

ORIGINAL

State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar Suzan J. Anderson Deputy Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 (213) 765-1209 Bar # 160559		Case Number (s) 05-O-01542-RAP 05-O-01973-RAP 05-O-03888-RAP	(for Court's use) FILED AUG 22 2007 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Edward O. Lear CENTURY LAW GROUP 5200 West Century Boulevard Suite 940 Los Angeles, California 90045 Bar # 132699		Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: HENRY LIANG CHYE NG Bar # 195274 A Member of the State Bar of California (Respondent)			

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 3, 1998**.
- (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 **18** 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: **two billing cycles following the effective date of the Supreme Court order.**
(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.
- (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. **Please see Attachment, page 16.**
- (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. **Please see attachment, page 16.**
- (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. **Please see attachment, page 16.**
- (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

Please see attachment, page 16.

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:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **one (1) year**, 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 **sixty (60) 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.**
- ☐ No MPRE recommended. Reason: .
- (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:**

(Do not write above this line.)

Attachment language begins here (if any):
Please see attachment, pages 11 through 17

In the Matter of
HENRY LIANG CHYE NG

Case number(s):
05-O-01542, 05-O-01973, 05-O-03888

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

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

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

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";

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.

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Case number(s):
05-O-01542, 05-O-01973, 05-O-03888

A Member of the State Bar

Law Office Management Conditions

- a. ☐ Within days/ 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/**six (6)** 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 **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 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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: HENRY LIANG CHYE NG

CASE NUMBER(S): 05-O-01542, ET AL.

FACTS AND CONCLUSIONS OF LAW.

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

CASE NUMBER 05-O-01542

FACTS

1. On July 6, 2004, Jose Lopez ("Lopez") employed Respondent to represent him in a personal injury matter arising from an automobile accident on a contingency basis.
2. On July 28, 2004, Respondent settled Lopez's matter for \$6,800, with Lopez's consent.
3. On July 30, 2004, Respondent deposited the \$6,800 settlement check in his Bank of America Client Trust Account Number 16646-05642 ("Respondent's CTA").
4. On August 31, 2004, Respondent disbursed a check to Back to Health, Lopez's medical provider, in the amount of \$2,266.72. Lopez agreed to this disbursement and requested his settlement proceeds from Respondent.
5. On September 30, 2004, Respondent sent a letter to Lopez informing him that a check for his portion of the settlement proceeds was ready for Lopez to pick up. Lopez did not respond to the letter.
6. In November 2004, Respondent and Lopez had an appointment for Lopez to come to Respondent's office to pick up his settlement proceeds. Lopez did not appear for the appointment.
7. From and after November 2004, Respondent did not distribute Lopez's settlement funds.

8. On March 22, 2006, after being contacted by the State Bar, Respondent provided Lopez with his proceeds from the settlement, \$2,266.72.

CONCLUSIONS OF LAW

By failing to pay Lopez his portion of the settlement proceeds as requested by Lopez until March 2006, Respondent failed to promptly pay, as requested by a client, any funds in Respondent's possession which the client was entitled to receive in wilful violation of rule 4-100(B)(4) of the Rules of Professional Conduct.

CASE NUMBER 05-O-01973

FACTS

9. On December 30, 2004, Daniel Torres ("Torres") employed Respondent to represent his cousin, Nain Sanchez ("Sanchez") in a criminal matter entitled *People v. Nain Sanchez*, Case Number BA267922, filed in Los Angeles Superior Court. At this time, Torres paid Respondent \$5,000 of a \$10,000 advance fee, with payments to continue after that. According to the retainer agreement, Respondent was to represent Sanchez up to time of trial. Respondent was not made aware that trial in this matter had been set for January 5, 2005.

10. On January 7, 2005, after the Superior Court granted Sanchez a continuance of trial until January 10, 2005, Torres employed Respondent to represent his cousin through trial. At this time, Torres paid \$2,500 more of the \$10,000 advance fee with payments to continue. Respondent was aware at this time that the Court had continued the trial until January 10, 2005. According to the retainer agreement, Respondent was to attempt to substitute into the case on the trial date of January 10, 2005, and request a continuance of trial from the Superior Court. Sanchez had previously been represented by a Deputy Public Defender.

