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**State Bar Court of California
Hearing Department
San Francisco**

<p>Counsel For The State Bar</p> <p>Manuel Jimenez Deputy Trial Counsel State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2288</p> <p>Bar # 218234</p>	<p>Case Number (s) 07-O-13740; 07-O-10368; 07-O-11511; 07-O-12516</p>	<p>(for Court's use)</p> <p>PUBLIC MATTER</p> <p>FILED <i>[Signature]</i></p> <p>JUN 11 2008</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Quincy N. Hoang P.O. Box 7334 102223 San Francisco, CA 94120 (408) 841-8555</p> <p>Bar # 219421</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Quincy N. Hoang</p> <p>Bar # 219421</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 4, 2002**.
- (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 17 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."

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- (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 284, 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 **06-O-12856**
 - (b) Date prior discipline effective **February 9, 2008**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rule 3-110(A); B&P Code § 6068(m); Rule 3-700(D)(2); B&P Code § 6103**
 - (d) Degree of prior discipline **One year stayed suspension, 75 days actual, and until he pays restitution.**
 - (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. **Standard 1.2(b)(iv) [Significant Harm to Client]: Respondent's misconduct caused such significant harm. Respondent's misconduct resulted in the delay of the prosecution of his client's cases. Delay in resolution of a client's problems caused by the attorney may be in itself an aggravating factor constituting harm to the client. (Cooper v. State Bar (1987) 43 Cal.3d 1016.)**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **Standard 1.2(b)(v) [Indifference toward Rectification or Atonement]: Respondent's misconduct reflects such indifference, in that he took no steps to either mitigate or compensate for the role his misconduct played in harming his clients.**

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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.
- (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. **Standard 1.2(e)(iv) states a mitigating factor. At the time of the misconduct, respondent was engaged in a bitter breakup of his relationship to the mother of his child. Respondent was the victim of domestic violence, which required that he get a court order of protection.**
- (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

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **two 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 **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

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.

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

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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National

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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:

- (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):

I. Misconduct

Case No. 07-O-12516

Statement of Facts

Respondent willfully violated Business and Professions Code, section 6068(a), by failing to support the Constitution and laws of the United States and of this state, by advertising or holding himself out as practicing or entitled to practice law or otherwise practicing law when he was not an active member of the State Bar in violation of Business and Professions Code, sections 6125 and 6126, as follows:

On April 27, 2007, the State Bar Court entered an Order of Entry of Default in case no. 06-O-12856-PEM. As part of the default order, the State Bar Court ordered that respondent be placed on involuntary inactive enrollment. The Order was effective three days after service of the order. On April 27, 2007, Clerk Laurretta Cramer properly served a copy of this order on the respondent at the address maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was 88 South Third Street, #176, San Jose, California 95113. Respondent was placed on inactive status on May 1, 2007, and has been on inactive status continuously from May 1, 2007 to the date of the filing of this Notice of Disciplinary Charges.

On January 7, 2007, Deputy Trial Counsel Manuel Jimenez spoke with respondent on the telephone in connection with case no. 06-O-12856-PEM. At this time, Deputy Trial Counsel Jimenez confirmed that this was respondent's correct address.

Respondent knew or should have known of the April 27, 2007 order placing him on involuntary inactive status.

On May 24, 2007, while respondent was actually suspended from the practice of law, respondent appeared in the Alameda County Superior Court, at nine a.m., in Dept. 606, for the matter entitled *People v. Juan Aviles*, case no. 223955. Mr. Aviles was charged with five felony violations of the Health and Safety Code. Respondent made a general appearance on behalf of Juan Aviles, and he waived arraignment on Aviles behalf. The matter was set for plea and/or sentencing for May 24, 2007 at nine a.m. in Dept. 606. Respondent did not tell the court that he was suspended from the practice of law.

On May 24, 2007, respondent again appeared in the Alameda County Superior Court, at nine a.m., in Dept. 606, for the matter entitled *People v. Juan Aviles*, case no. 223955. At this time, the matter was reset for May 31, 2007, at nine a.m., in Dept. 606, for the defendant to enter a plea. Respondent did not tell the court that he was suspended from the practice of law.

