retain new counsel and the Court relieved Respondent as Gabriela's attorney of record.

5. On or about January 27, 2005, Respondent mailed a letter to Mr. Hernandez acknowledging that he had been terminated as Gabriela's attorney of record and stating that he would provide an itemized statement for the work performed.

6. On April 26, 2005, after having received notice from the State Bar that Mr. Hernandez had filed a complaint against him, Respondent mailed to Mr. Hernandez a document titled, "Itemization of Service Rendered" ("Itemization"). In the Itemization, Respondent billed Mr. Hernandez \$2,100 and enclosed a refund of \$400. Mr. Hernandez received the Itemization and the \$400 refund. But, Mr. Hernandez rejected the refund and sent it back to Respondent.

Legal Conclusions

By permitting Maldonado to conduct the initial sign up of a client without being present, Respondent permitted Maldonado to hold himself out as entitled to practice law. By the foregoing conduct and his failure to adequately supervise Maldonado, Respondent failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to provide the Hernandez's a refund of at least \$400 from January 26, 2005, to April 26, 2005, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 05-O-02291

Facts

1. On or about January 25, 2005, Bertha Martinez ("Martinez") examined a Spanish language newspaper in order to locate an attorney to represent her nephew, Michael Ivan Martinez ("Michael"), who was being held in custody regarding immigration matters. Martinez located an advertisement for Respondent's office that stated that it handled immigration cases and listed the people employed in Respondent's office as "Manuel Eli Gonzalez • Abogado; Marci W. Urling • Abogado; Ulysses Maldonado • Asociado Legal."

2. On or about January 28, 2005, Martinez went to Respondent's law office in order to discuss Michael's immigration matters. Respondent was not present at the office during Martinez's visit on January 28, 2005. Martinez met with Ulysses Maldonado ("Maldonado"), Respondent's office assistant. During the meeting, Maldonado presented Martinez with a business card from Respondent's office with Maldonado's name and his title of "Legal Associate" on it. During the meeting with Maldonado, Martinez decided to employ Respondent. On January 28, 2005, Maldonado prepared a fee agreement for Martinez's signature. Maldonado also signed the agreement on behalf of Respondent. Pursuant to the fee agreement prepared by Maldonado, Respondent was to represent Michael in his

immigration matter for \$5,000.

3. On or about January 28 and 31, 2005, Martinez, acting on Maldonado's instructions and unbeknownst to Respondent, provided Maldonado with checks issued by her and made payable solely to Maldonado in the sum of \$1,800 and \$1,200, respectively. Maldonado gave Martinez a receipt from Respondent's law office for the \$3,000 payment in advanced fees. Maldonado endorsed the checks with his name prior to depositing or cashing them.

4. Maldonado communicated exclusively with Martinez on behalf of Respondent. At no time did Respondent meet with Michael or Martinez, and he only communicated with Martinez once when he left a message for Martinez on her telephone answering machine. At no time did Respondent or Maldonado inform Martinez that Maldonado was Respondent's office assistant and that Maldonado was not an attorney and was not entitled to practice law in the state of California.

5. On or about February 25, 2005, Martinez mailed Respondent a letter via certified mail informing him that she was terminating his services and demanding a full refund of the \$3,000 in advanced fees that she had paid to Maldonado. Respondent's office received the letter.

6. Respondent's office did not perform any services of significant value with regard to Michael's immigration matter.

7. On May 23, 2005, after having received notice from the State Bar that Martinez had filed a complaint against him, Respondent mailed to Martinez a document titled, "Itemization of Service Rendered" ("Itemization") to Martinez that billed five hours of work at the "attorney hourly rate" of \$175 per hour, or \$875, for Maldonado's in person meeting and telephone calls with Martinez and Michael's aunt on January 25, 26, and 28, 2005, and February 2, 2005. He enclosed a refund of \$1,600.

Legal Conclusions

By permitting Maldonado to conduct the initial sign up of a client, conduct all of the meetings and telephone conferences with Martinez, and bill Maldonado at the "attorney hourly rate", Respondent aided a person in the unauthorized practice of law, in wilful violation of rule 1-300(A) of the Rules of Professional Conduct.

By failing to refund at least \$1,600 from on or about February 25, 2005 to on or about April 26, 2005; and by failing to refund the remaining \$1,400 of unearned advanced fees to date, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

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Inv. Opn. Case No. 06-O-12706

Facts

1. On May 9, 2005, Gerardo Amezcuita ("Amezcuita") employed Respondent to assist him in obtaining an order terminating child support for his daughter by operation of law. Amezcuita's daughter was graduating from high school in June 2005 and was going to turn 18 years old on July 26, 2005. On this same date, Amezcuita paid Respondent \$2,500 in advanced fees.

2. On May 24, 2005, Respondent filed on behalf of Amezcuita the Order to Show Cause for Termination of Child Support ("OSC") in San Bernardino County Case No. SDASS084164. The hearing for the OSC was set for July 11, 2005, at 8:00 a.m. On July 3, 2005, Respondent caused the OSC to be served on the County of San Bernardino Child Support Services; and on July 9, 2005, Respondent filed a proof of service by mail with the Court.

3. On July 11, 2005, the OSC was conducted. Attorney Alfredo Flores ("Flores") appeared on for Respondent on behalf of Amezcuita. Flores charged Respondent a flat rate of \$150 to make the appearance. The matter was continued to August 11, 2005, to permit the parties to provide sufficient proof of Amezcuita's daughter age and that she graduated from high school.

4. On or about July 28, 2005, Respondent sent Amezcuita an accounting that billed Amezcuita for four hours at \$275/hr for the July 11, 2005 court appearance. However, Flores charged Respondent a flat rate of \$150. The retainer agreement that Amezcuita signed did not permit Respondent to charge \$275/hr for a contract attorney's time.

