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State Bar Court of California

Hearing Department
Los Angeles

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Monique T. Miller Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 Tel.: (213) 765-1486</p> <p>Bar # 212469</p>	<p>Case Number (s) 05-O-02918 05-O-02922</p>	<p>(for Court's use)</p> <p>FILED</p> <p>SEP 17 2007 <i>RZ</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Hoa P. Truong 10221 Slater Avenue, Suite 202 Fountain Valley, CA 92708 Tel.: (714) 963-7335</p> <p>Bar # 156411</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: HOA P. TRUONG</p> <p>Bar # 156411</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 27, 1991**.
- (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 **15** 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 (2) billing cycles following the effective date of the Supreme Court Order. If Respondent fails to pay any installment within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately and enforceable both as provided in Business & Professions Code section 6140.7 and as a money judgement unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 286.)**
 - (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (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.

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- (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

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 **two (2) 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 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:**

In the Matter of HOA P. TRUONG,	Case number(s): 05-O-02918 05-O-02922
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";

(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.

SEE ATTACHMENT TO STIPULATION, PAGE 14 SECTION E

In the Matter of
HOA P. TRUONG

Case number(s):
05-O-02918
05-O-02922

A Member of the State Bar

Law Office Management Conditions

1. 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.
2. Within days/ 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.)
3. 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: HOA P. TRUONG

CASE NUMBER(S): 05-O-02918; 05-O-02922

A. FACTS AND CONCLUSIONS OF LAW.

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

CASE NO. 05-O-02918

FACTS:

1. In October 2002, Ms. Lan Ngoc Pham Nguyen ("Lan") employed Respondent to file a Petition for NonImmigrant Worker, Form I-129, with the Immigration and Naturalization Services ("INS"). Lan wanted to hire twelve nationals from Vietnam to work for her business establishment as manicurists. On October 1, 2002, Respondent and Lan executed an employment agreement, pursuant to which Lan would first pay Respondent \$8,000, then an additional \$8,000 sixty days from the filing of the Petition with the INS. Upon execution of the employment agreement, Lan paid Respondent \$8,000 in advanced attorney fees.
2. On July 4, 2003, as a first step in obtaining non-immigrant worker status for multiple alien workers, Respondent filed a request for a labor certification with the U.S. Department of Labor on behalf of Lan. On July 28, 2003, the U.S. Department of Labor ("DOL") granted Lan a temporary certification for the period from December 1, 2003 to December 1, 2004.
3. Between August 19, 2003 and October 10, 2003, Lan paid Respondent an additional \$8,000.
4. In December 2003, Respondent filed with the INS a Form I-129 Petition on behalf of Lan. In support of the I-129 Petition, Respondent filed the DOL temporary certification, the names and other biographic information of the alien workers that Lan had provided to Respondent, and a G-28 Notice of Entry of Appearance as Attorney on behalf of Lan. On the I-129 Petition, Respondent erroneously listed the classification of the non-

immigrant beneficiaries as H-1B, which is a specialty occupation requiring a baccalaureate degree or its equivalent.

5. On March 1, 2004, the INS sent Respondent a Request for Additional Evidence, notifying Respondent that the classification of H-1B did not apply to the non-immigrant beneficiaries of Lan's I-129 Petition, and specifically advising Respondent that denial of Lan's I-129 Petition did not preclude Respondent from filing a new Form I-129. Respondent did not respond to the INS' correspondence of March 1, 2004 and did not inform Lan of it.
6. In early March 2004, Lan moved to Albuquerque, New Mexico. On March 9, 2004, Lan checked the Internet and learned that the INS had sent a notice to Respondent requesting additional evidence. On March 9, 2004, Lan called Respondent and faxed him a copy of the information she had found on the Internet.
7. Subsequent to March 2004, Respondent did not file a new Form I-129 on behalf of Lan, with a classification that would be applicable to the type of alien workers sought by Lan for her business. On September 17, 2004, the INS sent Respondent a Notice of Decision, denying Lan's I-129 application. Respondent did not inform Lan of the denial of her I-129 application.
8. In October 2004, Lan employed new counsel. On October 26, 2004, Lan's attorney sent Respondent a letter, requesting a refund of the unearned portion of the \$16,000 she had paid Respondent. Respondent answered the letter sent by Lan's attorney, informing Lan of the denial of her I-129 application.
9. Subsequent to October 2004, Respondent did not refund Lan any portion of the \$16,000 she had paid him.
10. On May 15, 2005, the State Bar opened an investigation, Case No. 05-O-02918, pursuant to a complaint filed by Lan against Respondent (the "Lan complaint").
11. On October 10, 2006, Respondent refunded \$10,000 to Lan.

