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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Cindy McCaughey Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 213/765-1491  Bar # 222126	<b>Case Number(s):</b> 09-O-11742 09-O-12442 09-O-12704 Inv #10-O-09916 Inv# 11-O-12208	<b>For Court use only</b>  <div style="text-align: center;"> <b>FILED</b>  MAY 05 2011  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>
<b>In Pro Per Respondent</b>  William Joseph Kopesky 17 Knowlton Street, #C Camden, ME 04834  Bar # 110745	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> William J. Kopesky  Bar # 110745  A Member of the State Bar of California (Respondent)		

**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 December 12, 1983.
- (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 15 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: 2012, 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 06-O-14556
  - (b) ☒ Date prior discipline effective July 10, 2009
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6103; Rules of Professional Conduct, rules 3-110 and 3-700(A)(2)
  - (d) ☒ Degree of prior discipline Stayed Suspension
  - (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. Respondent's conduct harmed the client and court by causing unnecessary delays in each matter.
- (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. Respondent's conduct impacted four separate 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. Although Respondent is recovering from a serious medical condition, he has been responsive, and extremely cooperative to the State Bar at all levels of the 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. Respondent's income was substantially less than foreseeable or anticipated.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

Respondent was hospitalized and was subsequently rehabilitating from a stroke when certain quarterly reports were due, explaining his non-compliance. He has since regained the ability, although somewhat limited, to write and produce documents.

**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 60 days.
- 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.

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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: Respondent lives out of state. Respondent to complete 8 hours live or participatory MCLE approved courses in legal ethics and provide proof of completion to the Office of Probation within one-year of the effective date of discipline .
- (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:**

(Effective January 1, 2011)

Actual Suspension

- (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 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: Respondent has been ordered to take and pass the MPRE in Case #06-O-14556.

- (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:** Within thirty (30) days of the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent agrees to send a letter by certified mail, return receipt requested, to Ermias Ghebrehsae and agrees to therein offer to initiate fee arbitration, and participate in binding fee arbitration with said individuals, upon the request of any such individuals, regarding fees respondent received for representation of the former clients set forth below. The letter shall include the address and phone number of the Office of Probation along with a statement that the Office of Probation will be monitoring his fee arbitration conditions and may be contacted by the individual.

Within forty (40) days of the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent agrees to provide the Office of Probation with a copy of the letters offering to initiate and participate in fee arbitration with the individual set forth above, along with a copy of the return receipt from the U.S. Postal Service, or other proof of mailing.

Respondent agrees to initiate fee arbitration within thirty (30) days of any request. Respondent agrees to fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration with respect to any of the above individuals.

Respondent further agrees to accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, Respondent hereby agrees to abide by the arbitration award and foregoes the right to file an action seeking a trial de novo in court to vacate the award. Within thirty (30) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter Respondent agrees to provide a copy of said award, judgment or stipulated award to the Office of Probation. Respondent agrees to abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgement or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, Respondent is to make full payment within ninety (90) days of the issuance of any such award, judgment or stipulated award.

In the Matter of: William Kopesky	Case Number(s): 09-O-11742; 09-O-12442 09-O-12704; Inv # 10-O-09916; Inv #11-O-12208
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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
Skiler Gascon	\$250.00	September 15, 2008
Otoniel Chavez	\$1,550.00	May 30, 2008

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 1 year after the effective date of discipline.

### 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

- ☐ 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: William Kopesky

CASE NUMBER(S): 09-O-11742 et al

**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. 09-O-11742 (Complainant: Skiler Gascon)

**FACTS:**

1. From November 2007 to September 2008, Respondent represented Skiler Gascon ("Gascon") in Los Angeles County Superior Court in criminal Case No. YA069887.
2. On September 15, 2008, following a trial by jury, Gascon was convicted and sentenced to 23 years in the California Department of Corrections and Rehabilitation.
3. Following sentencing, Respondent was hired to handle Gascon's appeal. Gascon's father, Ruben Gascon, paid Respondent \$250 in advance fees.
4. Respondent filed a timely notice of appeal in California Court of Appeal Case #B211240 on about September 24, 2008.
5. On January 8, 2009 Respondent received a default notice from the Court of Appeal for failure to file an opening brief. On February 20, 2009, Respondent received a dismissal order in Gascon's appeal.
6. Respondent received further notice of the dismissal by way of a telephone call from an attorney with the California Appellate Project who subsequently took action to vacate the dismissal on Gascon's behalf.
7. Respondent did not inform Gascon or Ruben Gascon of the dismissal of the appeal.
8. Respondent took no further action on Gascon's behalf.