11. On January 10, 2007, Respondent appeared in court for Sanchez's trial and attempted to substitute in as counsel of record for Sanchez. The Court denied Respondent's Motion for Substitution because Respondent was not prepared to start trial on that date. The Deputy Public Defender defended Sanchez and on January 20, 2005, Sanchez was acquitted by the jury.

12. On January 26, 2005, Torres met with Respondent and requested a refund of the \$7,500 that he had paid toward the retainer fee. At the meeting, Respondent presented Torres with an itemized billing statement indicating that a refund of \$986.25 was owing to Torres. Respondent offered to refund \$2,000 to Torres. Torres rejected Respondent's offer.

13. After Torres rejected Respondent's offer, Respondent took no further action to

resolve the matter until March 2006, when Respondent agreed to and refunded \$5,000 to Torres, after being contacted by the State Bar.

CONCLUSIONS OF LAW

By failing to refund any portion of the \$7,500 advanced fee to Torres until March 2006, 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 NUMBER 05-O-03888

FACTS

14. On December 4, 2003, Jorge A. Cruz filed a Petition for Dissolution of Marriage in Los Angeles Superior Court entitled *Jorge Alberto Cruz v. Elva Cruz*, Case Number VD054082. Jorge Cruz failed to have his wife, Elva Cruz ("Cruz") served with the Petition. Cruz was unaware that Jorge Cruz had filed the dissolution matter.

15. On September 3, 2004, Cruz employed Respondent to represent her in filing a petition for marital dissolution. Cruz sought sole custody of her children and to have the divorce finalized as soon as possible. Cruz paid Respondent \$2,000 in advance attorney fees. The \$2,000 was an advance toward the hourly fees which Respondent expected to incur on behalf of Cruz.

16. Thereafter, Respondent prepared the dissolution documents on behalf of Cruz to initiate a dissolution action. The documents were never filed, because Cruz was unsure whether she wanted to proceed.

17. From September 2004 through June 2005, Cruz contacted Respondent to discuss the dissolution matter, but at no time did Cruz authorize Respondent to file the dissolution matter.

18. In early July 2005, Cruz learned from Jorge Cruz that he filed a Petition for Dissolution in December 2003. Jorge Cruz provided a case number to Cruz for the dissolution action.

19. On July 12, 2005, Cruz called Respondent's office and told them that she was terminating Respondent's services and requested an accounting and return of the unearned fees she paid Respondent. Respondent received Cruz's message but failed to promptly provide an accounting to Cruz.

20. In March 2006, after he was contacted by the State Bar, Respondent finally provided

Cruz with an accounting demonstrating that he had in fact earned the \$2,000.

CONCLUSIONS OF LAW

By failing to provide an accounting to Cruz when she requested it in July 2005 until March 2006, Respondent failed to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession in wilful violation of rule 4-100(B)(3) of the 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 September 26, 2006, 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.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was July 25, 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-01542	Two	4-100(A) - Failure to Maintain Funds in Trust
05-O-01542	Three	6106 - Moral Turpitude
05-O--1973	Four	3-110(A) - Failure to Competently Perform

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 25, 2007, the costs in this matter are \$3,654.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

STANDARDS

Standard 1.3 provides that the primary purpose of disciplinary proceedings are the protection of the public, the courts and legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanction is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Standard 1.6(a) provides 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.

Standard 2.2(b) provides that culpability of a member of commingling of entrusted funds or property with personal property of 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.

CASE LAW

As was stated in *In re Silverton*, (2005) 36 Cal.4th 81, the Supreme Court may deviate from the Sanction Standards if it has "grave doubts as to the propriety of the recommended discipline." (*Id.* at page 91.) However, the burden is on the respondent to demonstrate the existence of extraordinary circumstances justifying a lesser sanction than that specified by the Standards. (*Id.* at page 92.)

In this matter, deviation from the Standards is appropriate as Respondent has demonstrated extraordinary circumstances, both with respect to the individual cases and with respect to his practice of law generally. As stated above, Respondent attempted to take care of each of his clients, but extenuating circumstances had an impact on Respondent's attempts.

