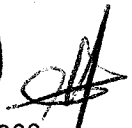


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**State Bar Court of California  
Hearing Department  
San Francisco**

<p>Counsel For The State Bar</p> <p><b>Robert Henderson</b> 180 Howard St. San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # <b>173205</b></p>	<p>Case Number (s) <b>05-O-01968; 05-O-03345; 05-O-04369; 07-O-14774; 08-O-10899</b></p>	<p>(for Court's use)</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> </p> <p>JAN 20 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p><b>Doron Weinberg</b> 523 Octavia St. San Francisco, CA 94102 (415) 431-3472</p> <p>Bar # <b>46131</b></p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: <b>Uchena S. Ogbu-Nwobodo</b></p> <p>Bar # <b>168457</b></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 14, 1993**.
- (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:  
(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.
- (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:**

respondent has no prior record of discipline over many years of practice.

**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. **Respondent accepted responsibility for the failings in the various cases and refunded the unearned fees to Gregorio Martinez-Zaldivar.**
- (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. **Respondent had difficulties in his personal life, which contributed to the failings in the various matters.**
- (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 has no prior record of discipline over many years of practice.**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **six-months**.

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-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 **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 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 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,

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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:**

Attachment language begins here (if any):

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

IN THE MATTER OF:        Uchenna S. Ogbu-Nwobodo

CASE NUMBERS:    05-O-01968; 05-O-03345; 05-O-04369; 07-O-14774; 08-O-10899

**FACTS.**

**Case no. 05-O-01968** (Maria De Los Angeles Morales Lara)

In January 1990, Maria De Los Angeles Morales Lara (“Morales”), a native and citizen of Mexico, entered the United States illegally. On August 2, 2002, Morales met with Rose Ann Martinez (“Martinez”), a non-attorney who had an informal working relationship with respondent. Morales wanted assistance in order to legalize her immigration status in the United States.

On August 2, 2002, Morales signed a retainer agreement with the Law Offices of Emeziem & Ogbu, LLP, “FOR REPRESENTATION IN CANCELLATION PROCEEDINGS, EXCLUDING REVIEWS IN APPEALS WITH THE DISTRICT COURT.” However, at that time, Morales was not in removal proceedings and had not begun anything in the immigration process. In the initial meeting, respondent advised Morales of the removal proceedings and concluded preliminarily that because she had entered the United States in 1990, that she was time barred from seeking asylum. Therefore, no asylum application should have been filed.

On August 7, 2002, even though respondent knew that Morales was time barred from seeking asylum, an Application for Asylum and for Withholding of Removal was filed for Morales. Although Part F of the application requires the information and signature of the person who assisted Morales in preparing the asylum application, nothing was provided in that section. The Immigration Service expedited Morales’ matter, as her application for asylum on its face showed that she was time barred. Subsequently, Morales was placed in Removal Proceedings.

On September 20, 2002, a Notice to Appear on October 30, 2002 was issued to Morales. Martinez requested from Morales all documents necessary to support an Application for Cancellation of Removal. On or about October 1, 2002, Morales submitted those documents to Martinez, which included documents proving the number of years Morales had lived in the United States, her medical records, her daughter’s medical records, tax records, and a list of her past U.S employers. Because Martinez and respondent worked together in assisting Morales with her immigration status, respondent should have been aware of all the facts necessary to support Morales’ Application for Cancellation of Removal.

On October 21, 2002, respondent filed an Application for Cancellation of Removal and Adjustment of Status with the Immigration and Naturalization Service. Respondent never supported the Application with allegations that Morales left Mexico because her husband was abusive to her and had threatened to kill her

and he never asked Morales for any further details about the abusive relationship. These details may have aided Morales in advancing her immigration situation or qualify her for remedies available to victims of violence. Subsequently, on October 30, 2002, the date of Morales' master hearing for the Application of Cancellation of Removal, Morales's asylum application was withdrawn and the removal hearing was continued.

