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

<p>Counsel For The State Bar Anand Kumar Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1714 Bar # 261592</p>	<p>Case Number(s): 09-O-10024 09-O-17275 10-O-02849 10-O-10697 11-O-18908</p>	<p>For Court use only FILED MAR - 1 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER</p>
<p>Counsel For Respondent Michael E. Wine 301 N. Lake Ave., Suite 800 Pasadena, CA 91101-5113 (626) 796-6688 Bar # 58657</p>	<p>Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: John Mark Edward Bouzane Bar # 79804 A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 23, 1978.
- (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."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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: prior to February 1 in three billing cycles following the effective date of discipline. (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 06-O-11921 and 06-O-13147
 - (b) Date prior discipline effective June 12, 2008
 - (c) Rules of Professional Conduct/ State Bar Act violations: RPC 3-110(A), RPC 3-110(A)
 - (d) Degree of prior discipline two (2) years stayed suspension, two (2) years probation with conditions.
 - (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.

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- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See pages 7 and 8 of attachment.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

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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:

On February 12, 2010, Respondent completed State Bar Client Trust Accounting School on his own initiative.

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 two (2) 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 four (4) 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.

- (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
 - Medical Conditions
 - Law Office Management 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: John Mark Edward Bouzane	Case Number(s): 09-O-10024, 09-O-17275, 10-O-02849, 10-O-10697, 11-O-18908
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Nolo Contendere Plea Stipulations to Facts, Conclusions of Law, and Disposition

The terms of pleading nolo contendere are set forth in the Business and Professions Code and the Rules of Procedures of the State Bar. The applicable provisions are set forth below:

Business and Professions Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere will be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court will find the member culpable. The legal effect of such a plea will be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

Rules of Procedure of the State Bar, rule 5.56. Stipulations to Facts, Conclusions of Law, and Disposition

“(A) Contents. A proposed stipulation to facts, conclusions of law, and disposition must comprise:

[¶] . . . [¶]

(5) a statement that the member either:

- (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
- (b) pleads nolo contendere to those facts and misconduct;

[¶] . . . [¶]

(B) Plea of Nolo Contendere. If the member pleads nolo contendere, the stipulation must also show that the member understands that the plea is treated as an admission of the stipulated facts and an admission of culpability.”

I, the Respondent in this matter, have read the applicable provisions of Business and Professions Code section 6085.5 and rule 5.56 of the Rules of Procedure of the State Bar. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea will be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

February 7, 2012
Date


Respondent's Signature

John Mark Edward Bouzane
Print Name

6. On January 10, 2008, Goldberg responded by letter to Julius apologizing for the delay in responding to his telephone calls. In the letter, Goldberg told Julius that they were attempting to settle both of Julius's cases and believed they would be able to settle the malicious prosecution action within the next 30 days for \$10,000. Although no malicious prosecution had been filed on the Bogars' behalf, Goldberg told Julius that the malicious prosecution case would be difficult to prove, and the Bogars could be liable for costs and attorney's fees if they lost. Without informing Julius that the water damage action had long been dismissed, Goldberg told Julius that collecting damages on his water damage action would also be difficult.
7. Between January 11, 2008 and May 22, 2008, Julius sent to Respondent's office by mail or fax three letters, and called Respondent's office on several occasions, requesting updated information on his cases and setting out his frustrations with Respondent's handling of his cases. Respondent claims he was unaware of Julius's efforts to contact him. Respondent did not respond to any of these communications from Julius.
8. On June 17, 2008, Julius mailed a letter to Respondent stating that because of Respondent's failure to respond, Julius had no alternative but to file a lawsuit against Respondent and file a complaint with the State Bar. Respondent's office received the June 17, 2008 letter.
9. On June 25, 2008, Julius received a letter from Respondent's office stating that Respondent was on vacation and apologized for not communicating with him. The June 25, 2008 letter stated that Respondent was attempting to settle the malicious prosecution case for \$10,000 and hoped to have it settled within 30 to 45 days. In addition, the letter stated that the water damage case was somewhat easier but the case may be sent to federal court. Respondent contends Goldberg wrote the June 25, 2008 letter and Respondent was not aware it had been sent.
10. On June 29, 2008 and August 26, 2008, Julius sent to Respondent's office by mail or fax letters, requesting updated information on his cases and setting out his frustrations with Respondent's handling of his cases. Respondent claims he was unaware of Julius's efforts to contact him. Respondent did not respond to any of these communications from Julius.
11. On September 18, 2008, Julius faxed a letter to Respondent's office requesting his file. Respondent's office received the letter but Respondent's office did not respond and did not provide the client file. Therefore, on September 29, 2008, Julius faxed another letter to Respondent's office again requesting his file.
12. On September 30, 2008, Respondent mailed a letter to Julius telling him that his file would be copied and sent to him shortly. To date, Respondent has not provided the client file to Julius. Respondent contends that he has returned the file to Julius.

