

**State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION**

<p>Counsel For The State Bar</p> <p>Anthony Garcia Deputy Trial Counsel Office of the Chief Trial Counsel 1149 South Hill Street, 10th Floor Los Angeles, CA 90015-2299 Telephone: (213) 765-1089</p> <p>Bar # 171419</p>	<p>Case Number(s): 07-O-10246 08-O-13647 09-O-12770 09-O-13230 09-O-13603</p> <p align="center"><b>PUBLIC MATTER</b></p>	<p>For Court use only</p> <p align="center"><b>FILED</b> <b>OCT 13 2011</b></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>David Alan Clare 444 W. Ocean Blvd., Suite 800 Long Beach, CA 90802 Telephone: (562) 624-2837</p> <p>Bar # 44971</p>	<p>Submitted to: <b>Settlement Judge</b></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>	
<p>In the Matter of: Walter Steven Martinez</p> <p>Bar # 153163</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 6, 1991.
- (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 **15** pages, not including the order.



(Do not write above this line.)

- (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 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013, 2014. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are 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.

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- (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.

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- (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:**

Throughout his legal career, Mr. Martinez has performed substantial pro bono services in his community and in the legal profession. He has participated in volunteer coaching of Karate for youths and adults for many years, and coached his son and daughter's baseball and soccer teams for many years. He has lectured about law as a profession in several high schools on Career Day. He has also participated in numerous community projects in Rancho Cucamonga, including participating for years as a presenter or other participant in community festivals aimed at improving the community in various ways. Mr. Martinez has also volunteered his time to represent numerous clients without charge.

On February 2, 2009, the Superior Court assumed jurisdiction over the Law Office of Walter Martinez, as described more fully herein. Respondent cooperated with the State Bar in that matter and with the former clients of the Law Office of Walter Martinez when contacted by them.

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of one year.
- 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 five months.
- 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 the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

☐

Medical Conditions

☒

Financial Conditions

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

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

(Do not write above this line.)

In the Matter of: Walter Steven Martinez	Case Number(s): 07-0-10246, 08-0-13647, 09-0-12770, 09-0-13230, 09-0-13603
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## Financial Conditions

### a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Ba Nguy	\$6,225	09/23/2008
Nga Lam	\$6,325	09/23/2008
Kim Dang	\$9,200	08/08/2008
Huy Dang	\$10,300	08/8/2008
Jimmy Nguyen	\$4,500	01/25/2009

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than December 31, 2013.

### b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

### c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- ☐ a. Respondent as maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  - 1. the name of such client;
  - 2. the date, amount and source of all funds received on behalf of such client;
  - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  - 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  - 1. the name of such account;
  - 2. the date, amount and client affected by each debit and credit; and,
  - 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

- 2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
- 3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

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



## ATTACHMENT TO

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Walter Steven Martinez

CASE NUMBER(S): 07-O-10246, 08-O-13647, 09-O-12770, 09-O-13230, 09-O-13603

#### **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.

Case No. 07-O-10246 (Complainant: Daisie Tran ("Daisie"))

