

State Bar Court of California  
Hearing Department  
Los Angeles

ORIGINAL

<p>Counsel For The State Bar</p> <p><b>Brandon K. Tady</b> Deputy Trial Counsel Enforcement 1149 S. Hill Street Los Angeles, CA 90015</p> <p>Bar # 83045</p>	<p>Case Number (s) 05-O-04553 07-O-11476</p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>NOV 12 2008 <i>Kic</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>Counsel For Respondent</p> <p><b>Kevin A. Speir</b> Law Ofc Kevin A Speir 26655 Chestnut Dr Hemet, CA 92544</p> <p>Bar # 119044</p>	<p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>Ruben D. Sanchez</b></p> <p>Bar # 164298</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **June 4, 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 **16** 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: **three (3) billing cycles following the effective date of the Supreme Court order in this matter.** (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. **Respondent's misconduct evidences multiple acts of wrongdoing.**

- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances**

**Respondent has no record of prior discipline since being admitted to the practice of law on**

June 4, 1993.

**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: **Pays to the court the \$1,000 in sanctions ordered against him in Davalos v. Haro, San Bernardino County Superior Court case number MCIM506142 and provides the Office of Probation satisfactory proof of having done so.**

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **three (3) 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 **Ninety (90) Days**.

- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following: **Pays to the court the \$1,000 in sanctions ordered against him in Davalos v. Haro, San Bernardino County Superior Court case number MCIM506142 and provides the Office of Probation satisfactory proof of having done so.**

**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:** Respondent must pay the court in *Davalos v. Haro*, San Bernardino Superior Court case number MCIM506142, the \$1,000 in sanctions ordered against him on September 26, 2005 and December 19, 2005. Respondent must also provide satisfactory proof to the Office of Probation that he has paid the sanctions.

In the Matter of  
Ruben D. Sanchez

Case number(s):  
05-O-04553 and 07-O-11476

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
Sam Khalifian	\$3,300	October 1, 2005
Ignacio Davalos	\$2,055	May 1, 2004

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **30 days after the restitution is paid.**

### 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:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
    1. the name of such client;
    2. the date, amount and source of all funds received on behalf of such client;
    3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
    4. the current balance for such client.
  - ii. a written journal for each client trust fund account that sets forth:
    1. the name of such account;
    2. the date, amount and client affected by each debit and credit; and,
    3. the current balance in such account.
  - iii. all bank statements and cancelled checks for each client trust account; and,
  - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
  - ii. the person on whose behalf the security or property is held;
  - iii. the date of receipt of the security or property;
  - iv. the date of distribution of the security or property; and,
  - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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

IN THE MATTER OF: RUBEN D. SANCHEZ, State Bar No. 175167  
STATE BAR COURT CASE NUMBERS: 05-O-04553 & 07-O-11476

**FACTS AND CONCLUSIONS OF LAW**

Respondent was admitted to the practice of law in the State of California on June 4, 1993.

Case number 05-O-04553

In August 2005, Sam Khalifian ("Sam") employed Respondent on behalf of his mother, Fereshteh Khalifian ("Ms. Khalifian") to represent Ms. Khalifian in a criminal matter. Respondent agreed to represent Ms. Khalifian for a flat fee of \$6,000. Sam paid Respondent \$5,750 on behalf of Ms. Khalifian in or about August 2005.

On September 12, 2005, Respondent appeared in court at a preliminary examination and bail review hearing on behalf of Ms. Khalifian. On that date, the court denied a bail reduction but scheduled a further bail review hearing for September 19, 2005. Respondent was present in court at the time the court scheduled the further bail review hearing and received notice of the hearing.

Thereafter, Respondent did not provide any legal services to Ms. Khalifian, nor did he communicate with her.

Respondent failed to appear at the September 19, 2005 further bail review hearing. On that date, the court scheduled an order to show cause hearing for September 23, 2005. On September 19, 2005, the court notified Respondent by telephone of the September 23, 2005 order to show cause hearing. Respondent received notice of the hearing.

Respondent failed to appear at the September 23, 2005 order to show cause hearing. On that date, the court relieved Respondent as attorney of record for Ms. Khalifian and appointed a public defender.

Respondent's employment by Ms. Khalifian terminated on September 23, 2005. Thereafter, Sam informed Respondent that he wanted Respondent to return any unearned fees that he had paid to Respondent.

Respondent earned only \$3,000 of the \$5,750 in advanced attorney's fees paid to him by Sam on behalf of Ms. Khalifian. Respondent did not earn \$2,750 of those advanced fees.

Additionally, Sam prevailed in a fee arbitration with Respondent which resulted in an award in favor of Sam and against Respondent in the amount of \$2,750 plus \$500 in costs.

Respondent has not returned to Sam any portion of the \$2,750 in unearned fees paid by Sam nor any portion of the \$500 award of costs.

On September 16, 2005, Respondent was enrolled in "not entitled" status because of his non-compliance with the State Bar's Mandatory Continuing Legal Educational requirements.

