

State Bar Court of California  
Hearing Department  
San Francisco

<p>Counsel For The State Bar</p> <p><b>Robert A. Henderson</b> 180 Howard St. San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # 173205</p>	<p>Case Number (s) 07-O-10367; 07-O-12271; 07-O-12394; 07-O-12513; 07-O-12714</p>	<p>(for Court's use)</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>[Signature]</i></p> <p>OCT 29 2008</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>Timothy R. Gelegan</b> 2110 N. Palm Ave. Fresno, CA 93704</p> <p>Bar # 100773</p>	<p>Submitted to: <b>Settlement Judge</b></p>	
<p>In the Matter Of: <b>Gelegan</b></p> <p>Bar # 100773</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><del>ACTUAL SUSPENSION</del>    <b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **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 **13** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any



pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- until costs are paid in full, Respondent will remain ~~actually suspended from~~ <sup>ineligible to seek reinstatement to</sup> the practice of law ~~until~~ <sup>until he pays all disciplinary costs,</sup> ~~reliefs obtained per rule 284, Rules of Procedure~~ pursuant to rule 662(c), Rules of Procedure.
- costs to be paid in equal amounts prior to February 1 for the following membership years: (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. **See Stipulation Attachment. As a result of respondent's actions, the State Bar Client Security Fund paid restitution as follows: 1) \$10,000 to Jack Arikian; 2) \$13,600 to Steve and Kate Volkov; 3) \$32,500 to Robert House; 4) \$33,000 to Marie Vargas.**
- (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. **See Stipulation Attachment.**
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

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

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

**Additional mitigating circumstances**

**Respondent had no prior record of discipline over many years of practice.**

**Respondent paid restitution to Richard Boss and Kenneth Boss as detailed in the Stipulation Attachment.**

**D. Discipline:** DISBARMENT

\_\_\_\_\_  
Respondent's Initials

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law for a period of
- 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 \_\_\_\_\_, 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
- 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: **Disbarment.**
- (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: **Disbarment.**

- (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:**

Attachment language begins here (if any):

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

IN THE MATTER OF: Timothy R. Gelegan

CASE NUMBER(S): 07-O-10367; 07-O-12271; 07-O-12394; 07-O-12513; 07-O-12714.

**FACTS AND CONCLUSIONS OF LAW.**

Facts 07-O-10367 (Richard Boss)

In 2002, Richard Boss was assaulted by Anthony Sandoval. On June 9, 2003, Richard Boss hired respondent to represent him in a tort matter against Anthony Sandoval. On February 6, 2004, respondent filed *Richard Boss vs. Anthony Sandoval* ("Boss v. Sandoval"), case no. 03CECG03628. On April 5, 2006 *Boss v. Sandoval* settled for \$60,000. On April 7, 2006, California State Automobile Association wrote check no. 710 H823880-O-R in the amount of \$60,000 made payable to "Richard Boss and His Attorney Timothy R. Gelegan." On April 11, 2006, respondent received check no. 710 H823880-O-R and deposited it into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. Richard Boss was entitled to \$48,000 of the funds. Between April 11, 2006 and March 1, 2008, respondent provided none of the funds to Richard Boss, nor did he pay any of the funds to others for the benefit of Richard Boss. Respondent misappropriated the funds owed to Richard Boss for his own use and benefit. On November 3, 2006 and again on December 12, 2006, respondent's attorney client trust account had a negative balance. On July 31, 2007, respondent closed his attorney client trust account with a zero balance. In March 2008, respondent paid restitution in full to Richard Boss.