**CONCLUSIONS OF LAW:**

9. By failing to file an opening brief on behalf of Gascon, and by failing to take any action to reinstate Gascon's appeal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

Case No. 09-O-12442 (Complainant: Pedro Romero)

FACTS:

10. In October 2007, Respondent was hired to handle an appeal of Pedro S. Romero's ("Romero") criminal conviction.
11. On October 31, 2007, Respondent timely filed a notice of appeal in Court of Appeals case number B203221.
12. On January 10, 2008, the Court of Appeal mailed Respondent a default notice for failure to file an opening brief. Respondent received the notice.
13. Between February 2008 and April 2008, Respondent requested and received approximately nine (9) extensions of time to file the opening brief. The final extension granted was to May 1, 2008.
14. On June 3, 2008, the Court of Appeal mailed Respondent a dismissal notice for failure to file an opening brief. Respondent received the dismissal order.
15. On June 19, 2008, Respondent filed a motion for relief from default and motion for reinstatement of appellate case no. B203221.
16. On June 25, 2008, the court vacated its order of dismissal and requiring Respondent to file an opening brief within 30 days.
17. On August 8, 2008, the court mailed to Respondent a default notice for failure to file an opening brief in Case No. B203221. Respondent received the default notice.
18. On September 24, 2008, for the second time, the court dismissed Romero's appeal, as a result of Respondent's failure to file an opening brief on his behalf. Respondent received the dismissal order.
19. On October 9, 2008, Respondent again filed a motion for reinstatement of appeal in Case No. B203221.
20. On October 22, 2008, the court vacated its order of dismissal.
21. On November 26, 2008, the court mailed to Respondent a default notice for failure to file an opening brief. Respondent received the default notice.
22. Between December 26, 2008, and January 9, 2009, on at least three (3) occasions, Respondent requested an extension of time to file the opening brief. The court granted Respondent's request on each occasion.

23. On February 2, 2009, the court mailed to Respondent a dismissal order in Case No. B203221, as a result of Respondent's failure to file an opening brief on behalf of Romero. Respondent received the dismissal order.
24. After February 2, 2009, Respondent did not take any action to reinstate the appeal on Romero's behalf.

CONCLUSIONS OF LAW:

25. By failing to file an opening brief on behalf of Romero, then failing to take any legal action to reinstate Romero's appeal after learning of the final dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

Case No. 09-O-12704 (Complainant: Otoniel Chavez)

FACTS:

26. In May 2008, Otoniel Aguilar Chavez ("Chavez"), hired Respondent to appeal his sentence on a criminal conviction.
27. On May 30, 2008, Respondent timely filed a notice of appeal on behalf of Chavez, Appellate Court Case No. B208153.
28. On August 19, 2008, the Court of Appeal mailed to Respondent a default notice for failure to file an opening brief on behalf of Chavez. Respondent received the default notice.
29. On September 26, 2008, the Court of Appeal mailed to Respondent a dismissal notice for failure to file an opening brief in Case No. B208153. Respondent received the dismissal notice.
30. On October 24, 2008, Respondent filed a motion for relief from default and motion for reinstatement of appeal in Case No. B208153.
31. On October 27, 2008, the court vacated its order of dismissal and reinstated the appeal in Case No. B208153, requiring that the opening brief be filed within thirty (30) days. Respondent received the court's October 27, 2008 order.
32. Between December 1, 2008, and January 7, 2009, on at least six (6) occasions, Respondent requested an extension of time to file the opening brief. The court granted Respondent's request on each occasion. In response to Respondent's request of January 7, 2009, the court granted an extension of time with "NO FURTHER EXTENSIONS."
33. On January 23, 2009, the Court of Appeal mailed to Respondent a dismissal order in Case No. B208153, for failure to file an opening brief on behalf of Chavez. Respondent received the dismissal order.
34. Thereafter, Respondent did not take any action to reinstate the appeal on Chavez' behalf.

#### CONCLUSIONS OF LAW:

35. By failing to file an opening brief on behalf of Chavez, then failing to take any legal action to reinstate Chavez's appeal after the final dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

#### Case [Inv] No. 10-O-09916 (Complainant: Ermias Ghebrethsae) [unfiled matter]

#### FACTS:

36. On September 15, 2009, Respondent appeared in the San Diego County Superior Court as counsel of record for Ermias Ghebrethsae ("Ghebrethase") on a criminal matter.
37. On October 9, 2009, Respondent was unable to appear at the scheduled Preliminary Hearing.
38. On November 4, 2009, Respondent was unable to appear at a scheduled hearing on the case.
39. On November 5, 2009, after Respondent did not timely appear for a scheduled hearing, the court found Respondent had abandoned Ghebrethsae, and relieved Respondent from the case.

