

**ORIGINAL**

**State Bar Court of California**

Hearing Department  
Los Angeles

**PUBLIC MATTER**

<p>Counsel For The State Bar</p> <p><b>Monique T. Miller</b> Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2298 213-765-1486</p> <p>Bar # 212469</p>	<p>Case Number (s) <b>06-O-14059</b></p>	<p>(for Court's use)</p> <p><b>FILED</b></p> <p>OCT 01 2007 <i>dy</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>Peter T. Nguyen</b> 11271 Ventura Blvd., Unit #259 Studio City, CA 91604 323-899-1129</p> <p>Bar # 208100</p>	<p>Submitted to: <b>Assigned Judge</b></p>	
<p>In the Matter Of: <b>Peter T. Nguyen</b></p> <p>Bar # 208100</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 **July 24, 2000**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **18** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
  - costs to be paid in equal amounts prior to February 1 for the following membership years: **Two (2) billing cycles following the effective date of the Supreme Court order.**  
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
  - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
  - costs entirely waived

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

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **Respondent's misconduct resulted in two default judgments and a summary judgment to be entered against Respondent's client.**
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (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**

See Attachment to Stipulation page 17

**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 **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:

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason: \_\_\_\_\_
- (2)  **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(Do not write above this line.)

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- (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:**

dms #87686

In the Matter of  
**Peter T. Nguyen**  
Bar #208100

Case number(s):  
**06-O-14059**

A Member of the State Bar

### Law Office Management Conditions

- a.  Within        days/        months/        years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b.  Within        days/6 months/        years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **6** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c.  Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for        year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

In the Matter of  
Peter T. Nguyen  
Bar #208100

Case number(s):  
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## NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

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

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

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

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

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

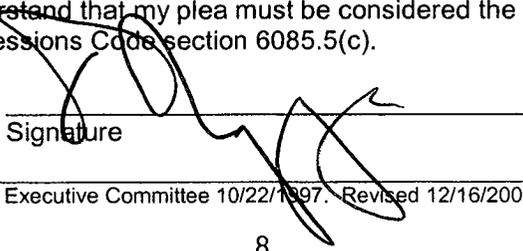
- (5) a statement that Respondent either
  - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
  - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads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

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

Date

9/28/07

Signature



Print Name

Peter T. Nguyen

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

IN THE MATTER OF:        PETER T. NGUYEN

CASE NUMBER(S):        06-O-14059

**FACTS AND CONCLUSIONS OF LAW.**

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his culpability of the statutes and/or Rules of Professional Conduct specified herein.

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

The parties waive any variance between the Notice of Disciplinary Charges filed on April 30, 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. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**THE "MORIN" MATTER**

Facts:

1. From September 16, 2005, to December 9, 2005, Respondent was not entitled to practice law for failure to pay his membership dues and bring himself in compliance with the MCLE Rules and Regulations for the compliance period ending January 31, 2005.
2. In March 2005, Richard J. Bates ("Bates"), owner of International Mechanical Services, Inc., employed Respondent to represent him in a lawsuit filed against Bates and his company on or about March 23, 2005, *Morin Corporation v. International Mechanical Services, Richard J. Bates* (the "Morin matter"), Orange County Superior Court Case No. 05NL17097.
3. On September 7, 2005, Respondent made a telephonic appearance at a Case Management Conference ("CMC") in the Morin matter. At the CMC, the court ordered Respondent

and plaintiff's counsel, Jay M. Tenenbaum ("Tenenbaum"), to arbitration. The court set trial for March 20, 2006, in case arbitration would not take place. Respondent did not inform Bates of the CMC hearing and the court's orders for arbitration and trial setting.