Facts 07-O-10367 (Richard Boss and Kenneth Boss)

In 2005, respondent started assisting Richard Boss in dealing with various issues relating to Richard Boss' son Kenneth Boss. On August 19, 2005, Richard Boss obtained a power of attorney over Kenneth Boss' affairs. In November 2005, Kenneth Boss was arrested. In November 2005, Richard Boss secured the release of his son Kenneth Boss, by providing a bail bondsman \$6,000 and agreeing to maintain contact and control over his son. In March 2006, Kenneth Boss left the control of Richard Boss, which triggered an obligation to inform the bail bondsman. In March 2006, Richard Boss notified the bail bondsman that Kenneth Boss was no longer under his control. The bail bondsman informed Richard Boss that he would have to provide the full \$60,000 to the bail bondsman. Richard Boss using his power of attorney for Kenneth Boss, allowed the bail bondsman to secure the \$60,000 by placing a lien on Kenneth Boss' home, which was in foreclosure. On March 17, 2006, the bail bondsman received \$60,000 from the sale of Kenneth Boss' home. On July 10, 2006, after Kenneth Boss' criminal trial, respondent requested the return of the \$60,000 from the bail bondsman. On July 13, 2006, the bail bondsman returned \$60,619.34, by way of First Commercial Bank of Florida cashier's check no. 28606 made payable to Ken Boss on behalf of Dick Boss and Timothy R. Gelegan. On July 14, 2006, respondent received check no. 28606 and deposited

it into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. Between July 14, 2006 and March 1, 2008, respondent provided none of the funds to Richard Boss or Kenneth Boss, nor did he pay any of the funds to others for the benefit of Kenneth Boss or Richard Boss. Respondent misappropriated the funds owed to Kenneth Boss for his own use and benefit. On November 3, 2006 and again on December 12, 2006, respondent's attorney client trust account had a negative balance. On July 31, 2007, respondent closed his attorney client trust account with a zero balance. In March 2008, respondent paid restitution in full to Kenneth Boss.

Conclusions of Law 07-O-10367 (Richard Boss)

By failing to maintain \$48,000 on behalf of Richard Boss in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A)

By misappropriating \$48,000 from Richard Boss, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Conclusions of Law 07-O-10367 (Richard Boss and Kenneth Boss)

By failing to maintain \$60,619.34 on behalf of Kenneth Boss, in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A).

By misappropriating \$60,619.34 from Kenneth Boss, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Facts 07-O-12271 (Jack Arikian)

On August 31, 2003, Jack Arikian was involved in an accident wherein his automobile was rear-ended by a truck belonging to Budget Truck Rental Co. On September 16, 2003, Jack Arikian hired respondent to represent him in personal injury action against Budget Truck Rental Co. On March 16, 2004, respondent sent the claims administrator for Budget Truck Rental Co. a letter stating that he represented Jack Arikian. On January 18, 2005, respondent sent a demand for \$15,000 to Budget Truck Rental Co. On January 26, 2005, Budget Truck Rental agreed to settle the matter for \$15,000. On January 27, 2005, Budget Truck Rental Co. sent respondent a letter with a release for the matter. On February 1, 2005, Budget Truck Rental Co. sent respondent check no. 3195152, in the amount of \$15,000 made payable to Jack Arikian and Timothy R. Gelegan. On February 3, 2005, respondent received check no. 3195152 and deposited it into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. Jack Arikian was entitled to some of these funds. Thereafter respondent provided none of the funds to Jack Arikian, although he did pay some costs. The State Bar Client Security Fund paid \$10,000 to Jack Arikian as a result of respondent's actions. Respondent misappropriated at least \$8,500 of the funds owed to Jack Arikian for his own use and benefit. On November 3, 2006 and again on December 12, 2006, respondent's attorney client trust account had a negative balance. On July 31, 2007, respondent closed his attorney client trust account with a zero balance.

Conclusions of Law 07-O-12271 (Jack Arikian)



By failing to maintain at least \$8,500 on behalf of Jack Arikian, in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A).

By misappropriating at least \$8,500 from Jack Arikian, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Facts 07-O-12394 (Steve and Kate Volkov)