Respondent remained enrolled in "not entitled" status until October 3, 2005, when he complied with MCLE requirements.

Respondent was aware of the fact that he was not entitled to practice law from September 16, 2005 through October 3, 2005 at all times during that period of time.

At no time did Respondent inform Ms. Khalifian or Sam that Respondent was enrolled in "not entitled" status effective September 16, 2005.

Case Number 07-O-11476

On or about April 27, 2004, Ignacio Davalos and Consuelo Davalos ("Mr. and Mrs. Davalos") employed Respondent to represent them in a civil matter against their landlords. Respondent agreed to provide all of the necessary legal services for a flat fee of \$2,055. Mr. and Mrs. Davalos paid Respondent \$2,055 in or about April 2004.

On or about August 17, 2004, Respondent filed a complaint on behalf of Mr. and Mrs. Davalos in San Bernardino County Superior Court entitled *Davalos, et al. v. Haro, et al.*, case no. MCIMS06142 ("Davalos action"). At the time Respondent filed the complaint in the Davalos action, the court scheduled a Case Management Conference ("CMC") for February 7, 2005 and provided notice of the February 7, 2005 CMC to Respondent. Respondent received the notice.

Respondent failed to appear at the February 7, 2005 CMC. On that date, the court continued the CMC to April 4, 2005. On or about February 16, 2005, opposing counsel served notice of the April 4, 2005 CMC on Respondent. Respondent received the notice.

Respondent failed to appear at the April 4, 2005 CMC. Therefore, the court again continued the CMC to July 11, 2005, and ordered that Respondent personally appear at the July 11, 2005 CMC. On or about May 27, 2005, opposing counsel served notice of the July 11, 2005 CMC on Respondent. The notice served by opposing counsel informed Respondent that his personal appearance was required by the court. Respondent received the notice.

Respondent failed to appear at the July 11, 2005 CMC. On this date, the court scheduled an order to show cause hearing re sanctions for September 26, 2005 and ordered that Respondent personally appear at that hearing ("September 26, 2005 OSC"). On or about July 22, 2005, opposing counsel served notice of the September 26, 2005 OSC on Respondent. The notice served by opposing counsel informed Respondent that he needed to personally appear in court at the September 26, 2005 OSC. Respondent received the notice.

Respondent failed to appear at the September 26, 2005 OSC. As a result, the court scheduled another order to show cause hearing re dismissal for December 19, 2005 and ordered that Respondent personally appear at that hearing ("December 19, 2005 OSC"). The court also imposed sanctions of \$500 on Respondent payable to the court within thirty (30) days. On or about September 29, 2005, opposing counsel served on Respondent notice of the December 19, 2005 OSC. The notice served by opposing counsel informed Respondent that the court had imposed sanctions of \$500 on Respondent and that they were due within thirty (30) days. Respondent received the notice.

On December 19, 2005, Respondent arrived late for the December 19, 2005 OSC. At that time, the court imposed on Respondent additional sanctions of \$500 payable to the court within thirty (30) days. On this date, the court served notice of the imposition of sanctions on Respondent. Respondent received the notice.

After filing the complaint in the Davalos action, Respondent failed to perform any further legal services of value on behalf of Mr. and Mrs. Davalos.

Respondent's employment by the Davalos terminated in December 2005. Respondent did not earn any portion of the fees paid to him by Mr. and Mrs. Davalos.

On August 11, 2006, Mrs. Davalos mailed a letter to Respondent requesting a refund of the \$2,055 paid to Respondent. Respondent received the letter.

On February 26, 2007, Mr. Davalos' business associate, Manuel Montoya ("Montoya"), mailed a letter to Respondent on behalf of Mr. and Mrs. Davalos requesting a refund of the \$2,055. Respondent received the letter.

Respondent has not returned any portion of the \$2,055 to Mr. and Mrs. Davalos.

Respondent has not paid any portion of the sanctions that were ordered against him on September 26, 2005 and December 19, 2005, nor has he sought relief from or a modification of the court orders imposing the sanctions.

On or about April 20, 2007, the State Bar opened an investigation, case no. 07-O-11476, pursuant to a complaint filed by Montoya on behalf of Mr. and Mrs. Davalos ("Davalos complaint").

On July 5, 2007, a State Bar Investigator wrote to Respondent regarding the Davalos complaint. Respondent received the letter.

The investigator's July 5, 2007 letter requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Davalos complaint.

On or about August 15, 2007, Respondent mailed a letter to the investigator indicating that he had received the investigator's July 5, 2007 letter, and requested an extension of ten days to submit a written response to the Davalos complaint.

On August 21, 2007, the investigator mailed a letter to Respondent granting him an extension until August 29, 2007, to submit a written response to the Davalos complaint. Respondent received the letter.

At no time after August 15, 2007, did Respondent provide a written response to specified allegations of misconduct being investigated by the State Bar in the Davalos complaint.

### Legal Conclusions

By failing to appear in court on the Khalifian matter and failing to communicate with Ms. Khalifian after September 12, 2005, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110-(A) of the Rules of Professional Conduct.

