

(Do not write on this form) **LODGED**

~~JUN 17 2010
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES~~

**State Bar Court of California
Hearing Department
Los Angeles
ALTERNATIVE DISCIPLINE PROGRAM**

Counsel For
**MONIQUE T. MILLER
DEPUTY TRIAL COUNSEL
1149 South Hill Street
Los Angeles, California 90015-2299
213-765-1486**

Case Number (s)
07-O-12234

(for Court's use)

FILED
MAY 11 2011
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

Bar # 212469
Counsel For Respondent
**Paul J. Virgo
P.O. Box 67682
Los Angeles CA 90067-0682
Tel: (310) 642-6900**

Bar # 67900
In the Matter Of:
Richard Frank Pintal

Bar # 152727
A Member of the State Bar of California
(Respondent)

Submitted to: **Program Judge**

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

PREVIOUS STIPULATION REJECTED

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 6, 1991.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 6 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

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 S107073 (01-O-00603; 01-O-00607; 01-O-00609)
 - (b) Date prior discipline effective September 1, 2002
 - (c) Rules of Professional Conduct/ State Bar Act violations: RPC 3-310(A); B&PC §6068(m)
 - (d) Degree of prior discipline Sixty(60) days Actual; (One (1) year Stayed/Three (3) years Probation)
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below:

B(1)(e) -S049766 (93-O-19021) effective 2/10/96. Violated RPC 3-110(A), (4 counts); 3-700(A); 3-700(B); B&PC 6068(m) (2 counts); 6068(i) (4 counts); 6103; 6068(o)(3). One Hundred Twenty (120) days Actual (Two(2) years Stayed/Two (2) years Probation)
-S049859 (98-O-01388) effective 5/6/01. Violated RPC 3-700(A)(2); B&PC 6103. No actual (Six (6) months Stayed/Two (2) years Probation)
- (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 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:

ATTACHMENT TO

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

IN THE MATTER OF: Richard Frank Pinal

CASE NUMBER: 07-O-12234

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties hereby waive any variance between the Notice of Disciplinary Charges (“NDC”) filed on October 9, 2008 in Case No. 07-O-12234, and the facts and conclusions of law contained in this stipulation.

Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges relating to the cases that are the subject matter of this stipulation.

INCORPORATION OF PRIOR STIPULATION

This stipulation is an addendum intended to supplement the Stipulation re: Facts and Conclusions of Law in Case No. 06-O-12774, which the parties lodged with this Court on September 5, 2007 (the “Prior Stipulation”). The Prior Stipulation is also incorporated as if fully set forth herein.

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

FACTS AND CONCLUSIONS OF LAW IN CASE NO. 07-O-12234

FACTS

1. From September 2002 to the present, Respondent’s Membership Records Address has been P.O. Box 25399, Los Angeles, CA 90025.
2. In 2006 and 2007, Respondent sublet office space at 468 North Camden Avenue, Beverly Hills (the “Camden address”), in order to be able to use a conference room by prior appointment to meet with clients.
3. In 2006, Respondent met a paralegal Gary Didio (“Didio”) and his assistant Victor Barbenes (“Victor”) at the Camden address. Respondent employed Didio for a brief period of time as a paralegal, then fired him when he discovered that Didio was a drug addict.
4. In October 2006, unbeknownst to Respondent, Nadia Ponce (“Ponce”) met with Didio, believing Didio to be attorney Richard Pinal. Ponce, who did not speak and read English, signed a retainer agreement employing Respondent to represent Jaime Efrain Cortez (“Cortez”) in his criminal appeal pending in the U.S. Court of Appeals for the Ninth Circuit (the “Court of Appeal”) entitled, *United States of America v. Jaime Efrain Villa Cortez*, docket number 06-50382. Ponce agreed to a retainer of \$15,000. Above Respondent’s printed name and where Respondent’s signature would go, Didio

signed his own name. At that first October 2006 meeting, Ponce gave Didio \$5,000 cash. Didio gave Ponce a handwritten receipt signed "Gary Didio."

5. In November 2006, Didio went to Ponce's residence to pick up an additional \$7,000. Didio gave Ponce a second handwritten receipt signed Didio.
6. In December 2006, Victor Barbenes went to Ponce's residence to pick up an additional \$7,000. Victor Barbenes identified himself to Ponce as "Victor".
7. In or about January 2007, Didio was found dead, in a hotel room in Las Vegas from overdose.
8. In May 2007, the State Bar opened an investigation identified as case number 07-O-12234, concerning a complaint submitted by Cortez against Respondent.
9. On September 21, 2007, a State Bar investigator sent a letter to Respondent's counsel requesting a response to the allegations raised by Cortez's complaint by October 9, 2007. Respondent and Respondent's counsel did not respond to the letter.
10. On November 8, 2007, the State Bar investigator sent a follow-up letter to Respondent's counsel regarding Cortez's complaint. Respondent's counsel notified Respondent of the receipt of the State Bar's letter.
11. On March 3, 2008, the State Bar investigator sent a third letter to Respondent's counsel who again notified Respondent of the receipt of the letter. Respondent emailed his counsel that he need additional time.
12. Between March 18, 2008 and August 5, 2008, Respondent further delayed providing a response to the allegations of misconduct against him.
13. By not responding to any of the investigator's letters, Respondent wilfully failed to cooperate and participate in a disciplinary investigation pending against Respondent.

CONCLUSIONS OF LAW

14. By failing to respond to any of the investigator's letters, Respondent wilfully failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code, section 6068(i).

RULE 133 NOTICE OF PENDING PROCEEDINGS

Respondent was notified in writing of any pending investigations not included in this stipulation, pursuant to Rule 133(12), on November 30, 2009.

(Do not write above this line.)

In the Matter of RICHARC FRANK PINTAL	Case number(s): 07-O-12234
--	-------------------------------

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

12/7/09
Date


Respondent's Signature

RICHARD FRANK PINTAL
Print Name

12/7/2009
Date


Respondent's Counsel Signature

PAUL J. VIRGO
Print Name

December 9, 2009
Date


Deputy Trial Counsel's Signature

MONIQUE T. MILLER
Print Name

(Do not write above this line.)

In the Matter Of RICHARD FRANK PINTAL	Case Number(s): 07-O-12234
---	--------------------------------------

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(a), Rules of Procedure.)

Date 10-17-10


Judge of the State Bar Court

RICHARD A. PLATEL

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 June 18, 2010, I deposited a true copy of the following document(s):

AGREEMENT AND ORDER AMENDING CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM

ORDER AMENDING CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

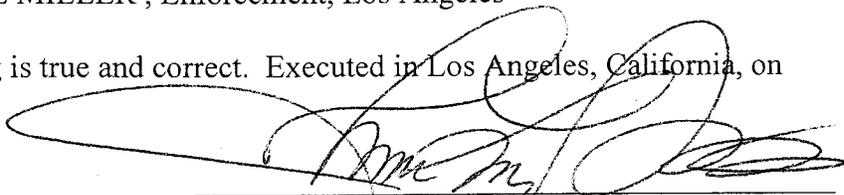
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL JEAN VIRGO
PO BOX 67682
LOS ANGELES, CA 90067 - 0682

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

MONIQUE MILLER , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 18, 2010.



Johnnie Lee Smith
Case Administrator
State Bar Court