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

<p>Counsel For The State Bar</p> <p>Dane C. Dauphine Assistant Chief Trial Counsel 1149 South Hill St. Los Angeles, CA 90015-2299 (213) 765-1293</p> <p>Bar # 121606</p>	<p>Case Number(s): 07-O-13112 08-O-12454 09-O-10794 09-O-13797 10-O-03264</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> <i>ADS</i></p> <p>NOV 16 2011</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Gary P. Crowder 5320 Carpinteria Ave., Ste. B Carpinteria, CA 93013 (805) 684-5995</p> <p>Bar # 188966</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: Gary Paul Crowder</p> <p>Bar # 188966</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 9, 1997.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 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 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 and 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.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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. Respondent's misconduct occurred in five separate client matters.
- (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. Respondent has stipulated to the misconduct in these matters.
- (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:**

Respondent has no prior discipline following his admission to the State Bar in 1997.

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of two (2) years.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.

- (2)  **Probation:**

Respondent must be placed on probation for a period of Three (3) 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 six (6) 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.

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- (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**

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**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:**

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In the Matter of: Gary Paul Crowder	Case Number(s): 07-O-13112, 08-O-12454, 09-O-10794, 09-O-13797, 10-O-03264
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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
German Zamudio-Guzman c/o Edel Ruiseco	\$10,000	May 20, 2005

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

### 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
German Zamudio-Guzman c/o Edel Ruiseco	\$2,500	quarterly

- 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 a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has 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: Gary Paul Crowder, no. 188966

CASE NUMBER(S): 07-O-13112, 08-O-12454, 09-O-10794, 09-O-13797,  
10-O-03264

**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-13112 (Complainant: Martha Ordaz)

**FACTS:**

1. On or about March 15, 2007, Gilberto Ordaz-Chavez ("Ordaz") was arrested and detained at the Mira Loma Detention Facility (Mira Loma"). He had previously been ordered deported to Mexico on or about April 9, 2001.
2. On or about March 18, 2007, Ordaz hired Respondent to file a motion to represent him in his immigration matter, in part to file a motion to reopen the case. At that time, Ordaz's wife, Martha Ordaz ("Martha"), paid \$2,500 in advanced fees to Respondent for his representation of Ordaz.
3. On or about April 14, 2007, Respondent filed on behalf of Ordaz a Request for Parole with Reasonable Bond with a deportation officer at Mira Loma. No filing fee was required to be paid for the Request for Parole.
4. On or about May 9, 2007, Respondent's employee, Jorge Ortega ("Ortega"), contacted Martha and requested that she pay additional advanced fees and costs in the amount of \$835, consisting of \$450 as advanced costs for the court filing fee for a motion to reopen and \$385 as advanced fees. On or about May 9, 2007, Martha paid \$835 to Respondent, as requested by Ortega.
5. On or about June 1, 2007, Ordaz was released on bond and placed on house arrest.
6. On or about June 4, 2007, Ordaz and Martha met with Respondent, who informed them that he would require \$6,000 in additional funds to continue to represent Ordaz. Ordaz declined to pay additional funds. At that point, Respondent withdrew from representation and did not file a motion to reopen on behalf of Ordaz.
7. In total, Respondent had received from or on behalf of Ordaz \$2,885 in advanced fees and \$450 in advanced costs (for the court filing fee for a motion to reopen). Respondent did not provide Ordaz with any accounting to show what fees had been earned and what costs had been incurred. In or about July 2007, Ordaz requested that Respondent refund the advanced fees and advanced costs paid to him. Respondent did not provide Ordaz with any refund of unearned fees or return the advanced costs.

8. In or about November 2010, at the request of the State Bar, Respondent finally provided Ordaz with an accounting of fees and costs. In the accounting, Respondent alleged that the advanced fees he received from Ordaz were fully earned. Respondent did not claim that any court filing fee had been paid.

9. Respondent did not file any motions on behalf of Ordaz and did not incur costs for any court filing fee on his behalf. Respondent did not return to Ordaz any portion of the \$450 in advanced costs paid to him until in or about May 2011 after contact by the State Bar.

10. In or about July 2007, and the State Bar initiated an investigation based upon the complaint by Ordaz and Martha to the State Bar regarding Respondent's conduct in Ordaz's case. On November 21, 2007 and December 20, 2007, a State Bar investigator mailed letters to Respondent at his State Bar membership address requesting a written response to allegations raised in Ordaz's complaint. Respondent received the letters. Respondent did not provide the State Bar with a written response or otherwise participate in the investigation.