#### **FACTS:**

1. During all relevant times, Respondent maintained a permanent law office in Upland, California.
2. In April 2005, Respondent opened a branch law office, the Law Offices of Walter Martinez, located at 14482 Beach Boulevard, Suite K, Westminster, California ("the Law Offices of Walter Martinez"). The Law Offices of Walter Martinez office handled personal injury cases only. All of the matters described herein occurred at the Law Offices of Walter Martinez.
3. Between April 2005 and January 2009, the daily operations of the Law Offices of Walter Martinez were carried out by Lisa Tran ("Tran") and Jimmy Vo ("Vo").
4. Tran and Vo were not attorneys, but they engaged in activities that constituted the practice of law for the Law Offices of Walter Martinez, with no attorney input or oversight.
5. Respondent not personally aware of the of acts of misconduct that are described herein, but Respondent was grossly negligent in not knowing that Tran and/or Vo were engaging in activities that constituted the practice of law in each of the following matters.
6. At all times relevant to these matters Respondent maintained a client trust account at Cal National Bank, account no.\*\*\*\*\*5910 ("CTA").
7. On April 20, 2005, Daisie Tran ("Daisie") employed the Law Offices of Walter Martinez to represent her in a personal injury matter. She met with Vo, who signed her up as a client of the Law Offices of Walter Martinez. Daisie agreed that that the Law Offices of Walter Martinez would receive a contingent fee for its legal services. Vo conducted Daisie's intake and signed her up as a client of the Law Offices of Walter Martinez with no attorney supervision or oversight.
8. Mercury Insurance Co. ("Mercury") represented the other side in Daisie's legal matter.
9. In July 2006, Vo negotiated and settled Daisie's personal injury matter with Mercury. Vo settled Daisie's matter with no attorney supervision or oversight.
10. On July 27, 2006, Mercury issued a settlement check in the amount of \$1,000 payable to Daisie and the Law Offices of Walter Martinez and mailed the check to the Law Offices of Walter Martinez.
11. The settlement check was received by the Law Offices of Walter Martinez and was deposited into a general account not Respondent's CTA.
12. On October 18, 2006, Vo delivered \$500 cash to Daisie as her portion of the settlement.

#### **CONCLUSIONS OF LAW:**

13. By Respondent's failure to supervise Vo, Respondent allowed Vo to engage in activities that constituted the practice of law without attorney input or oversight, thereby aiding the unlawful practice

of law in willful violation of California Rules of Professional Conduct, rule 1-300(A).

14. By not depositing Daisie's settlement funds into his CTA, Respondent willfully violated California Rules of Professional Conduct, rule 4-100(A).

Case No. 08-O-13647 (Complainant: Orange County District Attorney)

FACTS:

15. In March 2007, the Orange County District Attorney began an undercover investigation of the Law Offices of Walter Martinez.

16. On March 12, 2007, two Orange County investigators ("investigators") created paperwork to make it look as if they had been in an automobile accident ("the accident"). Their paperwork created the impression they were the injured, not-at-fault, parties in the accident. Their paperwork included information that Infinity Insurance Company ("Infinity") insured the at-fault party. Infinity was a willing participant in the undercover investigation.

17. On March 27, 2007, the investigators went to the Law Offices of Walter Martinez where they presented their paperwork to Tran. They sought to employ the Law Offices of Walter Martinez as their representative in the personal injury matter involving the accident.

18. At the Law Offices of Walter Martinez, Tran signed up the investigators as clients of the Law Offices of Walter Martinez. Tran and the investigators agreed that the investigators would receive fifty percent of any settlement funds paid by Infinity and that the Law Offices of Walter Martinez would retain the remaining fifty percent as its fee for legal services, and to pay costs including the investigators' medical bills. Tran conducted the investigators' intake and signed them up as clients of the Law Offices of Walter Martinez with no attorney supervision or oversight.

19. Between September 2007, and December 2007, Tran negotiated and settled the investigators' claims with Infinity. Tran settled the investigator's claims with no attorney supervision or oversight.

20. On January 25, 2008, Infinity drafted settlement checks payable to the investigators and to the Law Offices of Walter Martinez and mailed them to the Law Offices of Walter Martinez. Upon receipt, Tran deposited the settlement checks into Respondent's CTA.

21. On September 29, 2008, Tran gave the investigators checks from Respondent's CTA that represented their 50 percent share of the settlement proceeds.

CONCLUSIONS OF LAW:

22. By Respondent's failure to supervise Tran, Respondent allowed Tran to engage in activities that constituted the practice of law without attorney input or oversight, thereby aiding the unlawful practice of law in willful violation of California Rules of Professional Conduct, rule 1-300(A).

Case No. 09-O-12770 (Complainants: Ba Nguy and Nga Lam ("Nguy and Lam"))

FACTS:

23. On April 30, 2008, Ba Nguy and Nga Lam ("Nguy and Lam") employed the Law Offices of Walter Martinez to represent them in a personal injury matter.