On December 24, 2003, Steve and Kate Volkov were involved in an auto accident when their automobile was struck by another automobile driven by Reynaldo Robles. In February 2004, Steve and Kate Volkov hired respondent to represent them in the matter against Reynaldo Robles. The contract called for a contingent fee of 40% plus costs if the matter settled after filing. On March 23, 2005, respondent filed *Steve and Kate Volkov vs. Reynaldo A. Robles*, case no. 05CECG00888. In July 2005, respondent accepted, with the authorization of Steve and Kate Volkov, a settlement offer of \$46,000. In August 2005, respondent received from California State Automobile Association, in settlement of *Steve and Kate Volkov vs. Reynaldo A. Robles*, case no. 05CECG00888 a check in the amount of \$46,000. On August 5, 2005, respondent deposited the check from California State Automobile Association in the amount of \$46,000 into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. Pursuant to contract Steve and Kate Volkov were entitled to \$27,600 of the settlement funds, less costs. Respondent did advance costs of approximately \$2,000. On May 8, 2006, respondent provided Steve and Kate Volkov \$7,000. Respondent also paid an additional \$7,000 to Steve and Kate Volkov out of an account other than his Attorney Client Trust Account. Other than the \$14,000 paid by respondent to Steve and Kate Volkov, and the advanced costs, respondent did not provide any other funds to or for the benefit of Steve and Kate Volkov. Thereafter, respondent misappropriated at least \$11,600 in funds belonging to Steve and Kate Volkov for his own use and benefit. The State Bar Client Security Fund paid \$18,666.00 to Steve and Kate Volkov as a result of respondent's actions. On November 3, 2006 and again on December 12, 2006, respondent's attorney client trust account had a negative balance. On July 31, 2007, respondent closed his attorney client trust account with a zero balance.

Conclusions of Law 07-O-12394 (Steve and Kate Volkov)

By failing to maintain at least \$11,600 on behalf of Steve and Kate Volkov, in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A).

By misappropriating at least \$11,600 from Steve and Kate Volkov, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Facts 07-O-12513 (Robert House)

In June 2003, Robert House was involved in an accident involving his truck and a big-rig vehicle. In August 2003, Robert House hired respondent to represent him in a personal injury matter against the driver of the big-rig vehicle. The contract called for respondent to receive 40% plus costs of any settlement after filing. On May 31, 2005, respondent filed *Robert Thomas House vs. Carry Taylor Brown, Stevens Transport and Does 1 to 50*, case no. 05-214590. In June 2006 the matter went to mediation and was settled. On July 27,

2006, Stevens Transport sent respondent check no. 399760, in the amount of \$48,750 made payable to Robert Thomas House & His Attorneys Law Offcs. of Timothy R. Gelegan. On August 3, 2006, respondent deposited the check from Stevens Transport in the amount of \$48,750 into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. On August 21, 2006, Robert House signed the settlement agreement and release. Robert House was entitled to \$29,250 of the settlement funds. Thereafter respondent provided none of the funds to Robert House. Respondent was entitled to costs of approximately \$5,000. Respondent misappropriated at least \$24,250 of the funds owed to Robert House for his own use and benefit. The State Bar Client Security Fund paid \$32,500.00 to Robert House as a result of respondent's actions. On November 3, 2006 and again on December 12, 2006, respondent's attorney client trust account had a negative balance. On July 31, 2007, respondent closed his attorney client trust account with a zero balance.

Conclusions of Law 07-O-12513 (Robert House)

By failing to maintain at least \$24,250 on behalf of Robert House, in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A).

By misappropriating at least \$24,250 from Robert House, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Facts 07-O-12714 (Marie Vargas)

On June 13, 2005, Marie Vargas was involved in an automobile accident with Nathaniel Navarro and Dorothy Wilson. On June 15, 2005, Marie Vargas hired respondent to represent her in a personal injury matter against Nathaniel Navarro and Dorothy Wilson. The contract provided for respondent to receive 40% plus costs of any settlement amount after filing. On May 23, 2006, respondent filed *Marie Varga vs. Nathaniel Navarro, Dorothy Wilson and Does 1 to 50*, case no. 06-CE CG 01684 MWS. The case settled in December 2006. On December 19, 2006, California Casualty Group issued check no. 7000085782 in the amount of \$50,000 made payable to Maria Vargas & her attorney Timothy Gelegan for full and final settlement. On December 21, 2006, respondent deposited California Casualty Group check no. 7000085782 in the amount of \$50,000 into his WestAmerica Bank Attorney Client Trust Acct. no. 254-96480-2. Marie Vargas was entitled to \$30,000 of the settlement funds less costs. Respondent advanced approximately \$1,500 in costs. Thereafter respondent provided none of the funds to Marie Vargas, nor did he pay any of the funds to others for the benefit of Marie Vargas. Respondent misappropriated at least \$28,500 of the funds owed to Marie Vargas for his own use and benefit. The State Bar Client Security Fund paid \$33,333.00 to Marie Vargas as a result of respondent's actions. On July 31, 2007, respondent's attorney client trust account was closed with a zero balance.