On May 31, 2007, respondent again appeared in the the Alameda County Superior Court, at nine a.m., in Dept. 606, for the matter entitled *People v. Juan Aviles*, case no. 223955. Respondent entered a not guilty plea on behalf of his client and the matter was set for further pretrial hearing on June 21, 2007. Respondent did not tell the court that he was suspended from the practice of law.

Respondent knew or should have known that he was suspended from the practice of law from May 1, 2007 continuing through the present.

On July 10, 2007, State Bar Investigator John Matney wrote to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was 88 South 3rd Street, #176, San Jose, California, 95113. Investigator Matney sent the letter via United States mail, postage pre-paid. In his letter, Investigator Matney requested a response to the State Bar complaint that respondent appeared in court while not licensed to practice law.

Respondent received Investigator Matney's letter of July 10, 2007.

Respondent failed to respond to Investigator Matney's letter of July 10, 2007, and he failed to respond to Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007. Respondent failed to otherwise respond to the State Bar investigation of this matter.

Conclusions of Law

Respondent violated Business and Professions Code, section 6068(a) by appearing in court to represent Aviles, thereby holding himself out to the court and opposing counsel as entitled to practice law and actually practiced law when he was not an active member of the State Bar in willful violation of Business and Professions Code, sections 6125 and 6126.

Respondent violated Business and Professions Code, section 6106, by misrepresenting to the court, and opposing counsel, that he was entitled to practice law when he was not an active member of the State Bar, thereby committing an act, or acts, involving moral turpitude, dishonesty, or corruption.

Respondent violated Business and Professions Code, section 6068(i) by failing to respond to Investigator Matney's letter of July 10, 2007, and by otherwise failing to respond to the State Bar investigation of this complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him.

Case No. 07-O-11511

Statement of Facts

On September 19, 2006, Jose Carnero hired respondent to prepare a Power of Attorney for his wife, to prepare for her temporary stay in Chile. He paid respondent the sum of \$150.00 for this service.

On September 27, 2006, Jose Carnero (hereinafter, "Carnero") hired respondent to mediate a fee dispute that he had with an attorney in Florida, Alan Dagen, regarding civil litigation pending in Florida. Carnero paid respondent the sum of \$1500 on September 27, 2006 for this service. Respondent and Carnero signed a Fee Agreement for Legal Services which stated that respondent would hold the \$1500 in trust and charge against it at his hourly rate. Respondent also stated that he would send Carnero monthly statements regarding his fees and costs and the basis for the fees and costs.

On September 28, 2006, respondent sent Carnero a bill indicating a charge of \$150 for the Power of Attorney, and receipt of the \$1500 advanced fee.

On October 16, 2006, Carnero requested that respondent obtain copies of his legal file from Alan Dagen, and forward the file to his new counsel in Florida, Kevin Hagen. Carnero also requested that respondent obtain a \$4,000 refund from Dagen. Respondent was aware of Carnero's request.

On October 16, 2006, respondent sent an e-mail to attorney Dagen, requesting an accounting of Dagen's fees, and advising Mr. Dagen that Carnero did not accept the settlement offer in the Florida litigation.

Thereafter, respondent took no further action on Carnero's case. The e-mail that respondent sent on October 16, 2006, was preliminary in nature, and provided little benefit to Carnero.

The Power of Attorney that respondent prepared for Carnero was deficient because it lacked appropriate verification of Carnero's wife's signature, and Carnero was unable to use it. On November 7, 2006, Carnero sent respondent an e-mail advising respondent of the problems with the Power of Attorney. Respondent received the e-mail and took no action to correct the problems.

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On November 7, 2006, Carnero sent respondent an e-mail requesting the status of the Dagen matter, and advising respondent that there were defects in the Power of Attorney. Carnero requested a prompt response.

Respondent received Carnero's e-mail of November 7, 2006, and failed to respond or otherwise address Carnero's concerns regarding the power of attorney and the Dagen matter

On November 21, 2006, Carnero again e-mailed respondent regarding the Dagen matter and requested a status on the case.

Respondent received Carnero's e-mail of November 21, 2006, and failed to respond or otherwise address Carnero's concerns regarding the Dagen matter.

On or between October, 2006, and January, 2007, respondent left approximately ten telephone messages for respondent, requesting a refund and a status of his case. Respondent received the messages and failed to return the calls, or otherwise provide a refund or apprise Carnero of the status of his case.