24. At the Law Offices of Walter Martinez, Vo signed up Nguy and Lam, as clients of the Law Offices of Walter Martinez. Nguy and Lam agreed that Respondent would receive a 50 percent contingent fee for his legal services, and that Respondent would pay the bills generated by Nguy and Lam's treating physicians. Vo conducted Nguy and Lam's intake and signed them up as clients of the Law Offices of Walter Martinez with no attorney supervision or oversight.

25. The at-fault driver in the accident was represented by InterInsurance Exchange of the Automobile Club of Southern California ("AAA").

26. Between May 2008 and August 2008, Nguy and Lam received treatment for their injuries at

the Duong Chiropractic Center ("chiropractor"). The chiropractor's bills totaled \$4,703 for Lam and \$4,460 for Nguy.

27. In August 2008 and September 2008, Vo negotiated and settled Nguy and Lam's claims against AAA's insured. Vo settled Nguy and Lam's claims with no attorney supervision or oversight.

28. On September 9, 2008, AAA issued a check to payable to Nguy and the Law Offices of Walter Martinez, for medical expenses, in the amount of \$1,225. That same day, AAA issued a check payable to Lam and the Law Offices of Walter Martinez for medical expenses in the amount of \$1,325. AAA mailed the checks to the Law Offices of Walter Martinez. Respondent's office received the checks, but the checks were not deposited into Respondent's CTA.

29. On September 23, 2008 AAA issued a settlement check payable to Nguy and the Law Offices of Walter Martinez in the amount of \$5,000. That same day, AAA issued a settlement check payable to Lam and the Law Offices of Walter Martinez in the amount of \$5,000. AAA mailed the checks to the Law Offices of Walter Martinez. Respondent's office received the checks but the checks were not deposited into Respondent's CTA.

30. On December 29, 2008 Vo met with Nguy and Lam in the Law Offices of Walter Martinez and asked them to sign releases so that they could receive their money. Nguy and Lam signed releases and Vo told them that he would have their share of the settlement in "few weeks". Nguy and Lam never received their share of the settlement funds.

31. The chiropractor was never paid for the services it rendered to Nguy and Lam.

#### CONCLUSIONS OF LAW:

32. By failing to pay Nguy and Lam's bills for services rendered by their chiropractor, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

33. By Respondent's failure to supervise Vo, Respondent allowed Vo to engage in activities that constituted the practice of law without attorney input or oversight, thereby aiding the unlawful practice of law in willful violation of California Rules of Professional Conduct, rule 1-300(A).

34. By not depositing Nguy and Lam's settlement funds into his CTA, Respondent willfully violated California Rules of Professional Conduct, rule 4-100(A).

#### Case No. 09-O-13230 (Complainant: Jimmy Nguyen)

#### FACTS:

35. On September 6, 2008, Jimmy Nguyen ("Nguyen") employed the Law Offices of Walter Martinez to represent him in a personal injury matter. The at-fault party was insured by Mercury Insurance Company ("Mercury").

36. At the Law Offices of Walter Martinez, Nguyen met with Vo, who signed him up as a client. Vo conducted Nguyen's intake and signed him up as a client of the Law Offices of Walter Martinez with no attorney supervision or oversight.

37. In January 2009, Vo negotiated and settled Nguyen's claim against Mercury's insured. Vo settled Nguyen's claim with no attorney supervision or oversight.

38. On January 27, 2009, Mercury issued a settlement check payable to Nguyen and the Law Offices of Walter Martinez in the amount of \$4,500. Mercury mailed the check to the Law Offices of Walter Martinez. Respondent's office received the check, but it was not deposited into Respondent's CTA.

39. On February 2, 2009, the Superior Court assumed jurisdiction over the Law Office of Walter Martinez. Pursuant to the court's jurisdiction, the California State Bar entered the Law Office of Walter Martinez, seized all client files therein, froze the bank accounts used by the Law Office of Walter Martinez, and shut down the Law Office of Walter Martinez.