On March 25, 2003, Morales received a letter from Martinez, which demanded that Morales provide all information and documents to Martinez to prove her case. Since Morales had already submitted all of her original documentation to Martinez, Morales attempted to make an appointment with respondent to discuss what other documentation respondent needed. Subsequently, in a telephone conversation, respondent advised Morales that there was no need for them to meet as she had already provided everything needed for the case.

On May 7, 2003, Morales appeared for her continued Master Hearing in her Cancellation of Removal proceedings. When Morales did not see respondent, she called his office and was told that respondent was busy and another attorney would be appearing with her. Another attorney from respondent's office appeared with Morales at the hearing on the Application for Cancellation of Removal. The hearing was continued until December 22, 2003.

On November 15, 2003, Morales met with respondent's law partner, regarding her upcoming December hearing. Morales told him about her medical conditions, including her disability, her daughter's depression, and threats made by her husband to kill her. The same information had been available to respondent since at least October 1, 2002, when Morales submitted the documents requested by Martinez.

On November 15, 2003, respondent's office sent letters to doctors Francis J. McNee, Roberta Wong, and Jay Ebadt requesting that they provide a report, other information, including a CV and availability to be witnesses for a telephonic conference on December 22, 2003. A letter was also sent to Morales's daughter's counselor, Elizabeth Alvarez. Also on this date, a witness list was established. Some of the doctors identified on the witness list declined to testify. Respondent never informed Morales that any of her witnesses had declined to testify.

On December 15, 2003, respondent filed Morales' Witness List and Motion for Telephonic Testimony of Expert Witness, wherein he listed doctors Manuel Pena and Roberta Wong, as well as Morales's daughter's counselor, as witnesses. The U.S. Department of Homeland Security ("DHS") opposed the motion as untimely. DHS agreed to permit the experts to testify telephonically so long as documentation, including their CV and summary/report of finding, was submitted for review, however neither respondent nor any of his associates submitted the required documentation. The witnesses were not permitted to testify at Morales' hearing for Cancellation of Removal.

On December 22, 2003, Morales appeared for her merit hearing. Again, another attorney appeared on behalf of respondent. Neither respondent nor any other attorney, submitted complete documentary evidence to support the contention that Morales' United States citizen daughter was suffering from a severe head wound, a mass inside her nose, speech difficulties, depression, and anxiety; that the necessary medical treatment for her daughter's condition was unavailable in Mexico; that her husband threatened to kill her, that he was in San Quentin prison, and was addicted to drugs; that a chiropractor had indicated to her that surgery would be needed for her workplace injury; that Morales was on disability at the time of her merit



hearing; and that Morales was in the United States for the required period of physical presence. All of this information was available and provided to respondent through the documentation provided to Martinez on or about October 1, 2002. The information provided by Morales on October 1, 2002, would have been useful to Morales in supporting her Application for Cancellation of Removal.

At the December 22, 2003 hearing, the judge admonished the attorney present for not being prepared when he asked who would take care of Morales's United States citizen child if she was deported. The attorney did not provide proper documentation for witnesses to testify on behalf of Morales. The judge noted that if difficulty existed with securing any witness to testify, requesting a subpoena was an available option. Respondent had not subpoenaed any witnesses. Subsequently, the judge found that the record did not support a finding of exceptional and extremely unusual hardship to Morales's United States citizen daughter, and the application for Cancellation of Removal was denied.

Within one month of the December 22, 2003 decision, Morales hired another law firm to represent her.

On April 19, 2005, the Board of Immigration Appeals granted Morales's Motion to Reopen and remanded the case back to the immigration judge in order to consider the psychological illness of Morales' daughter.

Morales has now been granted legal permanent residency in the United States.