#### CONCLUSIONS OF LAW:

11. By failing to promptly provide Ordaz with an accounting of fees and costs, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

12. By failing to return advanced costs to Ordaz until almost four years after the termination of his employment, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

13. By not providing a written response to Ordaz's complaint or otherwise cooperating with the State Bar's investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code, section 6068(i).

#### Case No. 08-O-12454 (Complainant: Jessica Hernandez)

#### FACTS:

14. On or about September 1, 2006, Sebastian Hernandez Sr. hired Respondent to represent his 14 year-old son, Giovanni Hernandez ("Giovanni"), in a criminal matter in which Giovanni was charged with murder, among other charges.

15. On or about September 1, 2006, Mr. Hernandez and his wife paid \$5,000 in advanced fees to Respondent on behalf of Giovanni. Thereafter, Giovanni's family paid further advanced fees to Respondent totaling approximately \$27,000. Respondent did not have a written fee agreement with Giovanni or his family.

16. On or about January 31, 2008, Robert Schwartz substituted in as Giovanni's counsel in place of Respondent. On or about February 24, 2008, Jessica Hernandez, Giovanni's sister, mailed a letter to Respondent on behalf of Giovanni and his family which requested a refund of the advanced fees paid to Respondent. Respondent received the letter. Respondent did not respond to Jessica's request for a refund.

17. On or about April 16, 2008, Jessica called Respondent and spoke to him. Respondent informed Jessica that he had been too busy to review her letter but promised to do so and get back to her. Thereafter, Respondent did not provide any refund of unearned fees or promptly account for the fees received for his representation of Giovanni.

18. In or about November 2010 at the request of the State Bar, Respondent provided an accounting of fees to Giovanni to support his claim that all advanced fees received were fully earned.

#### CONCLUSIONS OF LAW:

19. By failing to provide a prompt accounting of fees, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

#### Case No. 09-O-10794 (State Bar Investigation regarding Sanctions)

#### FACTS:

20. On June 5, 2006, Respondent filed a petition for review in the U. S. Court of Appeals for the Ninth Circuit ("Ninth Circuit") on behalf of Conrado Ayala-Garcia ("Garcia") in an appeal from the Board of Immigration Appeals ("BOIA") entitled *Conrado Ayala-Garcia v. Michael B. Mukasey, Attorney General*, case no. 06-72900 (the "Garcia matter").

21. On June 6, 2006, Respondent filed a motion to stay deportation on behalf of Garcia and continued to represent him in the Garcia matter until December 26, 2007, at which time the court granted the Attorney General's motion to dismiss.

22. On December 26, 2007, the Ninth Circuit ordered Respondent to show cause within 28 days why it should not impose monetary sanctions of not less than \$1,000 and take other actions for conduct unbecoming a member of the bar and for Respondent's repeated violations of the court's orders and rules (the "Garcia OSC").

23. On December 26, 2007, the Garcia OSC was served on Respondent by certified mail at his State Bar membership address. Respondent received the Garcia OSC. Respondent did not respond to the Garcia OSC.

24. On March 14, 2008, the Ninth Circuit ordered Respondent to pay sanctions in the amount of \$1,000 within 21 days. The sanctions order was served on Respondent by certified mail at his State Bar membership address. Respondent received the sanctions order. Respondent did not pay the sanctions to the Ninth Circuit.

25. Beginning in or about April 2007, Respondent was representing Maria Aguirre-Pineda ("Pineda") in the U. S. Court of Appeals for the Ninth Circuit ("Ninth Circuit") in the matter entitled *United States of America v. Maria Elena Aguirre-Pineda*, case no. 07-50196 (the "Pineda matter"). The Pineda matter was an appeal of a criminal matter.

26. On October 29, 2007, the Ninth Circuit issued an order in the Pineda matter that Respondent show cause within 14 days why it should not impose monetary sanctions of not less than \$1,000 for

failure to comply with the court's orders and rules (the "Pineda OSC"). On October 29, 2007, the Pineda OSC was served on Respondent by certified mail at his State Bar membership address and by facsimile transmission. Respondent received the Pineda OSC. Respondent did not respond to the Pineda OSC.

27. On March 3, 2008, Pineda filed a motion for the appointment of pro bono counsel. On March 24, 2008, the Ninth Circuit granted Pineda's motion for appointment of counsel and ordered counsel to be appointed.