Conclusions of Law 07-O-12714 (Marie Vargas)

By failing to maintain at least \$28,500 on behalf of Marie Vargas, in his Attorney Client Trust Account, respondent wilfully failed to maintain funds received for the benefit of a client in an Attorney Client Trust Account in violation of California Rules of Professional Conduct, rule 4-100(A).

By misappropriating at least \$28,500 from Marie Vargas, respondent wilfully committed an act of moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(7), was September 16, 2008. Respondent acknowledges that this stipulation does not cover the following investigation and inquiries:

07-O-10901 (SBI)  
07-O-12636 (Emmersen)  
07-O-12681 (McCullar)  
07-O-12682 (Rau)  
07-O-12826 (Jones)

07-22771 (Matthews)  
07-23083 (Kandarain)  
07-23341 (Loya)  
07-24207 (Banks)  
07-25124 (Karoly)  
07-25522 (Gillispie)  
07-25587 (Anderson)  
07-26844 (Charles-Rego)  
07-27959 (McGeorge)  
07-28859 (Diaz)  
08-13105 (Pacilli)

Respondent acknowledges that should respondent file a Petition for Reinstatement, the State Bar may raise these matters as part of the reinstatement proceedings.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 16, 2008, the costs in this matter are \$8,541.70 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 2.2(a) – Culpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment.

Standard 2.3 – Culpability of a member of an act of moral turpitude, fraud or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.

*Rogers v. State Bar* (1980) 28 Cal.3d 654 – Rogers was disbarred for misappropriating over \$9,000, refusing to communicate with clients, and misleading them as to the status of their funds.

**FINANCIAL CONDITIONS, RESTITUTION.**

Respondent prior to any Petition for Reinstatement must make restitution to the Client Security Fund if it has paid, in the principal amount paid plus interest at the rate of 10% per annum from the date paid and furnish satisfactory evidence of restitution to the Office of Probation.

**FINANCIAL CONDITIONS, RESTITUTION.**

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

This Stipulation does not preclude or stay the independent review and payment of applications for reimbursement filed against the Respondent pursuant to the Rules of Procedure, Client Security Fund Matters.

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

(Do not write above this line.)

In the Matter of Timothy R. Gelegan	Case number(s): 07-O-10367; 07-O-12271; 07-O-12394; 07-O-12513; 07-O-12714
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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.

10/3/08  
Date

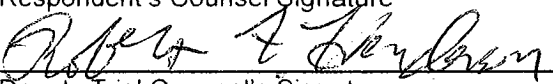
  
\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Timothy R. Gelegan  
Print Name

\_\_\_\_\_  
Date

10/6/08  
Date

\_\_\_\_\_  
Respondent's Counsel Signature

  
\_\_\_\_\_  
Deputy Trial Counsel's Signature

\_\_\_\_\_  
N/A  
Print Name

\_\_\_\_\_  
Robert A. Henderson  
Print Name

(Do not write above this line.)

In the Matter Of <b>Timothy R. Gelegan</b>	Case Number(s): <b>07-O-10367; 07-O-12271; 07-O-12394; 07-O-12513; 07-O-12714</b>
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### ORDER

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

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

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

Date

October 29, 2008

Pat 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 October 29, 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:

**TIMOTHY RAYMOND GELEGAN  
2110 N PALM AVE  
FRESNO, CA 93704**

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:

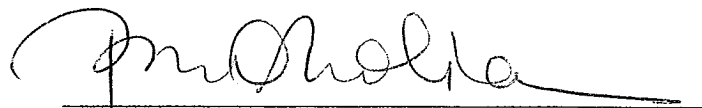
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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:

**ROBERT HENDERSON, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 29, 2008.



Bernadette C.O. Molina  
Case Administrator  
State Bar Court