40. Nguyen never received any portion of the settlement funds.

#### CONCLUSIONS OF LAW:

41. By Respondent's failure to supervise Vo, Respondent allowed Vo to engage in activities that constituted the practice of law without attorney input or oversight, thereby aiding the unlawful practice of law in willful violation of California Rules of Professional Conduct, rule 1-300(A).

42. By not depositing Nguyen's settlement funds into his CTA, Respondent willfully violated California Rules of Professional Conduct, rule 4-100(A).

#### Case No. 09-O-13603 (Complainant: Kim Dang ("Kim") and Huy Dang ("Huy"))

#### FACTS:

43. On January 7, 2008, Kim Dang ("Kim") and Huy Dang ("Huy") employed the Law Offices of Walter Martinez to represent them in a personal injury matter. Kim and Huy's injuries were caused by a hit and run driver. They had uninsured motorist coverage with their insurance carrier, Infinity Insurance Company ("Infinity").

44. At the Law Offices of Walter Martinez, Vo signed up Kim and Huy as clients of the Law Offices of Walter Martinez. Nguy and Lam agreed that Respondent would receive a contingent fee for his legal services. Vo conducted Kim and Huy's intake and signed them up as clients of the Law Offices of Walter Martinez with no attorney supervision or oversight.

45. In May 2008, Vo negotiated and settled Kim and Huy's claims against Infinity. Vo settled Kim and Huy's claims with no attorney supervision or oversight.

46. On May 8, 2008, Infinity issued a check in the amount of \$9,200 payable to Kim and the Law Offices of Walter Martinez. Infinity mailed the check to the Law Offices of Walter Martinez.

47. On May 8, 2008, Infinity issued a check in the amount of \$10,300 payable to Huy and the Law Offices of Walter Martinez. Infinity mailed the check to the Law Offices of Walter Martinez.

48. On May 23, 2008, both Kim and Huy's settlement checks were deposited into Respondent's CTA.

49. From March 2008 through January 2009 Kim and Huy repeatedly called the Law Offices of Walter Martinez seeking an update on the status of their matter. They were not told that their cases had settled.

50. In January 2009, Vo called Kim and Huy and told them to come to the office to pick up their share of the settlement.

51. On February 2, 2009, the Superior Court assumed jurisdiction over the Law Office of Walter Martinez. Pursuant to the court's jurisdiction, the California State Bar entered the Law Office of Walter Martinez, seized all client files therein, froze the bank accounts used by the Law Office of Walter Martinez, and shut down the Law Office of Walter Martinez.

52. When Kim and Huy went to the Law Office of Walter Martinez, they found it had been shut down.

53. To date, Kim and Huy have not received their settlement funds.

#### CONCLUSION OF LAW:

54. By Respondent's failure to supervise Vo, Respondent allowed Vo to engage in activities that constituted the practice of law without attorney input or oversight, thereby aiding the unlawful practice of law in willful violation of California Rules of Professional Conduct, rule 1-300(A).

#### FACTS

55. Between April 2005 and January 2009, the daily operations of the Law Offices of Walter Martinez were carried out by Tran and Vo.

56. Tran and Vo were not attorneys, but they engaged in activities that constituted the practice of law for the Law Offices of Walter Martinez, with no attorney input or oversight.

57. Respondent was grossly negligent in not knowing that Tran and/or Vo were engaging in activities that constituted the practice of law in each of the preceding matters.

58. Respondent was grossly negligent in not knowing that Tran and/or Vo were not handling client funds in a manner that was consistent with Respondent's legal and ethical obligations.

#### CONCLUSION OF LAW:

59. By Respondent's failure to supervise Vo and Tran, Respondent allowed Vo and Tran to engage in the activities that constituted the practice of law without attorney input or oversight over their activities, and allowed them to mishandle client funds, thereby willfully, or with gross negligence, violating California Business and Professions Code section 6106.

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 6, 2011.

#### AUTHORITIES SUPPORTING DISCIPLINE.

##### Standards

Standard 2.2(b) which states that culpability of a member of a violation of rule 4-100 of the Rules of Professional Conduct that does not include misappropriation shall result in at least a three month suspension.

