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| State Bar Court of California Hearing Department <input checked="" type="checkbox"/> Los Angeles <input type="checkbox"/> San Francisco | | |
|---|------------------------------|--|
| Counsel for the State Bar SHARI SVENINGSON DEPUTY TRIAL COUNSEL 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1004 Bar # 195298 | Case number(s) 05-0-02996 | (for Court's use) FILED SEP 21 2006 <i>HC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES |
| <input checked="" type="checkbox"/> Counsel for Respondent <input type="checkbox"/> In Pro Per, Respondent PAUL J. VIRGO CENTURY LAW GROUP 5200 WEST CENTURY BLVD. #940 LOS ANGELES, CA 90067-0682 Bar # 67900 | PUBLIC MATTER | |
| In the Matter of EDMUNDO ESPINOZA-BOJORQUEZ Bar # 64059 A Member of the State Bar of California (Respondent) | | |
| Submitted to <input checked="" type="checkbox"/> assigned judge <input type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL <input type="checkbox"/> PRIVATE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | | |

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 30, 1975
(date)
- (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 and order consist of 10 pages.
- (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.

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(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- (a) ☒ costs added to membership fee for calendar year following effective date of discipline (public reproof)
- (b) ☐ case ineligible for costs (private reproof)
- (c) ☐ costs to be paid in equal amounts for the following membership years:
- (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- (d) ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
- (e) ☐ costs entirely waived

(9) The parties understand that:

- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) ☐ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) ☒ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 92-0-20996
- (b) ☒ Date prior discipline effective April 9, 1995
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct
3-700(D)(2) [Failure to Refund Unearned fees] and 4-100(B)(3) [Failure
to Provide Accounting]; Business and Professions Code section 6068(m)
[Failure to Communicate]
- (d) ☒ Degree of prior discipline Private Reproof

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

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☒ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. See page 8
- (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.

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- (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:

(Do not write above this line.)

D. Discipline:

- (1) ☐ Private reproof (check applicable conditions, if any, below)
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) ☒ Public reproof (check applicable conditions, if any, below)

E. Conditions Attached to Reproof:

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of Twelve (12) months.
- (2) ☒ During the condition period attached to the reproof, 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 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 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent must also state in each report 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 thirty (30) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 such reports as may be requested, in addition to quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the monitor.

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- (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 conditions attached to the reproof.
- (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 of the Ethics School and passage of the test given at the end of that session.
- ☐ No Ethics School ordered. 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 required to be filed with the Office of Probation.
- (10) ☒ Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reproof.
- ☐ No MPRE ordered. Reason: _____
- (11) ☐ 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:

See page 8 [Client Trust Accounting School]

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: EDMUNDO ESPINOZA-BOJORQUEZ

CASE NUMBER(S): 05-O-02996

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:

1. In January 2004, Respondent was employed by Rudy Hooper ("Hooper") to represent him in a criminal matter while Hooper was incarcerated. At the time of employment, Hooper's father gave Respondent \$37,000. These funds were to be used for both Respondent's legal fees and for future expenses that Respondent was to pay on behalf of Hooper per "pay orders" that Hooper would submit to Respondent. The parties did not enter into a written fee agreement.
2. On January 29, 2004, Respondent paid himself \$5,000 as his legal fees and deposited the remaining \$32,000 of the \$37,000 paid by Hooper's father into a money market account, account number 09858-03231 at Bank of America (the "money market account").
3. In February 2004, Respondent paid himself an additional \$6,000 in legal fees from the money market account. The balance in the money market account became \$26,000.
4. In March 2004, Respondent transferred \$22,000 from the money market account to a general account, account number 0958-09990 at Bank of America (the "general account"). Respondent withdrew the remaining \$4,000 in the money market account as his fees.
4. In March 2004, Respondent issued a total of \$1,300 in money orders to various people per pay orders submitted by Hooper from the general account.
5. In March 2004, Respondent paid \$2,000 in costs on behalf of Hooper and paid himself \$4000 in legal fees from the general account. The balance in the general account became \$14,700.
6. Between March 2004 and September 2004, Respondent paid \$11,953 in expenses per "pay orders" submitted by Hooper. Respondent paid these expenses by first electronically transferring funds from the general account to another general account, account number 10395-14334 at Bank of America (the "second general account"). Respondent then issued checks from the

second general account to pay the \$11,953 in expenses. Respondent paid the remaining \$2,747 that was still in the general account to himself in legal fees.

LEGAL CONCLUSION

By failing to deposit the initial \$37,000 in a client trust account and by subsequently depositing the remaining client funds in the money market account, the general account and the second general account, Respondent failed to deposit client funds in a trust account.

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was by letter dated July 12, 2006.

AUTHORITIES SUPPORTING DISCIPLINE.

Vaughn v. State Bar (1972) 6 Cal. 3d 847:

The attorney received a Public reproof for misconduct that included repeatedly allowing his client trust account to fall below the minimum balance he was required to maintain in it.

Fitzsimmons v. State Bar (1983) 34 Cal. 3d 327:

The attorney was found to be grossly negligent in handling estate assets by failing to maintain proper records. The court imposed a Public Reproval.

Respondent was negligent in handling client funds by depositing such funds in multiple bank accounts that were not client trust accounts.

AGGRAVATION

Respondent maintained client funds in several bank accounts that were not client trust accounts.

MITIGATION

Respondent did not harm the client, he accounted for all of the fees he received and the number of hours of specific services he performed on behalf of the client. Respondent provided copies of cancelled checks and money orders that he paid out on behalf of the client. He has provided his client with a Notice of Right to Arbitrate Fees if the client disagrees with the amount of fees Respondent claims he earned.

OTHER CONDITIONS NEGOTIATED BY THE PARTIES

Within eighteen (12) months of the effective date of discipline, Respondent shall provide proof of attendance of the State Bar Client Trust Accounting School to the Office of Probation of the State Bar.

SHARI SVENINGSON
First Name

PAUL J. VIRGO
First Name

EDUARDO ESPINOZA-BOJORGUEZ
First Name

Deputy Trial Counsel's Signature

Respondent's Counsel's Signature

Respondent's Signature

Date

Date

Date

8/14/2006

8/11/2006

8/7/06

[Signature]

[Signature]

[Signature]

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. Conclusions of Law and Disposition.

SIGNATURE OF THE PARTIES

| | |
|----------------------------|-----------------|
| EDUARDO ESPINOZA-BOJORGUEZ | 05-0-02996 |
| In the Mother of | Case number(s): |

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| In the Matter of EDMUNDO ESPINOZA-BOJORQUEZ | Case number(s): 05-0-02996 |
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ORDER

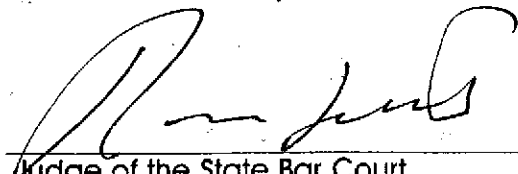
Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department 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 125(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

9-19-06
Date


Judge of the State Bar Court
ROBERT M. TALCOTT

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 21, 2006, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING PUBLIC REPROVAL**

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:

**PAUL JEAN VIRGO
PO BOX 67682
LOS ANGELES, CA 90067 - 0682**

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

SHARI SVENINGSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 21, 2006.**



Tammy R. Cleaver
Case Administrator
State Bar Court