4. On August 1, 2005, Amezcuita terminated Respondent's services.

5. On August 2, 2005, Respondent sent Amezcuita a letter requesting that he sign and return the enclosed substitution of attorney in the enclosed self addressed stamped envelope so that Respondent could file the substitution of attorney with the court. In the letter, Respondent stated that it was "pertinent" that Amezcuita return the substitution of attorney by August 10, 2005.

6. Amezcuita did not return the substitution of attorney and no substitution of attorney was filed in connection with the OSC.

7. On August 11, 2005, neither Amezcuita nor Respondent appeared at the continued OSC hearing.

8. By no later than August 23, 2005, the Court granted Amezcuita's OSC and terminated his child support obligations.

Legal Conclusions

By failing to appear at the continued OSC hearing on August 11, 2005, Respondent improperly withdrew from employment in wilful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

By billing Amezquita \$275/hr, or \$1,100, for Flores' appearance at the July 11, 2005 hearing on the OSC, when Flores only charged Respondent a \$150 flat rate, and the retainer agreement did not permit Respondent to charge Flores at a rate of \$275/hr, Respondent failed to provide full disclosure of the circumstances of the billing to his client in wilful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was September 13, 2007.

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
05-O-01395	ONE	Rule 1-300(A) of the Rules of Professional Conduct
05-O-01395	TWO	Rule 3-110(A) of the Rules of Professional Conduct
05-O-01395	THREE	Business and Professions Code section 6106
05-O-01395	FOUR	Rule 3-700(A)(2) of the Rules of Professional Conduct
05-O-01853	FIVE	Rule 1-300 (A) of the Rules of Professional Conduct
05-O-01853	SIX	Rule 3-110(A) of the Rules of Professional Conduct
05-O-01853	EIGHT	Business and Professions Code section 6106
05-O-02291	TEN	Rule 3-110(A) of the Rules of Professional Conduct

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of September 13, 2007, the costs in this matter are \$4,803.43. The costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order.

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.

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, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided 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.) 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.

OTHER FACTORS IN CONSIDERATION.

Respondent terminated his employment of Ulysses Maldonado in February 2005, after Maldonado's conduct in these matters was brought to his attention.

In connection with Case No. 05-O-01853, Respondent agrees to refund \$1,350 to Mr. Hernandez.

In connection with Case No. 05-O-02291, Respondent agrees to refund \$1,600 to Ms. Martinez.

In connection with Case No. 06-O-12706, Respondent agrees to refund the \$1,100 that he charged Amezquita for Flores' appearance at the July 11, 2005 OSC hearing.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards

The appropriate level of discipline for the culpability of a member who violates rules 1-300(A) and 3-700(A)(2) and (D)(2) of the Rules of Professional Conduct are not specified in the Standards.

Consequently, pursuant to Standard 2.10 of the Standards for Attorney Sanctions for Professional Misconduct ("Standard(s)"), the appropriate level of discipline for the violation of these rules is a reproof or suspension, according to the gravity of the offense or the harm, if any, to the victim, with due regard for the purposes of imposing discipline set forth in Standard 1.3.

Here, Respondent's violations of rules 1-300(A), 3-700(A)(2), and 3-700(D)(2) harmed his clients and the administration of justice.

Standard 2.2 also applies. Standard 2.2(b) provides that:

"Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional

Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

Finally, Standard 2.4(b) applies as well. Standard 2.4(b) provides that culpability of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Case Law

In *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, the attorney failed to promptly pay lienholders, among several other acts of misconduct committed in twelve different matters. The Review Department recommended that the attorney be actually suspended for 90 days as a condition of a three year probation, with a one year stayed suspension.

STATE BAR ETHICS AND TRUST ACCOUNT SCHOOLS.

Because respondent has agreed to attend the State Bar Ethics and Trust Account Schools as part of this stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of the courses.

(Do not write above this line.)

In the Matter of MANUEL E. GONZALEZ Bar # 212463	Case number(s): 05-O-01395, 05-O-01853, 05-O-02291 Inv. Opn. Case No.: 06-O-12706
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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.

9/17/07
Date

Manuel E. Gonzalez
Respondent's Signature

MANUEL E. GONZALEZ
Print Name

9/17/07
Date

Susan L. Margolis
Respondent's Counsel Signature

SUSAN L. MARGOLIS
Print Name

9/17/07
Date

El D. Morgenstern
Deputy Trial Counsel's Signature

ELI D. MORGENSTERN
Print Name

(Do not write above this line.)

In the Matter Of MANUEL E. GONZALEZ Bar # 212463	Case Number(s): 05-O-01395, 05-O-01853, 05-O-02291 Inv. Opn. Case No.: 06-O-12706
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ORDER

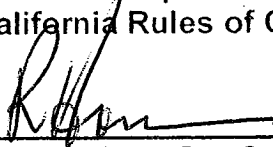
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.)**

9/21/07

Date



Judge of the State Bar Court
RICHARD A. HONN

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 September 24, 2007, 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:

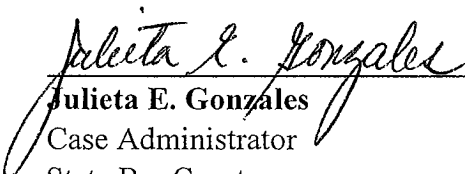
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SUSAN L MARGOLIS ATTORNEY AT LAW
MARGOLIS & MARGOLIS LLP
2000 RIVERSIDE DR
LOS ANGELES, CA 90039**

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 24, 2007**.



Julieta E. Gonzales
Case Administrator
State Bar Court