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

Counsel For The State Bar Treva R. Stewart State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2452 Bar # 239829	Case Number (s) 07-H-14221	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED </div> <div style="text-align: center; font-size: 1.2em;">SEP 24 2008</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
Counsel For Respondent Douglas L. Rappaport 260 California St. #1002 San Francisco, CA 94111 Bar # 136194	Submitted to: Settlement Judge	
In the Matter Of: Miguel A. Chacon Bar # 99469 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 **December 1, 1981**.
- (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 **11** 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."



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- (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 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 **05-O-04023**
 - (b) Date prior discipline effective **August 15, 2006**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **3-110(A); 3-700(D)(1); 3-700(D)(2); 6068(i)**
 - (d) Degree of prior discipline **Public Reproval**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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 \$ o n i n restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two 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 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 **30 days**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

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

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

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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, 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.

*** See Attachment for MPRE requirement

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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: See Attachment**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MIGUEL CHACON

CASE NUMBER(S): 07-H-14221-PEM

FACTS AND CONCLUSIONS OF LAW.

Procedural Background

This proceeding arises out of respondent's failure to comply with conditions of a reproof. The State Bar filed and served the Notice of Disciplinary Charges ("NDC") on January 31, 2008. The response to the NDC was filed on February 13, 2008.

Facts

On June 30, 2006, respondent signed a Stipulation wherein he admitted professional misconduct and agreed to a public reproof in case number 05-O-04023. The conditions attached to the public reproof required respondent to, inter alia, contact the Office of Probation by September 14, 2006; pay restitution by October 10, 2006; take and pass the MPRE by August 15, 2007; file quarterly reports on October 10, 2006, January 10, 2007, April 10, 2007, and August 15, 2007; consult with Rita DeAngelis by October 14, 2006 to develop a law office management plan; submit a sworn statement of compliance with the law office management plan by October 25, 2006; submit a report from Rita DeAngelis stating compliance with the law office management plan with each quarterly report; state compliance with the law office management plan with each quarterly report, and put all attorney/client agreements in writing and state compliance with same in each quarterly report.

On October 29, 2007, the Office of Probation referred respondent for non-compliance with conditions of his reproof. A Notice of Disciplinary Charges ("NDC") was filed on January 31, 2008. The NDC alleged that respondent violated rule 1-110(A) by failing to timely contact the Office of Probation and pay restitution and failing to take and pass the MPRE, file quarterly reports, consult with Rita DeAngelis to develop a law office management plan, submit a sworn statement of compliance with the law office management plan, submit a report from Rita DeAngelis stating compliance with the law office management plan with each quarterly report, state compliance with the law office management plan with each quarterly report and put all attorney/client agreements in writing and state compliance with same in each quarterly report.

Legal Conclusion

By failing to: timely contact the Office of Probation, timely pay restitution, timely take and pass the MPRE, file quarterly reports, timely consult with Rita DeAngelis to develop a law office

management plan, submit a sworn statement of compliance with the law office management plan, submit a report from Rita DeAngelis stating compliance with the law office management plan with each quarterly report, state compliance with the law office management plan with each quarterly report and put all attorney/client agreements in writing and state compliance with same in each quarterly report, respondent willfully violated rule 1-110(A).

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 January 31, 2008 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 and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

AGGRAVATING CIRCUMSTANCES.

Facts Supporting Aggravating Circumstances.

Respondent has a prior record of discipline as described in standard 1.2(b)(i).

Pursuant to standard 1.2(b)(ii), respondent's failure to comply with numerous conditions of his reprobation constitute multiple acts of wrongdoing.

Pursuant to standard 1.2(b)(v), respondent has demonstrated an indifference toward rectifying his misconduct. Despite reminders from the Office of Probation and requests from OCTC, respondent has failed to (1) timely provide proof of payment of restitution (respondent belatedly provided proof of payment of restitution), (2) file the required reports, (3) provide proof of compliance with the development and implementation of a law office management plan (respondent has provided proof of belated compliance with development of law office management plan) or (4) timely take and pass the MPRE (respondent has registered for the November 8, 2008 examination). Before filing of disciplinary charges in the current case, other than payment of restitution, respondent made no effort to comply with his probation conditions.