CONCLUSIONS OF LAW:

1. By not filing a complaint in the malicious prosecution case or otherwise pursuing the malicious prosecution claim on the Bogars' behalf, by failing to pursue the water damage action and by failing to supervise Goldberg, Respondent intentionally, recklessly, or

repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), Rules of Professional Conduct.

2. By not promptly turning over the client file to Julius Bogar, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in willful violation of rule 3-700(D)(1), Rules of Professional Conduct.

Case No. 09-O-17275 (Complainant: Tim Breon)

FACTS:

1. On June 12, 2007, Tim Breon ("Breon") employed Respondent and his company, Fast Eviction Services, to file an unlawful detainer and evict a tenant from Breon's property. Breon initially paid Respondent \$499.50 and subsequently paid him an additional \$350 for court appearances.
2. On June 13, 2007, Respondent filed the unlawful detainer action on Breon's behalf in San Bernardino County Superior Court, case number UDFS 700465 (the "Breon action").
3. On August 15, 2007, Respondent filed a request for Entry of Default and Judgment in the Breon action requesting \$3,925.73 in damages on Breon's behalf. On August 20, 2007, the court in the Breon action entered judgment for Breon in the amount of \$3,925.73 plus interest.
4. On September 27, 2007, Respondent issued a Writ of Execution to the Riverside Sheriff's department to collect \$3,940.73 plus interest from Breon's former tenant. Between January 2008 and October 2008, the Riverside County Sheriff's Department garnished the former tenant's wages every two weeks and issued the funds by sixteen checks to Respondent, which Respondent received and deposited \$3,010.79 into a non-client trust account on Breon's behalf at Downey Savings account number xx-xxxxx84-8.¹
5. During this ten-month period, Respondent did not forward the \$3,010.70 in funds to Breon and did not inform Breon that he had received the funds on Breon's behalf.
6. On September 4, 2009, Breon sent a letter to Respondent's office and demanded the garnished funds paid to Respondent.
7. On September 9, 2009, Respondent responded to Breon's September 4, 2009 letter and issued a check to Breon for the \$3,010.79 collected on Breon's behalf.

CONCLUSIONS OF LAW:

1. By depositing funds received on Breon's behalf into a non-client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust

¹ The account number has been partially redacted due to privacy concerns. Respondent contends that he has since closed the Non-Client Trust Account.

Account,” “Client’s Funds Account” or words of similar import in willful violation of rule 4-100(A), Rules of Professional Conduct.

2. By not informing Breon that he had received \$3,010.79 on his behalf, Respondent failed to notify a client promptly of the receipt of the client’s funds in willful violation of rule 4-100(B)(1), Rules of Professional Conduct.

Case No. 10-O-02849 (State Bar Investigation)

FACTS:

1. On December 30, 2009, Respondent filed an unlawful detainer action in San Bernardino County Superior Court entitled *SKKR v. Mota*, case number UDDS 906568 (the “SKKR action”).
2. On January 22, 2010, one of the tenants in the SKKR action filed a demurrer contending that the tenants had not been properly served with a notice to quit.
3. On February 9, 2010, Respondent filed an opposition to the demurrer, but did not address whether the tenant had been properly given notice. On February 25, 2010, the court in the SKKR action overruled the demurrer and set trial for March 8, 2010.
4. On March 8, 2010, the court continued the hearing to March 10, 2010 to hear testimony from Enrique “Rick” Medina (“Medina”), Respondent’s process server who served the notice to quit on the tenants in the SKKR action.
5. During the March 10, 2010 hearing, Medina admitted that he did not fill out the declarations of service regarding the notices to quit filed by Respondent’s office and did not always sign the declarations of service. Medina admitted that Medina used photocopies of his signature on its declarations of services when Medina was not available. During the March 10, 2010 hearing, Medina also testified that the declarations of service in the SKKR action were signed on the same day he served the notice, December 21, 2009. However, the court noted that the proof of service in the SKKR action with Medina’s initials was for December 29, 2009, more than a week after the proof of service indicated notice was served on the tenants.
6. From February 2009 through February 2010, Respondent filed declarations of service that contained Medina’s photocopied signature in at least eleven (11) unlawful detainer actions with San Bernardino County Superior Court.

CONCLUSIONS OF LAW:

1. By allowing Medina to file declarations of service with photocopies of his signature, Respondent failed to supervise Medina and therefore Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), Rules of Professional Conduct.