4. On September 8, 2005, Tenenbaum sent Respondent a letter, enclosing a list of five arbitrators obtained from the local ADR service, and requesting that Respondent choose an arbitrator and advise Tenenbaum of his choice. Respondent did not inform Bates of Tenenbaum's request. Respondent did not respond to Tenenbaum's request.
5. On September 9, 2005, Tenenbaum served Requests for Admissions, Special Interrogatories, and Requests for Production of Documents and Things upon Respondent. Respondent received the discovery requests but did not discuss with Bates how to respond to them. Respondent did not tell his client that the discovery requests had been served.
6. Subsequent to September 9, 2005, Respondent did not inform Bates and opposing counsel that he would not be entitled to practice law, beginning September 16, 2005.
7. On January 9, 2006, Tenenbaum filed and served upon Respondent three notices of motion and motions to compel discovery responses and for monetary sanctions. A hearing was set for February 17, 2006. Respondent received Tenenbaum's notices of motion and motions. Respondent did not inform Bates of his receipt of Tenenbaum's notices of motion and motions. Respondent did not inform Bates of the February 17, 2006 hearing.
8. On January 12, 2006, Respondent called Tenenbaum. Respondent told opposing counsel that he had just been restored to membership in the State Bar and knew about the pending motions against his client. Respondent did not request any extensions of time to respond or any other relief.
9. On February 17, 2006, plaintiff's attorney appeared at the hearing on the motions to compel. Respondent did not appear on behalf of his client. The court ordered that discovery responses be provided within 20 days and \$1,223 sanctions payable by Bates within 30 days of notice. On February 22, 2006, Tenenbaum's office served Respondent with a Notice of Ruling on plaintiff's three motions to compel discovery responses. Respondent received notice of the court's orders of February 17, 2006. Respondent did not inform Bates of the court's orders.
10. On February 22, 2006, Tenenbaum filed and served Respondent with a Plaintiff's Mandatory Settlement Conference Brief ("MSC brief"), notifying Respondent of a hearing scheduled for February 24, 2006. Respondent received the MSC brief.

Respondent did not inform Bates of the February 24, 2006 hearing.

11. On February 24, 2006, Respondent failed to appear at the MSC on behalf of Bates. The court ordered an OSC re: Terminating Sanctions and jury trial set for March 20, 2006 to remain. On the same date, Tenenbaum's office notified Respondent of the court's orders. Respondent received notice of the court's orders of February 24, 2006. Respondent did not inform Bates of the trial date of March 20, 2006.
12. On March 20, 2006, the date of trial, Respondent did not appear on behalf of Bates. The court entered default as to Bates and his company, and awarded a total judgment in the amount of \$9,163.97 in favor of the plaintiff. Respondent received notice of the judgment and did not disclose it to Bates.
13. Subsequent to March 20, 2006, Respondent did not timely apply for relief from the \$9,163.97 judgment on behalf of Bates.

Legal Conclusions:

By ceasing work on behalf of Bates after September 9, 2005, not giving due notice to Bates that he would be enrolled inactive on September 16, 2005, not allowing Bates sufficient time and notice to employ new counsel and participate in arbitration as ordered by the court, and not ensuring that Bates receive legal assistance in responding to discovery and appearing at the MSC and at trial, Respondent withdrew from employment in the Morin matter without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

By not informing Bates of the court's orders of February 17, 2006, the March 20, 2006 trial date, and the judgment of \$9,163.97 in the Morin matter, 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).

**THE "MATERIAL SUPPLY MATTER"**

Facts:

14. In April 2005, Bates employed Respondent to represent him in a lawsuit filed against Bates and his company on or about April 1, 2005, *Material Supply, Inc. v. International Mechanical Services, Richard J. Bates* (the "Material Supply matter"), Orange County Superior Court Case No. 05NL17332.

15. On May 25, 2005, plaintiff's counsel, John R. Gardener ("Gardener"), served Special Interrogatories and Requests for Production of Documents and Things upon Respondent. Respondent received the discovery requests but did not discuss with Bates how to respond to them. Respondent did not tell his client that the discovery requests had been served.
16. On June 27, 2005, Respondent sent Gardener a letter, acknowledging that Bates' responses were due by July 11, 2005. Respondent did not ask for an extension of time to respond.
17. On July 26, 2005, Gardener sent Respondent written notices that Bates' responses to discovery requests were past due. Respondent received the notices and did not inform Bates that his responses to the discovery requests were overdue.
18. On August 12, 2005, Gardener filed and served upon Respondent notices of motion and motions to compel discovery responses and for monetary sanctions. A hearing was set for September 16, 2005. Respondent received Gardener's notices of motion and motions. Respondent did not inform Bates of his receipt of Gardener's notices of motion and motions. Respondent did not inform Bates and opposing counsel that he could not represent Bates at the September 16, 2005 hearing because he would not be entitled to practice law, beginning September 16, 2005.
19. On September 2, 2005, Gardener filed and served Respondent with a Submission without Personal Appearance on the plaintiff's notices of motion and motions to compel discovery responses and for monetary sanctions. Respondent did not inform Bates of his receipt of Gardener's Submission without Personal Appearance.
20. Subsequent to September 2, 2005, Respondent did not inform Bates and opposing counsel that he would not be entitled to practice law, beginning September 16, 2005.
21. On December 16, 2005, the court served Respondent with a Notice of Ruling and Order Thereon, granting judgment by default against Bates. Respondent received the court's notice and order. Respondent did not inform Bates of the court's notice and order.
22. On December 22, 2005, Gardener served by mail a Request for Entry of Default directly upon Bates.
23. After receiving the Request for Entry of Default, between on or about December 26, 2005, and January 14, 2006, Bates called Respondent on a daily basis, leaving messages requesting a return call from Respondent. Respondent did not return Bates' messages.