**Case no. 05-O-03345** (Gregorio Martinez-Zaldivar)

Gregorio Martinez-Zaldivar ("Martinez-Zaldivar") a native and citizen of Mexico applied for cancellation of removal under section 240A(b) of the Immigration and Nationality Act. Martinez-Zaldivar hired respondent to represent him in his removal proceedings before the Immigration Judge. On August 9, 2000, the Immigration Judge granted his application for cancellation of removal. The Immigration and Naturalization Service ("INS") timely filed its notice of appeal of the decision and served notice on respondent. After the INS filed its Notice of Appeal, Martinez-Zaldivar retained respondent to represent him in the defense of the appeal before the Board of Immigration Appeals. After continuances granted to the Immigration and Naturalization Service the appeal was decided on January 31, 2003, wherein the Board of Immigration Appeals found that Martinez-Zaldivar had not sustained his burden for cancellation of removal. Martinez-Zaldivar was allowed to post a \$500 bond and voluntarily depart the country by March 1, 2003.

On February 8, 2003, respondent and Martinez-Zaldivar entered into a written fee agreement wherein respondent agreed to file an appeal of the Board of Immigration Appeals decision with the Ninth Circuit Court of Appeal. Between February 21, 2003 and June 6, 2003, Martinez-Zaldivar paid respondent a total of \$3,900 in advanced fees.

On January 15, 2004, Martinez-Zaldivar telephoned respondent and requested a status update on his appeal before the Ninth Circuit Court of Appeal. Respondent received this request, but did not reply.

On September 21, 2004, Martinez-Zaldivar telephoned respondent and requested a status update on his appeal before the Ninth Circuit Court of Appeal. Respondent received this request, but did not reply.

On June 22, 2005, Martinez-Zaldivar received a letter informing him that arrangements for his deportation had been made and that his \$500 bond was forfeit.

On June 24, 2005, respondent wrote Martinez-Zaldivar informing him that his deportation had been arranged.

Respondent's services to Martinez-Zaldivar were so deficient as to be worthless.

Between February 8, 2003 and July 13, 2005, respondent took no action on behalf of Martinez-Zaldivar. Between February 8, 2003 and July 13, 2005, respondent failed to inform Martinez-Zaldivar that he had failed to file the appeal with the Ninth Circuit Court of Appeal or take any other action on his behalf.

In September 2005, respondent refunded the \$3,900 in advanced fees paid by Martinez-Zaldivar.

**Case no. 05-O-04369** (Rafael Martinez Coyt)

Rafael Martinez Coyt ("Coyt") was born in Mexico on December 2, 1959 and illegally entered the United States on March 13, 1984. Coyt filed for Asylum and thereafter for Cancellation of Removal. His application for Cancellation of Removal was denied on March 28, 2003. Thereafter Coyt hired respondent to appeal the March 28, 2003 Denial of the Motion for Cancellation of Removal.

On April 7, 2003, respondent filed a Notice of Appeal and an EOIR 27 Notice of Entry of Appearance as Attorney indicating that he was representing Coyt on the appeal. In the Notice, respondent listed his address as 4225 Telegraph Avenue, Oakland, California 94609 (the "Oakland office"). However, in June 2003, respondent's address changed from 4225 Telegraph Avenue, Oakland, California 94609 to 5801 Christie Avenue, #350, Emeryville, California 94068 (the "Emeryville office"). Respondent did not file a Notice of Change of Address as required by 8 C.F.R. section 1003.38(e), nor did he notify Coyt that his address had changed.

In December of 2003, Coyt contacted respondent's Fresno office to renew his work permit. He was instructed to visit respondent's Oakland office in person. When Coyt visited Respondent's Oakland office, it was closed.

On May 7, 2004, the Board of Immigration Appeals ("BIA") affirmed the March 28, 2003 Denial of the Motion for Cancellation. Coyt was given thirty days from May 7, 2004 to voluntarily depart the United States. According to the decision, if Coyt failed to leave within thirty days, he would be subject to penalty and would become ineligible to return to the United States for ten years.

Because respondent never filed a Notice of Change of Address, the notice of the BIA's decision was sent to respondent's Oakland office and not his Emeryville office. Therefore, respondent was not able to inform Coyt of the BIA's decision on appeal, before Coyt was subject to penalties and the ten year bar.