28. On March 21, 2008, the Ninth Circuit ordered Respondent to pay sanctions in the amount of \$1,000 by April 11, 2008. The sanctions order was served on Respondent by certified mail at his State Bar membership address. Respondent received the sanctions order. Respondent did not pay the sanctions to the Ninth Circuit.

29. Respondent did not report in writing to the State Bar that judicial sanctions in the amount of \$1,000 had been imposed upon him in the Garcia matter or that judicial sanctions in the amount of \$1,000 had been imposed upon him in the Aguirre matter.

#### CONCLUSIONS OF LAW:

30. By failing to pay sanctions ordered by the Ninth Circuit in the Garcia matter, Respondent willfully disobeyed or violated an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do in willful violation of Business and Professions Code, section 6103.

31. By failing to pay sanctions ordered by the Ninth Circuit in the Pineda matter, Respondent willfully disobeyed or violated an order of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to do in willful violation of Business and Professions Code, section 6103.

32. By failing to report the imposition of judicial sanctions in the Garcia and Aguirre matters, Respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against Respondent in willful violation of Business and Professions Code, section 6068(o)(3).

#### Case No. 09-O-13797 (Complainant: Edel P. Ruiseco obo German Zamudio-Guzman)

#### FACTS:

33. On January 7, 2005, German Zamudio-Guzman ("Zamudio") was arrested by border patrol agents and detained in El Paso, Texas. On January 14, 2005, Zamudio hired Respondent to represent him in the related immigration matter in the United States District Court, Western District of Texas, El Paso Division, entitled *German Zamudio-Guzman v. Respondent Ray Adams, in his capacity as a District Director of the CIS in El Paso District Office*, case no. 05-0036-G.

34. The court set bond in the amount of \$10,000 in a related criminal matter also pending in the United States District Court, Western District of Texas, El Paso Division, and entitled *United States of America v. German Zamudio-Guzman*, case no. 05-0133-G. In or about March 2005, Guzman's wife, Maria Mercedes Ramirez Terrazas Zamudio ("Maria"), provided \$10,000 to Ramon J. Chamorro

("Chamorro"), the director of an organization which assists the Latino and Hispanic communities, to post a bond on Zamudio's behalf, and Chamorro forwarded the funds to a Texas attorney who posted the bond.

35. On April 12, 2005, an application for an order approving assignment of bond funds ("Application") was filed with the court, requesting that the court assign such funds to Respondent at the conclusion of the case, if the conditions of the bond were satisfied. The Application was purportedly signed by Maria and Respondent, but both Maria and Respondent contend that the signatures on the application are not their signatures. On May 5, 2005, the court approved the assignment of the bond funds to Respondent and signed an order for return of the cash bail by delivery to Respondent.

36. On May 16, 2005, the court sent a \$10,000 check to Respondent's office, as the refund of Zamudio's bond. On May 20, 2005, the \$10,000 funds received on behalf of Zamudio were deposited in a bank account held in Respondent's name at Washington Mutual Bank, account no. XXXXXX7643.<sup>1</sup> This account was not designated as a trust account. Thereafter, Respondent did not account to Zamudio or Maria for the bond funds received on behalf of Zamudio, and the funds were not returned to Zamudio or Maria who returned to Mexico where they now reside.

37. In or about June 2009, Zamudio employed Texas attorney Edel P. Ruiseco to obtain the return of the funds, and Ruiseco contacted Respondent. In September 2009, Respondent responded to Ruiseco by letter stating that he recalled that the funds had been posted by someone other than Zamudio or Maria and that, to the best of his recollection, the funds were returned to that person, but he stated that the lapse of time did not allow him to respond with more detail.

38. Respondent was grossly negligent in failing to insure that his client received the funds deposited in Respondent's account.

#### CONCLUSIONS OF LAW:

39. By depositing the \$10,000 bond funds received on behalf of Zamudio in a bank account which was not designated as a trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

40. By not accounting to Zamudio for the \$10,000, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

41. By acting with gross negligence in failing to ensure that the \$10,000 received on behalf of Zamudio was disbursed to him, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

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<sup>1</sup> The account number is partially redacted to protect the privacy of the account.