LEGAL CONCLUSIONS:

- By not filing a new Form I-129 on behalf of Lan, with a classification that would be applicable to the type of alien workers sought by Lan for her business, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rule 3-110(A) of the Rules of Professional Conduct.

- By not informing Lan that her I-129 application was denied by the INS on September 17, 2004, Respondent failed to inform a client of significant developments in a matter in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).
- By not filing a new Form I-129 on behalf of Lan, with a classification that would be applicable to the type of alien workers sought by Lan for her business, thereby not earning the advanced fees paid by Lan, and by returning the unearned portion to Lan two years after her request for a refund, Respondent failed to promptly refund unearned fees in wilful violation of Rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 05-O-02922

FACTS:

13. On February 25, 2005, Huong Do, Thang Do ("Thang"), and Luyen Do (collectively "the Dos") employed Respondent to represent them in an adversary bankruptcy matter. At the time of employment, Respondent spent about three hours with the Dos, discussing the documents they provided him. Respondent and the Dos executed an employment agreement that requested a \$1,500 payment from each client as "nonrefundable legal fees". The Dos paid Respondent a total of \$4,500.
14. On February 26, 2005, the Dos called Respondent to advise him that they wanted to cancel the employment agreement and requested the return of their files and a refund. Respondent agreed to return the files and refund the legal fees. On the same day, Thang faxed Respondent a follow-up message.
15. On March 1, 2005, Respondent sent the Dos the documents they had provided him. Respondent did not refund any portion of the \$4,500 the Dos had paid him.
16. On March 10, 2005, attorney Victoria Le ("Le") sent Respondent a letter on behalf of the Dos, requesting that he refund the fees paid by the Dos. On March 11, 2005, Respondent sent Lee a letter, stating that the Dos were not entitled to a refund.
17. On June 1, 2005, the State Bar opened an investigation, Case No. 05-O-02922, pursuant to a complaint filed by Le on behalf of the Dos against Respondent (the "Do complaint").
18. On June 26, 2006, Respondent refunded \$3,000 to the Dos.

LEGAL CONCLUSIONS:

- By returning the unearned portion of the legal fees paid by the Dos more than a year after their request for a refund, Respondent failed to promptly refund unearned fees in wilful violation of Rule 3-700(D)(2) of the Rules of Professional Conduct.

B. PENDING PROCEEDINGS.

As of August 13, 2007, the disclosure date referred to, on page one, paragraph A.(7), there are no additional State Bar investigations pending against Respondent.

C. AUTHORITIES SUPPORTING DISCIPLINE.

Standards of Attorney Sanctions for Professional Misconduct, Title IV, of the Rules of Procedure of the State Bar of California (hereinafter "Standard(s)").

Standard 1.6(a) states that where two or more acts of professional misconduct are charged and different sanctions are prescribed by the standards for the acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Standard 2.4(b) provides that the discipline for wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member 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.

Standard 2.6(a) provides that a violation of Business and Professions Code section 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm to the victim. Subdivision (m) of section 6068 was added after the promulgation of the Standards of Attorney Sanctions for Professional Misconduct: thus, application of Standard 2.6(a) must have been anticipated by the legislature at the time the statute was amended. The parties did not attempt to resolve failure to communicate in this matter as a violation fo rule 3-500, Rules of Professional Conduct, which was a conscious, bargained-for consideration in arriving at this disposition.