In October of 2004, Coyt called respondent several times in order to renew his work permit, which was to expire on November 30, 2004. Respondent failed to accept or return any of Coyt's calls. On October 6, 2004, a member of respondent's staff learned that the May 7, 2004, BIA decision had been sent to respondent's Oakland office. A faxed copy of the decision was sent to respondent's Emeryville office on October 6, 2004. Thereafter, an appointment was scheduled for respondent to meet with Coyt on October 12, to discuss the decision.

On October 12, 2004, respondent instructed his partner to meet with Coyt to discuss filing a motion to reconsider the decision and to reopen based on new evidence. On October 12, 2004, Coyt, along with his wife and a friend, went to respondent's Emeryville office for the scheduled meeting with respondent. Respondent's law partner met with Coyt instead. Respondent's partner explained that because respondent never filed a Notice of Change of Address, the BIA's decision in Coyt's appeal had been sent to their Oakland office. As a result of the failure to change the address, respondent's office did not receive the BIA's decision until October 6, 2004, well after the thirty days in which Coyt was required to voluntarily leave the United States. Respondent's partner advised Coyt that the matter could be rectified for about \$2,500.

After the meeting on October 12, 2004, Coyt went home and called respondent's office again to speak with respondent. Respondent was not available. The receptionist told Coyt that respondent would return his call, but respondent never returned Coyt's telephone calls.

After receiving no return phone call from respondent, Coyt, his wife and his sister-in-law went to respondent's office again. Respondent informed Coyt that he did not have copies of the BIA's decision in his file. After reading the decision that Coyt brought with him, respondent advised Coyt that he could do nothing further in his case. Thereafter Coyt terminated respondent's legal services.

**Case no. 07-O-14774** (Lenou Phrasavath)

On March 7, 1994, Lenou Phrasavath ("Phrasavath"), an immigrant from Laos entered the United States. On April 19, 1994, Phrasavath sought asylum in the United States. Phrasavath met with Rose Ann Martinez ("Martinez") to file an Application for Asylum and Withholding. In 2000, Martinez referred Phrasavath to respondent for representation before the Immigration Court. On September 20, 2000, Phrasavath's Application for Asylum was denied, and the Court found him removable.

On October 19, 2000, respondent filed an appeal with the Board of Immigration Appeals ("BIA"). In late 2001, while the appeal was pending, Phrasavath became eligible for Adjustment of Status, because his wife became a naturalized citizen of the United States. Adjustment of Status was an additional remedy Phrasavath could have used to enable him to stay in the United States. Respondent never filed an Application to Adjust Phrasavath's status, nor did he advise him about it.

In early 2002, Phrasavath left several messages for respondent regarding his wife's recent change in status. Phrasavath wanted to use his wife's change in status to adjust his own status. Respondent never returned Phrasavath's calls. Respondent's receptionist did relay a message from respondent to Phrasavath informing him that respondent was working on the case and that everything was fine.

In August 22, 2002, Phrasavath filed an Application to Register Permanent Resident or Adjust Status ("Application to Adjust Status"), with the Department of Homeland Security ("DHS"). Phrasavath was assisted in the filing by a Catholic charity organization in Arizona. Phrasavath did this because he could not get into contact with respondent and felt it was necessary.

Phrasavath's matter was before the BIA and therefore the Application to Register Permanent Resident or Adjust Status should not have been filed with DHS.

On December 23, 2002, the BIA denied Phrasavath's appeal.

On January 21, 2003, respondent filed a petition for review on behalf of Phrasavath with the Ninth Circuit in case no. 03-70343, *Phrasavath v. Ashcroft*. The Ninth Circuit granted a temporary stay of removal to Phrasavath, but because respondent never filed an opening brief, the petition ultimately was dismissed. Respondent did not in a timely manner inform Phrasavath of the dismissal, nor did he advise Phrasavath of the requirement that he voluntarily depart the United States within 30 days following the dismissal of the appeal or be subject to additional penalties and the ten-year bar. Phrasavath failed to depart the United States, thus making him ineligible to Adjust his Status for ten-years.