By failing to refund to Ms. Khalifian or Sam any portion of the \$2,750 of the \$5,750 paid to Respondent by Sam, Respondent failed to refund unearned fees after the termination of employment in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

By failing to inform Ms. Khalifian that he was enrolled in “not entitled” status effective September 16, 2005, Respondent failed to keep a client reasonably informed 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 failing to appear in court on February 7, 2005, April 4, 2005, July 11, 2005, and September 26, 2005, failing to timely appear in court on December 19, 2005 in the Davalos matter, and failing to perform any legal services of value after filing the complaint in the Davalos matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to refund to Mr. and Mrs. Davalos any portion of the \$2,055 in fees, which he had not earned, Respondent failed to refund unearned fees after the termination of employment in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

By failing to pay any portion of the sanctions that were ordered against him on September 26, 2005 and December 19, 2005, Respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear, in wilful violation of Business and Professions Code, section 6103.

By not providing a written response to the allegations in the Davalos complaint or otherwise cooperating in the investigation of the Davalos complaint, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code, section 6068(i).

## **DISCUSSION RE STIPULATED DISCIPLINE**

Standard 1.3 of the *Standards For Attorney Sanctions For Professional Misconduct* provides that the primary purpose of discipline is the protection of the public, the courts and legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.4(b) states that reproof or suspension is the appropriate discipline, depending upon the extent of the misconduct and the degree of harm suffered by the client, for a member's wilful failure to perform legal services or wilful failure to properly communicate with a client, where the misconduct is limited to a single client matter or does not demonstrate a pattern.

Standard 2.6 states that disbarment or suspension is the appropriate discipline, depending

upon the gravity of the offense or harm, if any, to the victim, for violations of various sections of the Business and Professions Code, including sections 6068(i), 6068(m) and 6103.

Standard 2.10 states that reproof or suspension is the appropriate discipline, with due regard to the harm suffered by any victim and the purposes of imposing discipline, for violations of any of the Rules of Professional Conduct not specifically specified in other Standards, such as rule 3-700.

The parties submit that the stipulated discipline in this matter complies with the Standards and the purposes of the disciplinary process.

Respondent's misconduct occurred and continued over a three year period of time. Respondent failed to perform the legal services for which he was employed and failed to promptly return unearned fees thereafter. Respondent also failed to comply with court orders and cooperate in a State Bar investigation.

While Respondent's misconduct does not demonstrate a pattern, it does include multiple acts of misconduct in two client matters.

Additionally, Respondent's misconduct deprived his former clients of funds to which they were entitled and wasted court resources.

Counter-balancing the aggravating circumstances surrounding Respondent's misconduct is the fact that Respondent has no record of discipline since being admitted to the State Bar in June 1993.

Standard 2.6 and the above-discussed factors indicate that a period of actual suspension, but not disbarment, is the appropriate discipline in this matter.

In light of the above, the parties submit that the stipulated discipline, a 90 day actual suspension and until restitution is paid and the court ordered sanctions are satisfied, along with the probationary conditions specified herein, is sufficient to assure that Respondent will conform his future conduct to ethical standards and, therefore, protect the public, courts and profession. This is consistent with Standard 1.3.

#### **WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY**

The parties waive any variance between the Notices of Disciplinary Charges filed on November 27, 2007 and the facts and/or conclusions of law contained in this stipulation. Additionally, the

parties waive the issuance of an amended Notice of Disciplinary Charges as to these matters and further waive the right to a formal hearing on any charge or fact not included in the pending Notice of Disciplinary Charges.

**PENDING PROCEEDINGS**

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

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 7, 2008, the rough estimate of disciplinary costs to be assessed in this matter is \$6,100.

(Do not write above this line.)

In the Matter of Ruben D. Sanchez	Case number(s): 05-O-04553 and 07-O-11476
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### SIGNATURE OF THE PARTIES

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

<u>11-7-08</u> Date	<u>Ruben D. Sanchez</u> Respondent's Signature	<u>Ruben D. Sanchez</u> Print Name
<u>11-7-08</u> Date	<u>Kevin A. Speir</u> Respondent's Counsel Signature	<u>Kevin A. Speir</u> Print Name
<u>11/7/08</u> Date	<u>Brandon E. Tady</u> Deputy Trial Counsel's Signature	<u>Brandon Tady</u> Print Name

(Do not write above this line.)

In the Matter Of <b>RUBEN D. SANCHEZ</b>	Case Number(s): <b>05-O-04553 &amp; 07-O-11476</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.)**

11/10/08  
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 November 12, 2008, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION**

in a sealed envelope for collection and mailing on that date as follows:

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

KEVIN ANDREW SPEIR  
LAW OFC KEVIN A SPEIR  
26655 CHESTNUT DR  
HEMET, CA 92544

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

BRANDON K. TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 12, 2008.



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Tammy Cleaver  
Case Administrator  
State Bar Court