MITIGATING CIRCUMSTANCES.

Respondent paid restitution, therefore, there was no client harm.

During the probationary period, respondent suffered family problems related to separation and divorce from his wife of 12 years.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.9 (wilful violation of rule 1-110 shall result in suspension).

Standard 1.7(a) (record of one prior imposition of discipline requires imposition of greater discipline in current proceeding).

The following cases support discipline in this case:

In the Matter of Meyer (Rev. Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697. 90 day actual suspension imposed.

Conroy v. State Bar (1990) 51 Cal.3d 799. 60 day actual suspension imposed.

In the Matter of Posthuma (Rev. Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813). Public reproof imposed.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION.

1. During the period of actual suspension, respondent shall not:
 - A. Render legal consultation or advice to a client;
 - B. Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;
 - C. Appear as a representative of a client at a deposition or other discovery matter;
 - D. Negotiate or transact any matter for or on behalf of a client with third parties;
 - E. Receive, disburse, or otherwise handle a client's funds; or
 - F. Engage in activities which constitute the practice of law.
2. Respondent shall declare under penalty of perjury that he or she has complied with this provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which the respondent was actually suspended from the practice of law.

LAW OFFICE MANAGEMENT CONDITION:

1. Within 60 days of the effective date of the discipline herein, respondent must submit a law office management plan developed in consultation with Rita DeAngelis of Law Office Management, 660 Market Street #200, San Francisco, CA 94104, (415) 397-4039. In every written quarterly report submitted to the Office of Probation, respondent must state under penalty of perjury whether he complied with the law office management plan.

In addition, he must attach to every written quarterly report a report from Ms. DeAngelis stating that she has reviewed respondent's practice and that respondent is in compliance with the law office management plan.

2. Fee Agreement Condition:

Respondent must put all attorney-client fee agreements in writing. Respondent must state under penalty of perjury whether he complied with this condition in the written quarterly reports submitted to the Office of Probation.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

MPRE

Respondent must provide proof of passage of the **November 8, 2008** Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within 30 days of release of examination results. **Failure to pass the November 8, 2008 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.**

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was August 15, 2008.

COSTS OF DISCIPLINARY PROCEEDINGS.

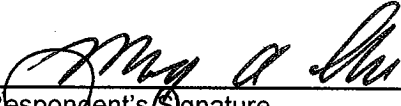
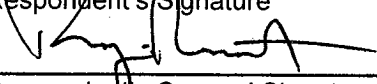

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 15, 2008, the estimated costs in this matter are \$2,296.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of Miguel Chacon	Case number(s): 07-H-14221
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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>9/5/08</u> Date	 Respondent's Signature	<u>Miguel Chacon</u> Print Name
<u>9/5/08</u> Date	 Respondent's Counsel Signature	<u>Douglas L. Rappaport</u> Print Name
<u>9/16/08</u> Date	 Deputy Trial Counsel's Signature	<u>Treva R. Stewart</u> Print Name

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In the Matter Of Miguel Chacon	Case Number(s): 07-H-14221
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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.)**

Sept 23, 2008
Date

[Signature]
Judge of the State Bar Court
Luis Armendariz

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 24, 2008, I deposited a true copy of the following document(s):

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

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

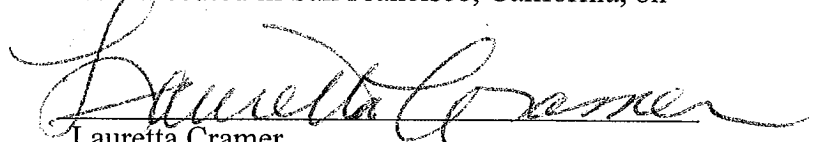
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DOUGLAS L. RAPPAPORT
LAW OFC DOUGLAS L RAPPAPORT
260 CALIFORNIA ST #1002
SAN FRANCISCO, CA 94111

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

TREVA R. STEWART, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 24, 2008.


Laretta Cramer
Case Administrator
State Bar Court