Standard 2.10 provides that respondent's culpability of violating any Rule of Professional Conduct not specified in the standards (i.e., violations of rule 3-700(D)(2)) must "result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

Case Law:

In *In the Matter of Nees* (Review Dept. 1996) 3 Cal State Bar Ct Rptr 459, a respondent with no prior record of discipline, was culpable of misconduct lasting for almost four years in one client matter. The respondent failed to perform competently, to communicate with his client, to promptly refund the client's advanced legal fees, and failed to cooperate with the State Bar investigation. The court ordered two years stayed suspension, two years probation with conditions, including actual suspension for six months and until completion of restitution.

In the cases at hand, Respondent refunded the unearned fees to his clients and fully cooperated with the State Bar investigation. Hence, Respondent should receive less discipline.

D. OTHER MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although the present misconduct is serious, Respondent's practice for more than ten years prior to the commencement of his misconduct is entitled to some mitigation credit. (Standard 1.2(e)(i).)

E. CLIENT TRUST ACCOUNTING SCHOOL

Respondent's failures to refund unearned fees to his clients, Lan and the Dos, were due, at least in part, to his misapprehension of what actually constitutes a "true retainer."

In negotiating a settlement with Respondent, the State Bar has explained to Respondent how Client Trust Accounting School will help him understand accounting for advanced fees and issues surrounding so-called "true retainers", distinguishing them from flat fees and advanced fees.

The State Bar and Respondent agreed that the bargained-for remedy of Client Trust Accounting School will appropriately address the rule 3-700(D)(2) violation in this particular matter.

F. COST OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 13, 2007, the estimated prosecution costs in this matter are approximately \$2,621.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. 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.

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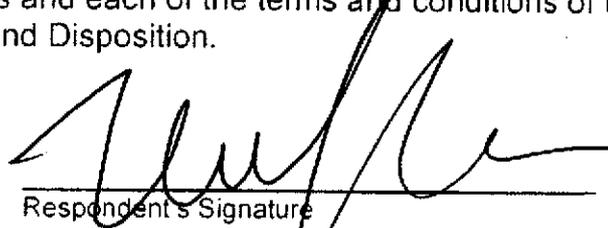
In the Matter of
HOA P. TRUONG

Case number(s):
05-O-02918
05-O-02922

SIGNATURE OF THE PARTIES

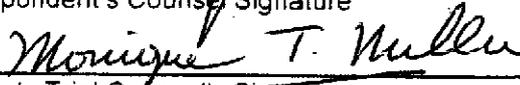
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

8/28/07
Date


Respondent's Signature

Hoa P. Truong
Print Name

Date
8/29/07
Date

Respondent's Counsel Signature

Deputy Trial Counsel's Signature

Print Name
Monique T. Miller
Print Name

(Do not write above this line.)

In the Matter Of HOA P. TRUONG	Case Number(s): 05-O-02918 05-O-02922
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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

Judge of the State Bar Court

(Do not write above this line.)

In the Matter Of HOA P. TRUONG Bar #156411	Case Number(s): 05-O-02918 05-O-02922
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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.

At page 5, paragraph E. (10), an "X" should be inserted in the box next to "Law Office Management Conditions".

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.)**

September 17, 2007
Date


Judge of the State Bar Court

DONALD F. MILES

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 17, 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:

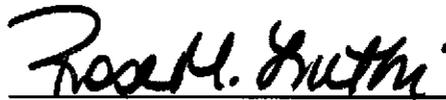
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**HOA P. TRUONG, ESQ.
TRUONG AND ASSOCIATES
10221 SLATER AVE STE 202
FOUNTAIN VALLEY, CA 92708**

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

MONIQUE MILLER, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 17, 2007.



Rose M. Luthi
Case Administrator
State Bar Court