FACTS:

1. In August 2008, Samuel and Carol Tiberi (the "Tiberis") loaned their neighbors \$275,000 and secured the loan with a second deed of trust on the neighbors' home. The neighbors failed to pay on the loan and filed for bankruptcy to stop a foreclosure initiated by the Tiberis.
2. Accordingly, in April 2010, the Tiberis hired Respondent and paid him \$1,500 to file a Motion for Relief from the Automatic Stay ("motion for relief") in the neighbors' bankruptcy action.
3. On April 29, 2010, Respondent filed the motion for relief on the Tiberis' behalf in the bankruptcy action, however due to the actions of Respondent's office staff, the Tiberis did not have an opportunity to review the motion for relief prior to Respondent filing it with the court.
4. Additionally, the motion for relief contained a real property declaration for Carol Tiberi's signature. A bankruptcy paralegal working for Respondent signed Carol Tiberi's name to the real property declaration without Tiberi's knowledge or consent.
5. On June 4, 2010, Respondent's office filed an "Amended Motion for Relief" on the Tiberis' behalf in the bankruptcy action. The amended motion for relief was accompanied by a real property declaration again purportedly signed by Carol Tiberi under penalty of perjury.
6. As with the original motion for relief, one of Respondent's bankruptcy paralegal signed Carol Tiberi's signature to the June 4, 2010 real property declaration without her knowledge or consent.
7. On July 27, 2010, Respondent filed a "First Amended Motion for Relief" on the Tiberis' behalf in the bankruptcy action. Just as with the first two motions for relief, the July 27, 2010 amended motion for relief was accompanied by a real property declaration with Carol Tiberi's signature made under penalty of perjury. Carol Tiberi did not sign the July 27, 2010 real property declaration attached to the amended motion for relief not did she authorize anyone to sign her name to the document.
8. The same bankruptcy paralegal working in Respondent's office signed Carol Tiberi's name to the July 27, 2010 real property declaration without her knowledge or consent.

CONCLUSIONS OF LAW:

1. By allowing his bankruptcy paralegal to sign Carol Tiberi's name to declarations, and file motions containing those declarations, Respondent failed to supervise his bankruptcy paralegal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), Rules of Professional Conduct.

FACTS:

1. On May 16, 2011, Patricia Birnbaumer ("Birnbaumer") filed a wrongful foreclosure action against Respondent's clients, Nijjar Realty, Inc., Dino Wilson and Cobra 28 ("Nijjar Realty Inc., et al.") in Riverside County Superior Court entitled *Birnbaumer v. Nijjar Realty Inc., et al.*, case number RIC 1108559 (the "Birnbaumer action").
2. On June 9, 2011, Respondent filed a demurrer on behalf of Nijjar Realty Inc., et al. to the Birnbaumer action. After Birnbaumer filed her opposition to the demurrer, the court sustained the demurrer with 20 days leave to amend on July 8, 2011.
3. On July 26, 2011, Birnbaumer filed her First Amended Complaint to which Respondent filed a demurrer of behalf of Nijjar Realty Inc., et al. on September 1, 2011 with a proof of service signed by Nancie Parker ("Parker"), one of Respondent's office employees. Birnbaumer claims she was never served with the September 1, 2011 demurrer.
4. On September 23, 2011, Birnbaumer and Nijjar Realty Inc, et al. participated in a hearing to modify the existing temporary restraining order requiring Birnbaumer to pay fair market rent during the pendency of the proceedings. The court modified the temporary restraining order by requiring Birnbaumer to pay \$800.00 per month in reasonable rental value payable to the Riverside County Superior Court to be held in a blocked account.
5. On September 27, 2011, Respondent filed a Notice of Ruling on his clients' application to modify a temporary restraining order requiring Birnbaumer to pay \$800.00 per month in reasonable rental value payable as ordered by the court at the September 23 hearing. Birnbaumer claims she was never served with the September 27, 2011 notice of ruling.
6. On October 6, 2011, Respondent filed a Response to Order Granting Ex-Parte Application to Modify Temporary Restraining Order with a proof of service with Parker's signature purportedly serving Birnbaumer with the document on September 26, 2011.
7. On October 11, Respondent filed an Opposition to Plaintiff's Ex-Parte Application to Release Funds attached with Respondent's Declaration and an unsigned proof of service again with Parker's name purportedly serving Birnbaumer with the document on October 7, 2011.
8. On October 11, Respondent also prepared and filed an Order with the court and attached a unsigned proof of service with Parker's name purportedly serving Birnbaumer with the document on October 7, 2011.
9. Birnbaumer attended all hearings which she claims for which she did not receive notice.