Carnero received notice of respondent's move to 2033 Gateway place, Suite 500, San Jose, California 95110 (hereinafter "Gateway address") because this address was on the bill respondent sent Carnero on September 28, 2006. Carnero originally met respondent at a different location.

On November, 2006, after Carnero failed to receive responses to his e-mails, he traveled to the Gateway address in order to speak to respondent. He discovered that respondent had vacated the Gateway address premises.

Respondent did not advise Carnero that he was vacating the Gateway address premises, nor did he provide Carnero with a new address.

In or between October, 2006, and January, 2007, Carnero, in his numerous telephone messages to respondent, requested a refund of unearned fees.

Respondent received the messages and failed to respond or otherwise return Carnero's fees.

On September 10, 2007, Carnero wrote to respondent at respondent's official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1. He sent the letter postage pre-paid, through the United States mail. In his letter, Carnero requested a return of his fees. Carnero also sent a copy of the letter to the Gateway address.

Respondent received the letter and again failed to respond or otherwise return Carnero's fees.

On May 7, 2007, State Bar Investigator John Matney wrote to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was 88 South 3rd Street, #176, San Jose, California, 95113. Investigator Matney sent the letter via United States mail, postage pre-paid.

In his letter, Investigator Matney requested a response to Carnero's complaint to the State Bar.

On June 5, 2007, and again on June 14, 2007, Investigator Matney telephoned respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, and left a telephone message requesting a return call regarding the Carnero complaint. Respondent received Investigator Matney's letter of May 7, 2007, and he received Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007.

Respondent failed to respond to Investigator Matney's letter of February 26, 2007, and he failed to respond to Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007. And he failed to otherwise respond to the State Bar investigation of this matter.

On October 27, 2007, respondent returned \$1,650.00 to Carnero.

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Conclusions of Law

Respondent violated the California Rules of Professional Conduct, rule 3-110(A) by failing to perform when he prepared a Power of Attorney that Carneros was unable to use, and failing to take any action on Carnero's Florida matter after sending the October 16, 2006 e-mail.

Respondent violated Business and Professions Code, section 6068(m) by failing to respond to Carnero's numerous phone calls and e-mails, and failing to respond to the reasonable client inquiries in a matter in which he agreed to perform legal services.

By failing to advise Carneros of his new address once he vacated the Gateway address premises, respondent failed to keep his client informed of a significant development in his case, in willful violation of Business and Professions Code, section 6068(m).

Respondent violated California Rules of Professional Conduct, rule 3-700(D)(2) by failing to respond to Carnero's phone messages and letters requesting a return of his fees, thereby respondent failed to refund promptly any part of a fee paid in advance that has not been earned.

Respondent violated Business and Professions Code section 6068(i) by failing to respond to Investigator Matney's letter of February 26, 2007, and Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007, and by otherwise failing to respond to the State Bar investigation of Carnero's complaint, thereby respondent failed to cooperate and participate in a disciplinary investigation pending against him.

Case No. 07-O-10368

Statement of Facts

On December 13, 2004, Doug Izuno (hereinafter, "Izuno") hired respondent to represent him in a family law matter. Izuno wanted to obtain a modification in child support. Izuno paid respondent \$1,500. Respondent and Izuno signed a Fee Agreement for Legal Services. The fee agreement indicated that the \$1,500 was a refundable retainer fee that would be billed against respondent's hourly rate.

On January 13, 2005, respondent wrote a letter to Izuno, provided him with some information about his case, and requested that Izuno call him and advise respondent how he, Izuno, would like to proceed.

On January 13, 2005, respondent sent Izuno an invoice, indicating that Izuno had incurred \$240.00 in fees.

On May 2, 2006, respondent again wrote to Izuno, giving him an update on the status of his case.

On May 8, 2006, and again on May 9, 2006, Izuno telephoned respondent and requested a return call regarding the status of his case.

Respondent received the messages and failed to return the call or otherwise apprise Izuno of the status of his case.

On June 5, 2006, there was a hearing in Izuno's family law matter, entitled *Cynthia Izuno vs. Douglas Izuno*, case no. 53194, filed in Superior Court, County of Santa Clara. Respondent failed to appear. Izuno hired another attorney, Katherine Bishop, who appeared for Izuno.