In February of 2003, the retainer agreement was amended to reflect respondent's representation of Phrasavath in an appeal before the Ninth Circuit. The amended retainer made no mention of respondent's intention of pursuing an Application to Adjust Status or Motion to Reopen, even though respondent knew Phrasavath was eligible for a change of status.

On March 6, 2003, Phrasavath told respondent about his filing of the Application to Adjust Status. Even after finding out about the Application to Adjust Status being filed, respondent did not file a Motion to Reopen, with the BIA, until January 2004. Respondent also did not inform Phrasavath that DHS did not have jurisdiction over the Application to Adjust Status.

On January 21, 2004, ten months after being informed of the Application to Adjust Status, respondent filed a Motion to Reopen with the BIA stating that Phrasavath was eligible to adjust status based on his wife's citizenship. On October 15, 2004, the BIA denied the motion based on its late filing. The motion had to be filed within 90-days of the date Phrasavath's wife became a naturalized citizen. The motion was filed outside of the 90-day period.

On November 2, 2004, respondent filed a petition for review with the Ninth Circuit, case no. 04-75587, *Phrasavath v. Gonzales*. On the same date, respondent filed a request to consolidate this case with *Phrasavath v. Ashcroft*. *Phrasavath v. Ashcroft* had been dismissed on April 7, 2004.

On June 16, 2006, the Ninth Circuit found that respondent's Motion was untimely and denied the petition for review in *Phrasavath v. Gonzales*.

In July of 2007, Phrasavath was granted adjustment of status to permanent resident, but because only the Immigration Court has jurisdiction over granting an Application to Adjust Status, and Phrasavath had filed the application with DHS, Phrasavath's Adjustment of Status was of no effect.

**Case no. 08-O-10899** (Eva Martha Rosales Vega)

Eva Martha Rosales Vega ("Rosales") and her husband are natives and citizens of Mexico. In 2002, Rosales hired Rose Ann Martinez ("Martinez") to assist her and her husband in their immigration matters. Martinez worked with respondent to represent Rosales and her husband in their Cancellation of Removal proceedings.

Respondent's law partner instructed Rosales to speak with Martinez regarding the evidence and documents respondent would need to represent Rosales. Thereafter, Martinez explained that the Cancellation of Removal status was linked to the health of Rosales's United States Citizen children, Eva Martha (17), Maria

Clarissa Vega (14), Nancy Vega (11) and Katy Vega (5), and that the health of Rosales' Legal Permanent Resident parents was irrelevant. In fact the health of Rosales' Legal Permanent Resident parents was relevant.

Respondent never met with Rosales or advised her that the health of her children and her parents were relevant to determine her hardship and to support her Cancellation of Removal.

On August 12, 2003, Rosales was able to have John De Haro, of Fresno County Health Services System, provide an updated letter regarding her daughters' health problems. Rosales gave this letter to respondent's secretary. However, Rosales did not provide any documentation to respondent about her parents' condition, because, she had been told by respondent's assistant, that her parents' condition was irrelevant for her Cancellation of Removal proceedings.

On September 3, 2003, Rosales and her husband had their merits hearing at the Immigration Court in San Francisco. Respondent's partner attended the hearing. The Immigration Judge asked Rosales a few questions concerning her parents' health, even though Martinez had told Rosales that her parents' health was irrelevant in helping support her Cancellation of Removal. Rosales was not prepared to talk about her parents' health, nor could she provide documentation to support her parents' condition because respondent never advised her about the importance of her parents' condition in supporting her Cancellation of Removal.

Neither respondent's partner, nor the Immigration Judge, asked about Rosales's daughters' health. The August 12, 2003 letter from Fresno County Health Services System was not submitted to the Immigration Court.

Subsequently, the Immigration Judge denied Cancellation of Removal for Rosales and her husband. Rosales and her husband were ordered to voluntarily leave the United States within 30 days or be subject to fines and a 10-year bar from reentering the United States.