CONCLUSIONS OF LAW:

1. By not making sure his employee Parker actually served pleadings and allowing Parker to file pleadings unsigned proofs of service, Respondent failed to supervise Parker and

Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was February 2, 2012.

AUTHORITIES SUPPORTING DISCIPLINE.

In *In re Silverton* (2005) 36 Cal.4th 81, 92, the California Supreme Court held that the *Standards For Attorney Sanctions For Professional Misconduct* (“*Standard*” or “*Standards*”) are entitled to “great weight” and the Court will “not reject a recommendation arising from the *Standards* unless [it has] grave doubts as to the propriety of the recommended discipline.” The *Standards* are not binding but “they promote the consistent and uniform application of disciplinary measures.” (*Id.*) The “presumptively appropriate level of discipline” for any misconduct is as set forth in the standards.² Respondent’s stipulation to the discipline in the above matters—two (2) years of stayed suspension, two (2) years of probation with conditions and four (4) months of actual suspension—is supported by the *Standards*.

Standard 1.7(a), Standards For Attorney Sanctions For Professional Misconduct (hereinafter “*Standard*” or “*Standards*”) provides that if an attorney has a record of one prior imposition of discipline, then “the degree of discipline 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 2.2(b) provides that:

Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.4(b) provides that:

Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

The case law also supports the discipline stipulated to here by the State Bar and Respondent Bouzane. In *In the matter Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, the respondent was found culpable of multiple failures to perform in violation of former rule 6-101(A)(2), Rules of Professional Conduct (current rule 3-110(A)), multiple violations of rule 4-100(B), violations of rule 3-700(D)(1) and multiple failures to respond reasonable client status inquiries in violation of section

² See *Morgan v. State Bar* (1990) 51 Cal.3d 598, 607.

6068(m), Business and Professions Code. The respondent's misconduct involved negligent law office management over an extended period of time (four years) which resulted in seven counts of misconduct for ten different clients. Similar to Respondent Bouzane, the respondent there attributed much of the misconduct to his former office manager by hiding letters, phone messages from clients requesting updates and their files to review. The Court considered as mitigation the fact that respondent waived all of his fees for the affected clients; however, the Court noted respondent's numerous violations over an extended period of time and recommended discipline consisting of a two year stayed suspension, two years probation with conditions, including a three-month actual suspension.

Respondent Bouzane's current misconduct involves five failures to perform spanning at least eight years, including as recently as 2011, that stems from his inadequate supervision of his employees. Because Respondent has a prior record of discipline and the multiple acts of wrongdoing involve several different office employees, two years of stayed suspension, two years of probation with conditions and a four-month actual suspension is warranted.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Under Standard 1.2(b)(ii), Respondent's current misconduct described above evidences multiple acts of wrongdoing as indicated above in case numbers 09-O-10024, 09-O-17275, 10-O-02849, 10-O-10697, 11-O-18908.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
09-O-10024	3	Business & Professions Code, section 6068(m) [Failure to Respond to Client Inquiries]
09-O-17275	6	Business and Professions Code, section 6106 [Moral Turpitude-Misappropriation]
10-O-02849	7	Business and Professions Code, section 6106 [Moral Turpitude-Misrepresentation]
10-O-02849	8	Business & Professions Code, section 6068(d) [Seeking to Mislead a Judge]
10-O-10697	9	Business and Professions Code, section 6106 [Moral Turpitude-Misrepresentation]
10-O-10697	10	Business & Professions Code, section 6068(d) [Seeking to Mislead a Judge]

COSTS OF DISCIPLINARY PROCEEDINGS.

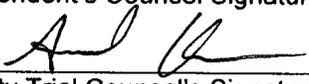
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 2, 2012, the prosecution costs in this matter are \$7,479.20. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: John Mark Edward Bouzane	Case number(s): 09-O-10024, 09-O-17275, 10-O-02849, 10-O-10697, 11-O-18908
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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.

February 14, 2012 Date	 Respondent's Signature	John Mark Edward Bouzane Print Name
February 15, 2012 Date	 Respondent's Counsel Signature	Michael E. Wine Print Name
February 17, 2012 Date	 Deputy Trial Counsel's Signature	Anand Kumar Print Name

(Do not write above this line.)

In the Matter of: John Mark Edward Bouzane	Case Number(s): 09-O-10024, 09-O-17275, 10-O-02849, 10-O-10697, 11-O-18908
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ACTUAL SUSPENSION ORDER

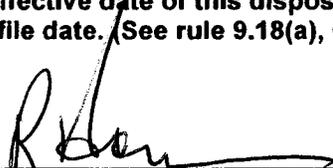
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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

2/29/12


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 Los Angeles, on March 1, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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:

**MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113**

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 1, 2012.



Tammy Cleaver
Case Administrator
State Bar Court