**FACTS:**

42. On or about October 3, 2008, Rene Gamaz ("Gamaz") employed Respondent to obtain a permanent residence card for Gamaz's minor son, Rene Gamaz Jr. ("Rene Jr."), or seek U.S. citizenship for Rene Jr. At that time, Rene was in El Salvador, and his permanent residence card had expired in 2003. Since Respondent had other unrelated business in Mexico, Respondent agreed to travel to El Salvador and bring Rene Jr. to Mexico where Gamaz would meet them by car and drive Respondent and Rene Jr. to the United States.

43. During the period from in or about October 2008 through March 10, 2009, Gamaz paid Respondent \$4,000 in advanced fees for his legal services.

44. On March 11, 2009, Respondent traveled to El Salvador to bring Rene Jr. to Mexico, but Respondent was prevented from leaving El Salvador with Rene Jr. Respondent took no further action to obtain a permanent residence card for Rene Jr. or to seek U.S. citizenship for Rene Jr.

45. Thereafter, the United States Embassy in El Salvador called Gamaz in the United States and informed him that Respondent was prevented from bringing Rene Jr. to the United States because Rene Jr.'s permanent residence card had expired in 2003. Gamaz requested a refund of fees. At that time, Ortega represented to Gamaz that Respondent had used the funds for the travel to El Salvador.

46. Respondent did not provide any accounting to Gamaz for how he had earned the fees or what amount he had incurred in costs until in or about May 2011.

**CONCLUSIONS OF LAW:**

47. By failing to account promptly to Gamaz for the \$4,000 in advanced fees received from Gamaz, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was November 9, 2011.

**AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide that the sanction to be imposed shall be the most severe when there are two or more acts of misconduct found where different sanctions are prescribed by the Standards. The most severe sanction is that provided by Standard 2.2 which provides that the appropriate sanction for willful misappropriation is disbarment or, if the amount of funds is insignificantly small or if the most compelling mitigating circumstances clearly predominate, an actual suspension of not less than one year. Case law has diverged from this standard where the misappropriation occurred due to gross negligence. "As the term is used in attorney discipline cases, 'willful misappropriation' covers a broad range of conduct varying significantly in the degree of culpability. An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception. . . . Thus,

we have ordered discipline as light as 30 days of actual suspension when the misappropriation resulted from negligence and other mitigating factors were present.” (*Edwards v. State Bar* (1990) 52 Cal.3d 28 [imposing 1 year actual suspension for willful misappropriation of \$3,000 where restitution was made promptly and there were no acts of deceit]; see also, *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404 [recommending a six-month actual suspension for misappropriation due to gross negligence of client funds in three separate client matters mitigated by voluntary restitution to the clients prior to the involvement of the State Bar]).

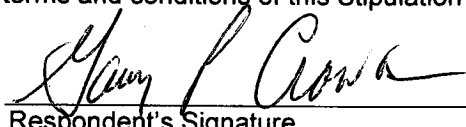

Based on the evidence currently available, the misappropriation was due to gross negligence and is closer to the misconduct in *Bouyer* which resulted in a six-month actual suspension.

(Do not write above this line.)

In the Matter of: Gary Paul Crowder, no. 188966	Case number(s): 07-O-13112, 08-O-12454, 09-O-10794, 09-O-13797, 10-O-03264
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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 Facts, Conclusions of Law, and Disposition.

<u>11-9-11</u> Date	 Respondent's Signature	<u>Gary P. Crowder</u> Print Name
<u>11-9-11</u> Date	 Deputy Trial Counsel's Signature	<u>Dane C. Dauphine</u> Print Name



(Do not write above this line.)

In the Matter of:  
Gary Paul Crowder, no. 188966

Case Number(s):  
07-O-13112, 08-O-12454, 09-O-10794,  
09-O-13797, 10-O-03264

### ACTUAL SUSPENSION ORDER

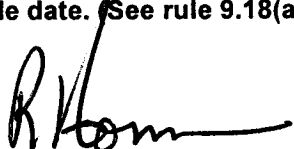
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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 5.58(E) & (F), 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

11-15-11

  
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 San Francisco, on November 16, 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 San Francisco, California, addressed as follows:

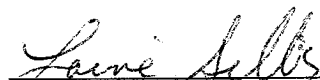
GARY P. CROWDER  
5320 CARPINTERIA AVE STE B  
CARPINTERIA, CA 93013

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

MIA ELLIS, Enforcement, Los Angeles

COURTESY COPY  
DANE C. DAUPHINE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 16, 2011.

  
\_\_\_\_\_  
Laine Silber  
Case Administrator  
State Bar Court