Additionally, as stated in *Edwards v. State Bar* (1990) 52 Cal.3d 28, standard 2.2(a)'s requirement that a minimum of one year of actual suspension invariably be imposed, is not

faithful to the teachings of this court's decisions. The standard's one-year minimum should be regarded as a guideline, not an inflexible mandate. (*Id.* at page 38.)

In this matter, standard 2.2(b)'s requirement of three months of actual suspension should also be regarded as a guideline, not an inflexible mandate as stated in *Edwards*. Here, Respondent has met his burden to demonstrate extraordinary circumstances which make deviation from the standard of three months (as expressed in Standard 2.2(b)) possible.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Jose Lopez (case number 05-O-01542) suffered harm by not receiving his proceeds from the settlement of his personal injury matter for over sixteen (16) months.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Though the misconduct is serious, Respondent has had no prior discipline in the nine (9) years he has practiced law.

Respondent has displayed candor and cooperation to the State Bar and the victims of his misconduct, by resolving the problems with the victims as soon as he learned they had filed complaints with the State Bar. Respondent has also attended three Voluntary Settlement Conferences and provided the State Bar with all the information it requested during these proceedings.

Respondent provided numerous declarations attesting to his good character from a wide range of people in the legal and general communities who are aware of the full extent of his misconduct.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Case Number 05-O-01542

Respondent did attempt to disburse Jose Lopez's settlement funds at an earlier date. For reasons that the State Bar accepts, there were time periods that Respondent was unable to disburse the funds due to ongoing litigation filed by Lopez's subsequent attorney against

Respondent.

Case Number 05-O-03888

During the time frame that Elva Cruz requested an accounting, Respondent discovered that the person who was assisting him with the computer system and bookkeeping methods of the office, embezzled money from Respondent's general account and was controlling the computer system making it difficult for Respondent to provide an accounting to Cruz.



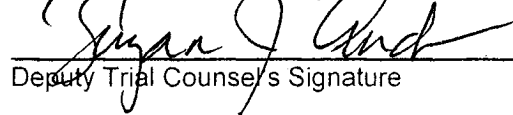
Respondent has been working with a non-profit group for the last six years that assists other countries with their health challenges and crises. Respondent does much of this work on a pro-bono basis. Respondent has performed work in litigation, intellectual property, business affairs and acting as liaison with various persons funding various projects for the group.

(Do not write above this line.)

In the Matter of HENRY LIANG CHYE NG	Case number(s): 05-O-01542, 05-O-01973, 05-O-03888
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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>7/25/07</u> Date	 Respondent's Signature	<u>HENRY LIANG CHYE NG</u> Print Name
<u>7/25/07</u> Date	 Respondent's Counsel Signature	<u>EDWARD O. LEAR</u> Print Name
<u>7/25/07</u> Date	 Deputy Trial Counsel's Signature	<u>SUZAN J. ANDERSON</u> Print Name

(Do not write above this line.)

In the Matter Of
HENRY LIANG CHYE NG

Case Number(s):
05-O-01542, 05-O-01973, 05-O-03888


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.)**

8-21-07
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 August 22, 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:

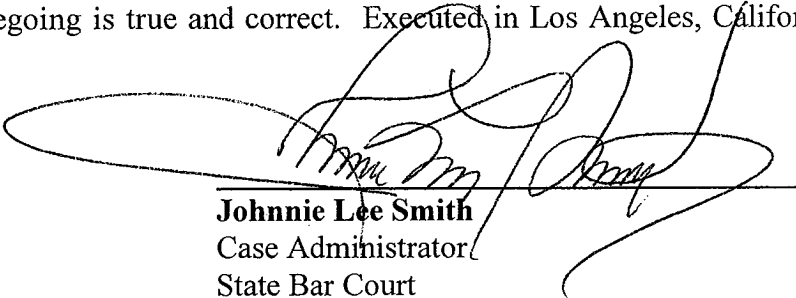
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**EDWARD O. LEAR
CENTURY LAW GROUP
5200 W CENTURY BLVD #940
LOS ANGELES, CA 90045**

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

SUZAN ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **August 22, 2007.**


Johnnie Lee Smith
Case Administrator
State Bar Court