

(Do not write above this line.)

State Bar Court of California Hearing Department San Francisco		
Counsel For The State Bar Tammy M. Albertsen-Murray 180 Howard Street San Francisco, CA 94105 (415) 538-2527 Bar # 154248	Case Number (s) 07-J-11443-LMA	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div style="text-align: center; font-size: 1.2em; margin-bottom: 10px;">MAR 11 2009</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold; margin-top: 20px;">PUBLIC MATTER</div>
In Pro Per Respondent Hector M. Roman, Jr. 11045 - 71st Road, Apt. # 7P Forest Hills, NY 11375 (718) 533-8444 Bar # 187633	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: HECTOR M. ROMAN, JR. Bar # 187633 A Member of the State Bar of California (Respondent)		

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 **February 18, 1997**.
- (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 (3) billing cycles following the effective date of the Supreme Court order herein.**
(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. **The misconduct affected numerous cases that were pending before the Ninth Circuit. The Ninth Circuit indicated that respondent's misconduct burdened the court, inconvenienced opposing counsel, and had a potentially adverse effect on the legal proceedings, but that there was no actual client harm.**
- (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. **The misconduct affected numerous cases that were**

pending before the Ninth Circuit. The Ninth Circuit indicated that respondent's misconduct burdened the court, inconvenienced opposing counsel, and had a potentially adverse effect on the legal proceedings, but that there was no actual client harm.

- (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

**** By agreeing to stipulate to the resolution of this matter, respondent has saved the State Bar further expenditure of costs to prosecute this matter.**

**** Respondent has no prior record of discipline in the approximately eight (8) years since the time of his admission to the onset of the misconduct, as affixed by the Ninth Circuit's issuance of the order to show cause in November, 2005.**

**** Respondent has implemented information management and tracking systems within his law offices to avoid reoccurrence of the problems that occurred in the referenced Ninth Circuit cases.**

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one (1) 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 **thirty (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.

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- (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: **Respondent resides and primarily practices in the state of New York. In lieu of the standard Ethics School requirement, respondent stipulates to taking and completing six (6) hours of continuing legal education in ethics and providing proof of same to the Probation Department within one (1) year of the effective date of the discipline herein. (See F.(5), below).**
- (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 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

 No MPRE recommended. Reason:
- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, 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 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, 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 resides and primarily practices in the state of New York. In lieu of the standard Ethics School requirement, respondent stipulates to taking and completing six (6) hours of continuing legal education in ethics and providing proof of same to the Probation Department within one (1) year of the effective date of the discipline herein. (See E.(8) above.)**

Attachment language begins here (if any):

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: HECTOR ROMAN

CASE NUMBER: 07-J-11443

FACTS AND CONCLUSIONS OF LAW

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

Facts.

Case no. 07-J-11443

On November 29, 2005, the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") ordered respondent and another attorney at respondent's law firm, Richard Oriakhi, to show cause why each of them should not be disciplined, for conduct unbecoming a member of the court's bar, alleging that Oriakhi and respondent violated court orders and rules in eight petitions for review. The court further alleged that respondent failed to prosecute or respond to court orders in numerous cases.

On December 28, 2005, respondent filed his response to the Order to Show Cause, and requested a hearing, which hearing was held by the Ninth Circuit on April 18, 2006.

On January 23, 2007, the Ninth Circuit filed a Report and Recommendation ("Report and Recommendation") and Order. In the Report and Recommendation the court detailed the respondent's misconduct.

On February 16, 2007, respondent filed objections to the Report and Recommendation.

On March 30, 2007, the Ninth Circuit overruled respondent's objections and adopted the Report and Recommendation in full.

The Ninth Circuit suspended respondent for six months effective March 30, 2007, and sanctioned respondent \$1,000 to be paid within 21 days. The Ninth Circuit further ordered respondent to file notices of withdrawal in all pending cases, serve clients, inform clients, and turn over client files, file proof with court that he completed the above requirements, and send client addresses to the court.

The Report and Recommendation include *inter alia* the following findings:

In 1997, respondent formed Roman & Singh ("Law Firm"), with offices in New York. In 2001, Oriakhi opened a Roman & Singh office in California, where he was the sole attorney.

In September 2002, Jaspreet Singh, respondent's law partner, hired Olumide Obayemi. The Law Firm was responsible for the client and the progress of a client's case. Oriakhi was primarily responsible for the Law Firm's California clients. Any mail for the California office was delivered to the New York office and then forwarded to the California office and directed to either Oriakhi or Obayemi. Neither respondent nor his Law Office maintained a master database containing complete information for the clients and their cases for the time period involved in the misconduct. Respondent only had a computerized list containing the name of the client, the immigration court number, and, if applicable, a Ninth Circuit docket number. All client address information was solely contained in the hard copy client file. There was no back-up calendaring system for pending cases.

Law Firm terminated Obayemi in November, 2003. After Obayemi left Law Firm, Oriakhi discovered that Obayemi had taken several client matters with him, and that several physical files belonging to the clients of Law Firm were missing. Oriakhi did not have contact information for the clients. Oriakhi entered his notice of appearance in some cases in which Obayemi had kept the file. He copied the file from the immigration court, and informed the client that he was the attorney. In some matters, Obayemi forwarded client files or orders back to Oriakhi.