On July 31, 2006, Izuno wrote to respondent. In his letter, Izuno indicated that he had called respondent on May 8, 2006 and again on May 9, 2006, and had not received a return call. Izuno advised respondent that he had hired another attorney. Izuno requested a refund of the \$1,200 in attorneys fees (The original (\$1,500 minus the \$240.00 previously billed.)

Respondent received this letter and failed to respond or otherwise refund the unearned fees.

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On June 5, 2006, Izuno sent respondent an e-mail, again requesting a refund of the unearned fees. Respondent received the e-mail and respondent on June 6, 2006. In his response, respondent stated, "Yes, of course you can have the remainder of your retainer back.=Please expect the remainder of your fees within 5-10 days."

Respondent did not sent the retainer back within 5-10 days, or at anytime thereafter.

On August 4, 2006, Izuno hired a process server, Bender's Legal Service, to serve respondent with a written request for return of unearned fees.

On August 4, 2006, the process server, Zac A.Swigart, attempted service at the address Izuno had for respondent, which was 1630 Oakland Road, Suite A204-3, San Jose, California 95131.

The process server advised Izuno that the receptionist at the 1630 Oakland address advised him (the process server) that respondent had been evicted three weeks prior, and no forwarding address was known.

On July 13, 2006, respondent changed his official membership records address from 1630 Oakland Road, Suite A204-3, San Jose, California, to the Gateway address.

Respondent failed to advise Izuno of his change of address.

On February 26, 2007, State Bar Investigator John Matney wrote to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was 88 South 3rd Street, #176, San Jose, California, 95113. (This address was effective as of December 22, 2006.) Investigator Matney sent the letter via United States mail, postage pre-paid.

On June 5, 2007, and again on June 14, 2007, Investigator Matney telephoned respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, and left a telephone message requesting a return call regarding the Izuno complaint.

Respondent received Investigator Matney's letter of February 26, 2007, and he received Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007.

Respondent failed to respond to Investigator Matney's letter of February 26, 2007, and he failed to respond to Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007. And he failed to otherwise respond to the State Bar investigation of this matter.

On October 27, 2007, respondent returned \$1,260.00 to Izuno.

Conclusions of Law

Respondent violated the California Rules of Professional Conduct, rule 3-700(D)(2) By failing to refund Izuno's telephone calls and e-mail requesting a return of his \$1,240 in unearned fees, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Respondent violated Business and Professions Code section 6068(m) by failing to respond to Izuno's phone calls of May 8, 2006 and May 9, 2006, and his letter of July 31, 2006, thereby respondent failed to respond to the reasonable status inquiries of a client in a matter in which he agreed to perform legal services.

Respondent violated Business and Professions Code section 6068(m) by failing to apprise Izuno of his change of address when he vacated the 1630 Oakland Road address, thereby respondent failed to keep his client reasonably informed of a significant development in a matter in which he agreed to provide legal services.

Respondent violated Business and Professions Code section 6068(i) by failing to respond to Investigator Matney's letter of February 26, 2007, and Investigator Matney's telephone messages of June 5, 2007 and June 14, 2007, and by otherwise failing to respond to the State Bar investigation of Izuno's complaint, thereby failing to cooperate and participate in a disciplinary investigation pending against him.

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

Case No. 07-O-13740

Statement of Facts

On April 27, 2007, the State Bar Court entered an Order of Entry of Default in case no. 06-O-12856-PEM. As part of the default order, the State Bar Court ordered that respondent be placed on involuntary inactive enrolment. The Order was effective three days after service of the order. On or about April 27, 2007, Clerk Loretta Cramer properly served a copy of this order on the respondent at the address maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was 88 South Third Street, #176, San Jose, California 95113. Respondent was placed on inactive status on May 1, 2007, and has been on inactive status continuously from May 1, 2007 to the date of the filing of this Notice of Disciplinary Charges.

On January 7, 2007, Deputy Trial Counsel Manuel Jimenez spoke with respondent on the telephone in connection with case no. 06-O-12856-PEM. At this time, Deputy Trial Counsel Jimenez confirmed that this was respondent's correct address.

Respondent knew or should have known of the April 27, 2007 order placing him on involuntary inactive status.

On September 14, 2007, while respondent was actually suspended from the practice of law, respondent appeared in the Alameda County Superior Court, at nine a.m., in Dept. 605, for the matter entitled People v. Nhat Tien Nguyen, case no. 223921. Mr. Nguyen was charged with a violation of the Health and Safety Code, Section 11377(A). Respondent made an appearance on behalf of Nhat Nguyen and represented to the court that the parties had reached a stipulation.