Respondent's partner filed an appeal with the Board of Immigration Appeals on behalf of Rosales and her husband. However, the evidence regarding Rosales' daughters' mental health could not be considered on appeal because the record was fixed as to what had been established at the trial court level. They lost the appeal to the BIA.

Rosales and her husband obtained new counsel for an appeal to the Ninth Circuit. However, Rosales' husband has been deported and now lives in Mexico.

## **CONCLUSIONS OF LAW.**

### **Case no. 05-O-01968** (Maria De Los Angeles Morales Lara)

By filing an application for asylum after having determined that one was unlikely to be granted; by failing to fill in the relevant portions of the asylum application as it pertained to him; by not having all of Morales's documents ready to submit to the court; by failing to obtain documentary evidence to support the contention that Morales' United States citizen daughter was suffering from a severe head wound, a mass inside her nose, speech difficulties, depression, and anxiety; by failing to provide evidence that the necessary medical treatment for her daughter's condition was not available in Mexico; by failing to provide documentary

evidence to support the contention that Morales's husband threatened to kill her, that he was in San Quentin prison, and was addicted to drugs; by failing to secure expert witnesses to testify about Morales's daughter's condition; by failing to file documentary evidence in support of Morales's residency in the United States so that she could establish the requisite continuous physical presence, respondent willfully failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

By failing to advise Morales to obtain documentary evidence regarding her United States citizen daughter's physical and mental condition; by failing to advise Morales to obtain evidence that the necessary medical treatment for her daughter's condition was not available in Mexico; by failing to advise Morales to obtain documentary evidence to support the contention that Morales's husband threatened to kill her; by failing to advise Morales about the expert witnesses who were unable to testify about Morales's daughter's condition; by failing to advise Morales to obtain documentary evidence in support of her residency in the United States so that she could establish continuous physical presence, and by failing inform Morales that he was unable to represent her at a number of hearings and that another attorney from his office would take his place, respondent willfully failed to keep a client informed of significant developments in matters he had agreed to provide legal services for in violation of Business and Professions Code section 6068(m).

**Case no. 05-O-03345** (Gregorio Martinez-Zaldivar)

By failing to file an appeal with the Ninth Circuit Court of Appeal, of the Board of Immigration Appeals decision and by failing to take any action whatsoever on behalf of Martinez-Zaldivar, respondent willfully failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

By failing to reply to the reasonable status inquiries of Martinez-Zaldivar and by failing to inform Martinez-Zaldivar that he had failed to file the appeal with the Ninth Circuit Court of Appeal, respondent willfully failed to respond to reasonable status inquiries and willfully failed to keep a client informed of significant developments in matters he had agreed to provide legal services for in violation of Business and Professions Code section 6068(m).

By failing to refund the \$3,900 in advanced fees to Martinez-Zaldivar until September 2005, respondent willfully failed to promptly refund any part of a fee paid in advance that has not been earned in violation of California Rules of Professional Conduct, rule 3-700(D)(2).

**Case no. 05-O-04369** (Rafael Martinez Coyt)

By failing to file a notice of change of address as required by 8 C.F.R. section 1003.38(e), respondent failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

By failing to notify Coyt that his address had changed; by failing to inform Coyt of the BIA's decision and that Coyt should comply with the court's order; by failing to return Coyt's phone calls; by failing to meet with Coyt for scheduled meetings; and by failing to inform Coyt that he would not be available for scheduled meetings, respondent willfully failed to respond to reasonable status inquiries and willfully failed to keep a client informed of significant developments in matters he had agreed to provide legal services for in violation of Business and Professions Code section 6068(m).