24. On January 11, 2006, Gardener served by mail a Request for Entry of Default Judgment directly upon Bates. Thereafter, throughout January 2006, Bates kept calling Respondent, leaving messages requesting a return call from Respondent. Respondent did not return Bates' messages.
25. On January 17, 2006, the Material Supply matter was dismissed without prejudice.
26. On February 2, 2006, Respondent faxed Bates a letter, apologizing for the delay in responding to Bates' telephone calls and correspondence.
27. Subsequent to February 2, 2006, Respondent ceased all communication with Bates.
28. On February 15, 2006, the court served Bates with a default judgment in the amount of \$13,990.64.

Legal Conclusions:

By ceasing work on behalf of Bates after September 2, 2005, not giving due notice to Bates that he would be enrolled inactive on September 16, 2005, and not ensuring that Bates would have new counsel to respond to discovery requests and seek relief from the judgment order of December 16, 2005, Respondent withdrew from employment in the Material Supply matter without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

By not returning Bates' calls concerning the Material Supply matter between on or about December 26, 2005 and January 14, 2006, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of Business and Professions Code section 6068(m).

By not informing Bates of the December 16, 2005 order for default judgment in the Material Supply matter, Respondent failed to keep a client reasonably informed of significant developments in matters in which Respondent had agreed to provide legal services in wilful violation of Business and Professions Code section 6068(m).

**THE "AMERICAN EXPRESS" MATTER**

29. In May 2005, Bates employed Respondent to represent him in a lawsuit filed against Bate's wife and his company on or about May 13, 2005, *American Express Travel Related Services Company, Inc. v. International Mechanical Services, Tina Bates* (the "American Express matter"), Orange County Superior Court Case No. 05NL18492.
30. On September 12, 2005, plaintiff's counsel, Richard E. Golden ("Golden"), filed and

served Respondent with a Notice of Motion and Motion for Summary Judgment: Separate Statement of Undisputed Facts, Proposed Judgment and Proposed Order (“Motion for Summary Judgment”), notifying Respondent of a hearing scheduled for December 16, 2005. Respondent received the Motion for Summary Judgment. Respondent did not inform Bates of his receipt of the Motion for Summary Judgment and the December 16, 2005 hearing.

31. Subsequent to September 12, 2005, Respondent did not inform Bates and opposing counsel that he would not be entitled to practice law, beginning September 16, 2005.
32. On December 16, 2005, Respondent did not appear on behalf of Bates. The court granted plaintiff’s Motion for Summary Judgment and awarded a total judgment in the amount of \$30,045.89 in favor of the plaintiff. Respondent received notice of the judgment and did not disclose it to Bates.
33. Subsequent to December 16, 2005, Respondent did not timely apply for relief from the \$30,045.89 judgment on behalf of Bates.
34. On December 29, 2005, Golden served a Notice of Taking Deposition directly upon Bates.
35. Immediately upon receipt of the Notice of Taking Deposition, Respondent called Golden and learned about Respondent’s suspension from the practice of law from September to December 2006.
36. On January 3, 2006, Bates sent Respondent a certified letter, inquiring about all three matters and about Respondent’s suspension from the practice of law from September to December 2006.
37. On February 3, 2006, Respondent faxed a response to Bates. Respondent stated that he had been communicating with opposing counsel and had secured satisfactory outcomes in all three matters. Respondent addressed his inactive period from the practice of law as a “procedural defect”.
38. Subsequent to February 3, 2006, Bates called Respondent on a daily basis, leaving messages requesting a status update on all three cases. Respondent did not return Bates’ messages.

Legal Conclusions:

By ceasing work on behalf of Bates after September 12, 2005, not giving due notice to

Bates that he would be enrolled inactive on September 16, 2005, and not ensuring that Bates have new counsel to respond to the Motion for Summary Judgment, Respondent withdrew from employment in the American Express matter without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client in wilful violation of Rules of Professional Conduct, rule 3-700(A)(2).

By not returning Bates' inquiries subsequent to February 3, 2006, Respondent failed to respond promptly to reasonable status inquiries of a client in wilful violation of business and Professions Code section 6068(m).

By not informing Bates of the December 16, 2005 summary judgment and judgment of \$30,045.89 in the American Express matter, and by not informing Bates of his new office location, Respondent failed to keep a client reasonably informed of significant developments in matters in which Respondent had agreed to provide legal services in wilful violation of business and Professions Code section 6068(m).

