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State Bar Court of California Hearing Department Los Angeles		
<p>Counsel For The State Bar</p> <p>ELINA KREDITOR DEPUTY TRIAL COUNSEL 1149 SOUTH HILL STREET, 5TH FLOOR LOS ANGELES, CA 90015-2299 TELEPHONE: (213) 765-1714 FAX: (213) 765-1319</p> <p>Bar # 228256</p>	<p>Case Number (s) 07-0-11860</p> <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p>	<p>(for Court's use)</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center;">JAN 13 2010</p> <p style="text-align: center; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>VICTOR S. PALACIOS 8456 SIERRA AVE., SUITE 205 FONTANA, CA 92335 TELEPHONE: (909) 356-9595 FAX: (909) 356-9594</p> <p>Bar # 55986</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter Of: VICTOR S. PALACIOS</p> <p>Bar # 55986</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>PUBLIC REPROVAL</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 June 28, 1973.
- (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 9 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."



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- (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):
- costs added to membership fee for calendar year following effective date of discipline (public reproof)
 - case ineligible for costs (private reproof)
 - costs to be paid in equal amounts for the following membership years: three billing cycles following the effective date of discipline in this matter.
(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
- (9) The parties understand that:
- (a) A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
 - (b) A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
 - (c) A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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 02-0-12536
 - (b) Date prior discipline effective July 16, 2003
 - (c) Rules of Professional Conduct/ State Bar Act violations: 3-110(A) of the Rules of Professional Conduct; Section 6068(m) of the Business and Professions Code.
 - (d) Degree of prior discipline Public Reproof.

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

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ 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

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any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

D. Discipline:

- (1) **Private reproof (check applicable conditions, if any, below)**
- (a) Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2) **Public reproof (Check applicable conditions, if any, below)**

E. Conditions Attached to Reproval:

- (1) Respondent must comply with the conditions attached to the reproof for a period of one year.
- (2) During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent

must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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) 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 within one year of the effective date of the reprobation.
- No MPRE recommended. Reason: _____
- (11) 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:

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: VICTOR S. PALACIOS

CASE NUMBER(S): 07-O-11860

FACTS AND CONCLUSIONS OF LAW

Victor S. Palacios ("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.

I. Facts

1. On June 11, 2006, Mark A. Samuel ("Samuel") and his brother Maurice Woodley ("Woodley") were involved in a motor vehicle accident ("the accident").
2. On June 19, 2006 Samuel and Woodley went to Respondent's law offices, seeking representation in connection with claims arising out of the accident. Woodley and Samuel met with Respondent's assistant, Mary Avalos, and signed a single "Retainer for Legal Services," which was countersigned "Mary Avalos for Victor Palacios."
3. The "Retainer for Legal Services" did not contain any disclosures regarding an actual or potential conflict of interest between Woodley and Samuel, nor was there a separate writing that contained such disclosures.
4. Respondent did not personally advise Samuel and Woodley of the potential conflict in Respondent's representation of both clients in relation to claims arising out of the accident. Nor did Respondent obtain Samuel and Woodley's informed written consent to such representation.
5. On or about November 1, 2006, Samuel terminated Respondent. Respondent provided Samuel the client file and contacted GEICO, placing a lien on any recovery in Samuel's case.
6. Samuel subsequently employed attorney Thomas Cummings ("Cummings") to represent him in connection with claims arising out of the accident. The case subsequently settled.
7. Cummings requested that Respondent provide a Notice of Lien and a time log of Respondent's work on the case. Respondent did not file a Notice of Lien or provide an accounting to Samuel or Cummings to substantiate the lien placed with GEICO, thereby delaying Samuel's receipt of his share of the recovery.
8. To date, Respondent has not provided an accounting to substantiate the lien; the disputed attorney's fees, in the amount of \$2500, are held in a trust account by attorney Cummings.

II. Conclusions of Law

Respondent willfully violated Rules of Professional Conduct, rule 3-310(C)(1), by engaging in the representation of Samuel and Woodley without obtaining the informed written consent of both clients indicating their awareness of a potential conflict. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A) by failing to perform legal services with competence by timely providing an accounting substantiating the lien placed with GEICO and delaying receipt of the full recovery amount due to Samuel.