Standard 2.3, which states that culpability of a member of an act of moral turpitude, fraud or intentional dishonesty shall result in actual suspension or disbarment depending on the extent of harm, the magnitude of the misconduct, and the degree to which it relates to the practice of law.

Standard 2.10 states a member's culpability of a wilful violation of the Rules of Professional Conduct ("Rule") not specified in the prior Standards (this definition includes Rule 3-700(D)(1)) shall result in reproof or suspension according to the gravity of the offense or harm to the victim with due regard to the purposes of imposing discipline set forth in standard 1.3.

##### Case Law

In the Matter of Nelson, 1 Cal. State Bar Ct. Rptr. 178 (1990)

Nelson was found culpable of forming a partnership for the practice of law with a non-lawyer, dividing legal fees with this non-lawyer, using the non-lawyer as a runner and a capper, two counts of moral turpitude, failing to convey a settlement offer to a client, failing to notify a client of the receipt of client funds, and improper withdrawal. The review department suspended Nelson for six months, citing his extensive mitigation. Respondent, like Nelson, allowed Tran and Vo to run the Law Offices of Walter Martinez without adequate supervision. Respondent's failure to supervise Tran and Vo led to multiple instances of misconduct.

Nelson stipulated to many of the facts underpinning the misconduct in his case. Likewise, Respondent is accepting responsibility for his failure to supervise and stipulating to the misconduct in the present case.

**ADDITIONAL STIPULATION REGARDING RESTITUTION**

The parties stipulate Respondent will receive restitution credit for any payments to the former clients of the Law Office of Walter Martinez, named on the attached "Financial Conditions", that are made from the frozen trust account and business accounts at California National Bank that were used by the Law Office of Walter Martinez.

(Do not write above this line.)

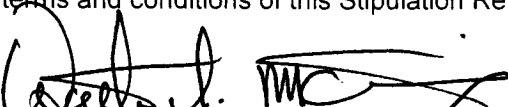
In the Matter of:  
Walter Steven Martinez

Case number(s):  
07-0-10246; 08-0-13647; 09-0-12770; 09-0-13230;  
09-0-13603

### SIGNATURE OF THE PARTIES

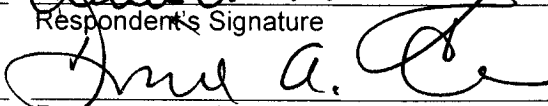
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

9/19/11  
Date

  
Respondent's Signature

Walter Steven Martinez  
Print Name

9/22/11  
Date

  
Respondent's Counsel Signature

David Alan Clare  
Print Name

9/23/11  
Date

  
Deputy Trial Counsel's Signature

Anthony J. Garcia  
Print Name

(Do not write above this line.)

In the Matter Of  
**WALTER STEVEN MARTINEZ**

Case Number(s):  
**07-O-10246; 08-O-13647; 09-O-12770; 09-O-13230;  
09-O-13603**

### 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.
1. In the caption on page 1 of the Stipulation, "**Settlement Judge**" is deleted after "Submitted to:".
  2. On page 4 of the Stipulation, an "X" is inserted in the box at paragraph D.(2).
  3. On page 12 of the Stipulation, at numbered paragraph 44, line 2, "Nguy and Lam" is deleted, and in its place is inserted "Kim and Huy".
  4. On page 13 of the Stipulation, Standard 2.10, line 2, "Rule 3-700(D)(1)" is deleted, and in its place is inserted "Rule 1-300(A)".



(Do not write above this line.)

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.)**

10-12-11

Date

  
Richard A. Honn  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 13, 2011, 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:

DAVID ALAN CLARE  
DAVID A CLARE, ATTORNEY AT LAW  
444 W OCEAN BLVD STE 800  
LONG BEACH, CA 90802

- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- ☐ by overnight mail at , California, addressed as follows:

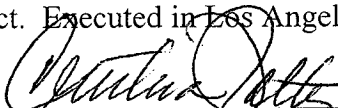
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Anthony J. Garcia, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 13, 2011.

  
Cristina Potter  
Case Administrator  
State Bar Court