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was September 25, 2007.

### **AUTHORITIES SUPPORTING DISCIPLINE.**

#### **Standards for Attorney Sanctions For Professional Misconduct**

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 willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 applies to violations of Business and Professions Code, section 6068. It provides for disbarment or suspension depending on 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 *Franklin v. State Bar* (1986) 41 Cal. 3d 700, a case involving two client matters, the attorney was found culpable of failing to respond to clients, failing to pursue matters filed on behalf of clients, and failing to respond to interrogatories and motions.

Specifically, in one client matter, with regard to the interrogatories, the attorney failed to communicate with the client concerning the requests or to respond to them. Then, he failed to notify his client of her scheduled deposition and failed to appear at the deposition. The trial court dismissed the client's case because of the discovery violations. The respondent attorney failed to inform the client. He then failed to respond to her and to subsequent counsel's attempt to retrieve her file.

In the second client matter, the attorney filed a complaint in the client's personal injury case and then attempted to obtain a default judgment. The default papers were defective and failed to establish adequate proof of service. The attorney then failed to respond to the client's numerous attempts to contact him.

In mitigation, the court cited the attorney's lack of a prior disciplinary record. In aggravation, the court found he had intentionally misled the State Bar court during his testimony at the hearing below.

The court ordered the attorney suspended for one year stayed suspension and one year probation with conditions, including 45 days actual suspension.

In *King v. State Bar* (1990) 52 Cal.3d 307, a case involving two client matters, the attorney was found culpable of failing to perform competently, failing to communicate, and failing to return client files.

In one client matter the attorney filed a complaint in a personal injury action and then failed to serve the complaint on the defendants. Five years later, the court dismissed the action. During that five year period, the attorney failed to take any action to prosecute the complaint. In response to the client's repeated requests for the status of the case, the attorney assured him the case would be going to trial. Then, he failed to return the client's file at the client's request. The client received a default judgment against the attorney for malpractice, which went unpaid.

In the second client matter, a client hired the attorney to close probate on a case. The client made numerous inquiries about the status of the probate matter but many of the inquiries went unanswered. The attorney took no significant action to close probate. Then, he failed to turn over the client's file until seven months after she had requested that he do so.

In mitigation, the attorney had no prior discipline. In aggravation, the first client suffered a significant financial loss and the attorney failed to appreciate the severity of his misconduct.

The court ordered the attorney suspended for four years stayed suspension and four years probation with conditions, including three months actual suspension.

**OTHER MITIGATING CIRCUMSTANCES:**

Respondent contends for the purposes of this stipulation that, in early 2005, he started his law firm with another attorney who had a successful immigration practice. During approximately the same time period as the misconduct, Respondent's partner was diagnosed with a brain tumor. As a result, Respondent became overwhelmed by having to solely manage the law offices and carrying the responsibility for large overhead and office expenses.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

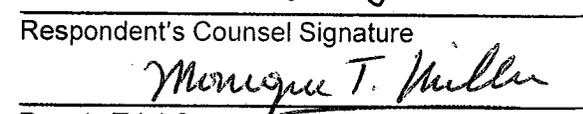
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 25, 2007, the costs in this matter are \$5,025.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of  <b>PETER T. NGUYEN</b>	Case number(s):  <b>06-O-14059</b>
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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>9/28/07</u> Date	 Respondent's Signature	<u>PETER T. NGUYEN</u> Print Name
<u>9/28/07</u> Date	 Respondent's Counsel Signature Deputy Trial Counsel's Signature	<u>MONIQUE T. MILLER</u> Print Name

(Do not write above this line.)

In the Matter Of  <b>PETER T. NGUYEN</b>	Case Number(s):  <b>06-O-14059</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.)**

10/01/07  
Date

  
Judge of the State Bar Court

**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 October 1, 2007, I deposited a true copy of the following document(s):

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

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

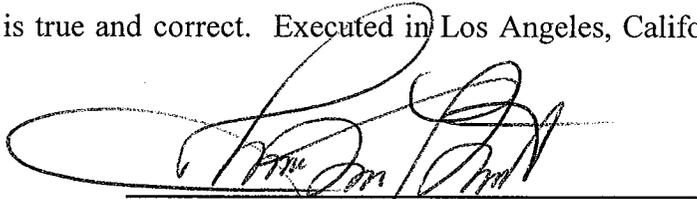
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**PETER T. NGUYEN  
11271 VENTURA BLVD UNIT 259  
STUDIO CITY, CA 91604**

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

**MONIQUE MILLER , Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **October 1, 2007**.



**Johnnie Lee Smith**  
Case Administrator  
State Bar Court