ADDITIONAL CONDITIONS AND TERMS OF THE PUBLIC REPROVAL

Within 14 days of Respondent's signature of this stipulation, Respondent shall authorize attorney Thomas Cummings to release to Mark Samuel \$2500, currently held in a trust account by Cummings, provided Cummings has satisfied all outstanding medical liens stemming from Samuel's medical treatment following the accident. The authorization shall be in writing. A copy of the authorization to be signed and mailed by Respondent, is attached hereto as Exhibit A.

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was December 17, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 6, 2009, the costs in this matter are \$1,983.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AGGRAVATING CIRCUMSTANCES

Standards 1.2(b)(i) and 1.7(a):

Standard 1.2(b)(i) provides that the existence of prior record of discipline and the nature and extent of that record must be considered in aggravation. Standard 1.7(a) provides. "[T]he degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust."

Respondent signed a Stipulation Regarding Facts, Conclusions of Law and Disposition on May 29, 2003 in State Bar Case No. 02-O-12536.

In that matter, Respondent admitted to failing to file a brief explaining the late receipt of his client's asylum application, thereby failing to perform with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct. Respondent further admitted to willful violation of section 6068(m) of the Business and Professions Code for failure to advise his client of his move to California and his referral of the case to another attorney.

Pursuant to the terms of the stipulation, Respondent was publicly reprimanded, ordered to attend State Bar Ethics School and make restitution to his former client. The discipline became effective on July 16, 2003.

MITIGATING CIRCUMSTANCES

Respondent has cooperated with the State Bar throughout the investigation of this matter.

AUTHORITIES SUPPORTING DISCIPLINE

Standard 1.7(a) of the Standards for Attorney Sanctions for Professional Misconduct ("Standard(s)") provides that where a member has previously been found culpable of any misconduct, the degree of discipline imposed shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Standard 2.4(b) of the Standards provides that "Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reprimand or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.10 of the Standards provides that culpability of a member of a willful violation of any Rules of Professional Conduct not specified in these standards shall result in reprimand or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

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In the Matter of VICTOR S. PALACIOS	Case number(s): 07-0-11860
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SIGNATURE OF THE PARTIES

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

<u>12-22-09</u> Date	<u><i>Victor S. Palacios</i></u> Respondent's Signature	<u>VICTOR S. PALACIOS</u> Print Name
<u>12/23/09</u> Date	<u><i>[Signature]</i></u> Deputy Trial Counsel's Signature	<u>ELINA KREDITOR</u> Print Name

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In the Matter Of VICTOR PALACIOS	Case Number(s): 07-O-11860
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ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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 125(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

1-8-10 _____
Date Judge of the State Bar Court

LAW OFFICES OF
VICTOR S. PALACIOS & ASSOCIATES, INC.

8456 Sierra Ave., Suite 205

P.O. Box 458

Fontana, CA 92334-0458

Telephone: (909) 356-9595 (951) 243-9272 Facsimile: (909) 356-9594

December 16, 2009

Law Office of Thomas Cummings
c/o Thomas Cummings, Esq.
32295 Mission Trail #260
Lake Elsinore, CA 92530

Re: MARK SAMUEL

Dear Mr. Cummings,

The instant is to authorize you to disburse any balances held in trust by you to Mr. Mark Samuel after the payment of any outstanding medical liens in the case.

I waive any fees and costs to which I may have had a claim therein.

Yours truly,

The Law Offices of
VICTOR S. PALACIOS & ASSOCIATES, INC.

Victor S. Palacios, Esq.
Attorney at Law

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 13, 2010, 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:

VICTOR S. PALACIOS
VICTOR S PALACIOS & ASSOCIATES, INC
8456 SIERRA AVE STE 205
FONTANA, CA 92335 - 3849

- 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:

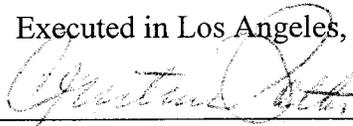
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- 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:

Elina Kreditor, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 13, 2010.



Cristina Potter
Case Administrator
State Bar Court