Respondent had previously appeared on behalf of Nhat Nguyen, in the same case, on April 14, 2007 (prior to his suspension). Respondent also telephoned the court on the preceding day, September 13, 2007, and requested that the Nguyen matter, which had originally been calendared for September 13, 2007, be put over to September 14, 2007.

The respondent did not advise the Court of his suspension on September 13, 2007 when he called to request a continuance.

On September 14, 2007, the Court inquired of the respondent, on the record, if the respondent was allowed to practice law in the State of California. Respondent answered "I believe I am."

The Court then asked respondent for his State Bar number. Respondent wrote the following number, "221921" on the back of his business card and provided it to the Court.

Respondent's true and correct State Bar number is "219421". Respondent provided the Court with an inaccurate bar number.

On October 13, 2007, State Bar Investigator John Matney wrote to respondent at his official membership records address, maintained by the State Bar pursuant to Business and Professions Code, section 6002.1, which was Post Office Box 7334-102223, San Francisco, California 94120. Investigator Matney sent the letter via United States mail, postage pre-paid. In his letter, Investigator Matney requested a response to the State Bar complaint that respondent appeared in court while not licensed to practice law.

Conclusions of Law

By appearing in Court on September 14, 2007, on behalf of Nhat Nguyen as Nguyen's attorney, respondent held himself out to the court and opposing counsel as entitled to practice law and actually practiced law when he was not an active member of the State Bar in willful violation of Business and

Professions Code, sections 6125 and 6126, and thereby failed to support the laws of the State of California, in willful violation of Business and Professions Code, section 6068(a).

By misrepresenting to the court, and opposing counsel, that he was entitled to practice law when he was not an active member of the State Bar, and by providing the Court with an inaccurate State Bar number, respondent committed an act, or acts, involving moral turpitude, dishonesty, or corruption, in willful violation of Business and Professions Code, section 6106.

By failing to respond to Investigator Matney's letter of October 13, 2007, and by otherwise failing to respond to the State Bar investigation of this complaint, respondent failed to cooperate and participate in a disciplinary investigation pending against him, in willful violation of Business and Professions Code, section 6068(i).

II. Pending Proceedings

The disclosure date referred to on page 1, paragraph A(7), is May 30, 2008.

III. Costs of Disciplinary Proceedings

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent (with this stipulation) that as of May 30, 2008, the estimated prosecution costs in this matter or approximately \$2,134.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in a final cost assessment. 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.

IV. Authorities in Support of Discipline

A. *The Standards*

The Standards provide for a broad range of sanctions ranging from reproof to disbarment, depending upon the gravity of the offenses and the harm to the client. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 2.6(a), and 2.10).

Standard 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession, the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 2.3 provides, Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward 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 of which it relates to the members acts within the practice

Standard 1.6(a) provides that the sanction imposed shall be the most severe of the different applicable sanctions. Standard 1.6(a) provides in pertinent part that:

“The appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found . . . If two or more acts of professional misconduct are found . . . in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 2.4(a) provides, that culpability of a member of a pattern of willfully failing to perform services demonstrating the member’s abandonment of causes in which he was retained shall result in disbarment.

Standard 2.6 provides that culpability of a member of a violation of...[Business and Professions Code section 6068]...shall result in disbarment or suspension depending on 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. Standard 1.6(a) provides that the sanction imposed shall be the most severe of the different applicable sanctions. Standard 1.6(a) provides in pertinent part that:

“The appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found . . . If two or more acts of professional misconduct are found . . . in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 1.7(a), provides:

“If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the 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.”

Standard 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession, the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 2.3 provides, Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward 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 of which it relates to the members acts within the practice

Standard 2.4(a) provides, that culpability of a member of a pattern of willfully failing to perform services demonstrating the member's abandonment of causes in which he was retained shall result in disbarment.

Standard 2.6 provides that culpability of a member of a violation of...[Business and Professions Code section 6068]...shall result in disbarment or suspension depending on 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.

B. Case Law

The Court should also look at case authority in determining the appropriate level of discipline to determine whether the discipline is consistent or disproportional to prior decisions on the same set of facts. *Snyder v. State Bar* (1990) 49 Cal.3d 1302.