**Case no. 07-O-14774** (Lenou Phrasavath)

By failing to file an opening brief with the Ninth Circuit on October 2, 2003; by failing to timely file a Motion to Reopen with the BIA stating that Phrasavath was eligible for adjustment of his status based on his wife's citizenship; and by trying to consolidate case no. 04-75587 with the dismissed case no. 03-70343, respondent failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

By failing to return Phrasavath's phone calls; by failing to inform Phrasavath that he failed to file an opening brief with the Ninth Circuit; by failing to inform Phrasavath of the subsequent dismissal of his appeal; by failing to inform Phrasavath of his need to depart from the United States voluntarily within 30 days of the order; and by failing to inform Phrasavath immediately that he failed to timely file a Motion to Reopen with the BIA stating that Phrasavath was eligible for adjustment of his status based on his wife's citizenship; respondent willfully failed to respond to reasonable status inquiries and willfully failed to keep a client informed of significant developments in matters he had agreed to provide legal services for in violation of Business and Professions Code section 6068(m).

**Case no. 08-O-10899** (Eva Martha Rosales Vega)

By failing to prepare Rosales for her merits hearing; and by failing to introduce evidence of Rosales's parents' and children's health problems, respondent failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

By failing to advise Rosales to obtain evidence regarding the health of her parents, respondent willfully failed to respond to reasonable status inquiries and willfully failed to keep a client informed of significant developments in matters he had agreed to provide legal services for in violation of Business and Professions Code section 6068(m).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was December 23, 2008.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of July 16, 2008, the costs in this matter are \$4,459. 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.**

*In the Matter of Greenwood* (Review Dept. 1999) 3 Cal. State Bar Ct. Rptr. 831 – Greenwood received a 90-day actual suspension for failure in two client matters to protect the clients rights, which resulted in both clients losing those rights. Greenwood failed to participate in the matter. Greenwood had no prior record of discipline in six-years of practice.

*In the Matter of Aulakh* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690 – Aulakh received a 45-day actual suspension for failure in one matter to perform services competently causing client harm, improper withdrawal from employment, failure to provide an accounting of unearned fees and failure to refund unearned fees. The attorney had no prior record of discipline in 20 years of practice.

Standard 2.4(b) – “Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully 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.

### **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.

Respondent pleads nolo contendere to the charges set forth in this stipulation.



In the Matter of  
Uchena S. Ogbu-Nwobodo

Case number(s):  
05-O-01968; 05-O-03345; 05-O-04369; 07-O-14774;  
08-O-10899

A Member of the State Bar

## NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

### Rule 133, Rules of Procedure of the State Bar of California STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

(a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

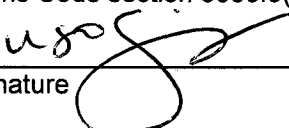
- (5) a statement that Respondent either
  - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
  - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
    - (a) **an acknowledgement that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
    - (b) **if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions Code section 6085.5(c).

Date

12/23/08

Signature



Uchena S. Ogbu-Nwobodo  
Print Name

(Do not write above this line.)

In the Matter of Uchena S. Ogbu-Nwobodo	Case number(s): 05-O-01968; 05-O-03345; 05-O-04369; 07-O-14774; 08-O-10899
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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 Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.


12/23/08  
Date

12-23-08  
Date

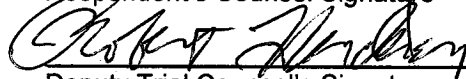
12/23/08  
Date

  
Respondent's Signature

Uchena S. Ogbu-Nwobodo  
Print Name

  
Respondent's Counsel Signature

Doron Weinberg  
Print Name

  
Deputy Trial Counsel's Signature

Robert Henderson  
Print Name

(Do not write above this line.)

In the Matter Of <b>Uchena S. Ogbu-Nwobodo</b>	Case Number(s): <b>05-O-01968; 05-O-03345; 05-O-04369; 07-O-14774; 08-O-10899</b>
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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.)**

Date

Jan 20, 2009

Judge of the State Bar Court

Pat McElroy

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on January 20, 2009, 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 San Francisco, California, addressed as follows:

DORON WEINBERG  
523 OCTAVIA ST  
SAN FRANCISCO, CA 94102

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:


by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Robert Henderson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 20, 2009.

  
George Hue  
Case Administrator  
State Bar Court