Obayemi took client case files belonging to Law Firm in eight matters with pending petitions for review and then abandoned the clients by failing to prosecute the petitions. Respondent was unable to discover that Obayemi took the client files and abandoned the cases because the Law Firm's case management procedures were inadequate. Respondent failed to enter timely appearances in the eight matters abandoned by Obayemi.

In three cases, the Ninth Circuit sent orders to the New York office requiring a response, and ordering an attorney from the Law Firm to enter an appearance in the petitions for review. Respondent and Oriakhi negligently failed to respond to the court orders, which were either dismissed voluntarily or decided on the merits.

In one matter, respondent and Oriakhi failed to timely file an opening brief because they did not properly supervise Obayemi and did not have an adequate system for tracking cases.

In three petitions for review, respondent appeared before he was admitted specifically to the Bar of the Ninth Circuit. (He was admitted on January 9, 2004.)

In three matters, respondent failed to prosecute the petitions, which were then dismissed by the Ninth Circuit. Respondent was unable to contact these clients. Respondent successfully moved to re-open an additional nine petitions that had been dismissed.

In eight petitions for review, respondent failed to timely file an opening brief or request for an extension of time. All of the petitions were resolved on the merits after an opening brief was filed, or are still pending; there was no evidence of actual harm to the clients involved. In one petition, respondent filed a late petition for review. The client came in to his office the day before the petition was due. Respondent prepared the petition and mailed it via overnight mail from New York to California. It did not reach the Ninth Circuit until the day after it was due. Respondent should have faxed the petition to the California office and had the petition timely served on that manner.

Respondent filed some stay motions and motions for extension of time that did not comply with the court's orders and rules or were otherwise deficient.

The Ninth Circuit found that respondent committed negligent misconduct by failing to implement an adequate case management system and calendaring system.

The Ninth Circuit further found that respondent, by clear and convincing evidence, violated a number of court rules and orders and ethical rules. Respondent failed to supervise Obayemi and neglected to have an adequate system to monitor his cases. Respondent failed to enter timely appearances in Obayemi's matters with pending petitions for review to protect their clients' interests and prosecute their petitions diligently.

The Ninth Circuit found no evidence of actual harm to the clients. However, the violations of court rules and orders and other misconduct burdened the court, inconvenienced opposing counsel, and had a potentially adverse effect on legal proceedings.

Conclusions of Law

1. As a matter of law, Respondent's culpability as determined by the Ninth Circuit Court of Appeals warrants the imposition of discipline under the laws and rules binding upon members of the State Bar at the time the Respondent committed the misconduct found by the Ninth Circuit, as determined by the proceedings specified in subdivision (a) of Business and Professions Code section 6049.1; and that the proceedings of the Ninth Circuit Court of Appeals contained fundamental constitutional protection, specifically including procedural due process of notice and an opportunity to be heard and in this case, an actual full hearing in which Respondent participated.

2. By failing to adequately supervise Obayemi, resulting in Obayemi removing client files from Law Firm and respondent's being unable to identify which files were taken or contact those clients; by failing to adequately maintain a back-up system of client information, resulting in the filing of many late petitions after Obayemi abandoned the cases; by filing motions for extensions of time that did not comply with the courts orders and rules and were otherwise deficient, respondent failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

3. By appearing in court in the Ninth Circuit on three matters before he was admitted to the Bar of the Ninth Circuit, respondent practiced law when he was not licensed to do so, in willful violation of Business and Professions Code, section 6068(a) by way of Business and Professions Code, sections 6125 and 6126.

PENDING PROCEEDINGS

The disclosure date referred to, on page one, paragraph A.(7), was February 27, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 27, 2009, the costs in this matter are \$3,918.50. 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.

AUTHORITIES SUPPORTING DISCIPLINE

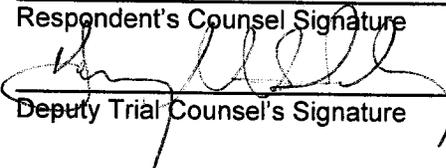
Standard 2.4(b); 2.6(d); and 2.10, Rules of Procedure of the State Bar of California; and *In re Silvertan* (2005) 36 Cal.4th 81.

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In the Matter of HECTOR M. ROMAN, JR.	Case number(s): 07-J-11443-LMA
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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.

Date <u>2/27/09</u>	 Respondent's Signature	<u>Hector M. Roman, Jr.</u> Print Name
Date <u>3/5/09</u>	 Deputy Trial Counsel's Signature	<u>Tammy M. Albertsen-Murray</u> Print Name

(Do not write above this line.)

In the Matter Of HECTOR M. ROMAN, JR.	Case Number(s): 07-J-11443-LMA
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

March 10, 2009

Pats McElroy
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 San Francisco, on March 11, 2009, 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:

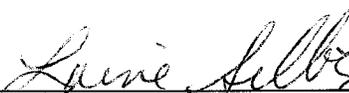
- by first-class mail, with postage thereon fully prepaid, through the United States PostalService at San Francisco, California, addressed as follows:

HECTOR M. ROMAN JR.
11045 71ST RD APT 7P
FOREST HILLS, NY 11375

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

TAMMY ALBERTSEN MURRAY, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 11, 2009.



Laine Silber
Case Administrator
State Bar Court