In determining the appropriate level of discipline, the court should look to the Standards for Professional Misconduct. In *In re Morse* (1995) 11 Cal.4th 184, 206, the California Supreme Court stated;

"To determine the appropriate level of discipline ... we... must first look to the standards for guidance. 'These guidelines are not binding on us, but they promote the consistent and uniform application of disciplinary measures. Hence we have said that 'we will not reject a recommendation arising from application of the standards unless we have grave doubts as to the propriety of the recommended discipline.'"

Despite the need to examine cases on an individual basis, it is a goal of disciplinary proceedings that there be consistent recommendations as to discipline, a goal that has been largely achieved through the application of the Standards of Attorney Sanctions for Professional Misconduct. (*In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291.)

The standards provide guidance and deserve "great weight." (*In re Morse*, supra, 11 Cal.4th at p. 205; *In re Naney* (1990) 51 Cal.3d 186, 190; *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 933, fn. 5.) "[A]dherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct." (*In re Naney*, supra, 51 Cal.3d at p. 190; see also *In re Brown* (1995) 12 Cal.4th 205, 220.) The California Supreme Court accepts a disciplinary recommendation resulting from application of the standards unless it has "grave doubts" about the recommendation's propriety. (*In re Morse*, supra, 11 Cal.4th at p. 206; *In re Lamb* (1989) 49 Cal.3d 239, 245.)

Ridley v. State Bar (1972) 6 Cal.3d 551. Respondent, with a prior private reproof, was disbarred for failure to perform services, failure to return unearned fees in six matters over a seven year period.

Cooper v. State Bar (1987) 43 Cal.3d 1016. Respondent, with no prior record of discipline, was disbarred after engaging in a pattern of misconduct by abandoning several clients, misappropriating money, failing to honor medical liens and entering into an improper business transaction with a client.

Bowles v. State Bar (1989) 48 Cal.3d 100. Respondent, with no prior discipline, was disbarred for failing to perform services for his clients, failing to return unearned fees, failing to deposit trust funds, failing to advise clients about the receipt of trust funds. He also committed acts of moral turpitude and wrote a bad check which he failed to make good.

In the Matter of Meyer (Review Dept. 1997), 3 Cal. State Bar Ct. Rptr. 483. The courts have recognized that a respondent's failure to file a pre-trial statement and appear at various State Bar Court hearings were serious aggravating circumstances because they showed that a respondent comprehended neither the seriousness of the charges nor his duty to participate in the disciplinary proceedings. Respondent's failure to appear at a disciplinary trial in accordance with a notice to appear in lieu of subpoena served on him by the State Bar was a particularly aggravating circumstance because it was the equivalent of disobeying a subpoena to appear at trial as the service of notice to appear on a party has the same effect as the service of a subpoena.

Schullman v. State Bar (1973) 10 Cal.3d 526. A respondent, with two prior disciplinary matters was suspended for two years for misconduct in three matters in which he accepted a fee, promised to perform legal services for his clients, failed to perform the promised services, made misrepresentations and failed to refund the unearned fee.

Doyle v. State Bar (1976) 16 Cal.3d 631. A respondent, with no prior disciplinary record, and significant mitigation was suspended for three years, stayed, for misconduct in two matters in which he failed to perform services for which he was hired. In one matter he made misrepresentations to the client and in the other he refused to return an unearned fee.

Wren v. State Bar (1983) 34 Cal.3d 81. A respondent, with no prior discipline, was suspended for two years, stayed, forty-five days, actual, for misconduct in one case in which he failed to perform for a period of 22 months, failed to communicate with his client, failed to return a file or an advance fee and misrepresented the status of the case.

Matter of Nees (Review Dept. 1993) 3 Cal. State Bar Ct. Rptr. 459. Where an attorney retained unearned advanced fees after failing to perform legal services, and subsequently agreeing to refund the unearned portion of the fees, such wrongful retention approached a practical appropriation of the client's property.

(Do not write above this line.)

In the Matter Of Quincy N. Hoang	Case Number(s): 07-O-13740 et al.
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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

June 11, 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 June 11, 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:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**QUINCY N. HOANG
P O BOX 7334-10223
SAN FRANCISCO 94120**

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

MANUEL JIMENEZ , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **June 11, 2008**.



Lauretta Cramer
Case Administrator
State Bar Court