#### CONCLUSIONS OF LAW:

40. By failing to appear at the scheduled hearings in Ghebrethsae's criminal case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

#### Case [Inv] No. 11-O-12208 (Complainant: Office of Probation)

#### FACTS:

41. On June 10, 2009, the California Supreme Court filed its Order No. S172310 (State Bar Case No. 06-O-14556) that Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that Respondent be placed on probation for two years with conditions. The Order was effective July 10, 2009. Respondent received a copy of the Order.
42. On July 2, 2009, the Office of Probation ("Probation") mailed a letter to Respondent with information regarding his probation conditions which required Respondent to: (i) 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; (ii) provide proof of attendance and passage of the Ethics School by July 10, 2010; and (iii) take and pass the Multistate Professional Responsibility Examination ("MPRE") by July 10, 2010. Respondent received the letter from Probation.
43. On July 23, 2010, Respondent filed with the Hearing Department a motion to extend the time to take and pass Ethics and the MPRE. On August 3, 2010, the Hearing Department granted Respondent an extension to November 1, 2010 for the Ethics School. The Hearing Department

referred Respondent's motion to take and pass the MPRE to the Review Department. On August 17, 2010, the Review Department denied Respondent's Motion for an extension to take and pass the MPRE and Ethics.

44. On September 7, 2010, Respondent filed with the Review Department a request for reconsideration of the motion to extend the time to take and pass Ethics and the MPRE ("request for reconsideration").
45. On October 3, 2010, Respondent suffered a stroke and was hospitalized until October 21, 2010. Thereafter, Respondent did not submit to the Office of Probation the written quarterly reports due by October 10, 2010, and January 10, 2011. Respondent submitted a Quarterly Report due April 10, 2011 on April 11, 2011.
46. On October 21, 2010, the Review Department denied Respondent's request for reconsideration.

#### CONCLUSIONS OF LAW:

47. By failing to submit to the Office of Probation the written quarterly reports due by October 10, 2010, and January 10, 2011, and take and pass the Ethics School and the MPRE, Respondent failed to comply with all conditions attached to any disciplinary probation in willful violation of Business and Professions Code, section 6068(k).

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was April 12, 2011.

#### AUTHORITIES SUPPORTING DISCIPLINE.

To determine the appropriate level of discipline, the Standards for Attorney Sanctions for Professional Misconduct provide guidance. *Drociak v. State Bar* (1991) 52 Cal.3d 1085; *In the Matter of Sampson*, 3 Cal. State Bar Ct. Rptr. 119. The applicable standards in this case include 1.3, 1.6, 1.7(a), 2.4(b) and 2.6.

Pursuant to Standard 1.3:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

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Pursuant to Standard 1.7(a) when 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.

Pursuant to Standard 2.4(b), "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."

Standard 2.6 provides that disbarment or suspension is appropriate, "depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes imposing discipline set forth in Standard 1.3" when culpability is found for a violation of section 6068 of the Business and Professions Code.

*In the Matter of Riordan* (Review Dept. 2007) 5 Cal.State Bar Ct. Rptr. 41, the Review Department imposed a six month stayed suspension and one year of probation on an attorney with no record of prior discipline since 1982 who failed to perform with competence in filing an opening brief, failed to comply with two orders to file the opening brief and failed to report the imposition of sanctions.

In this case, based upon Standard 1.7(a) and the mitigating and aggravating circumstances set forth within this Stipulation, the parties submit a two-year stayed suspension, two-year probation, 60 days actual suspension with conditions is an appropriate disposition in the matter and will fulfill the purposes of the Standards to protect the public from future harm.

#### **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-11742	Two	6068(m) BP
09-O-12442	Four	6068(m) BP
09-O-12704	Six	6068(m) BP

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**


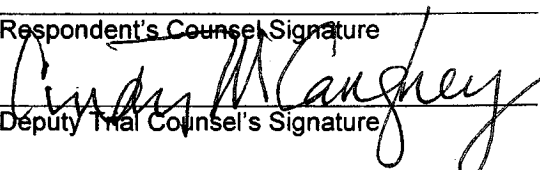
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 13, 2011, the prosecution costs in this matter are estimated at \$ 7,088.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: William Kopesky	Case number(s): 09-O-11742 09-O-12442 09-O-12704 10-O-09916 (Inv#) 11-O-12208 (Inv #)
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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>4/14/11</u> Date	<u></u> Respondent's Signature	<u>William Kopesky</u> Print Name
<u>4/18/11</u> Date	<u></u> Respondent's Counsel Signature Deputy Trial Counsel's Signature	<u>Cindy McCaughey</u> Print Name

In the Matter of: William Kopesky	Case Number(s): 09-O-11742 09-O-12442 09-O-12704 Inv. # 10-O-09916 Inv. #11-O-12208
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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.

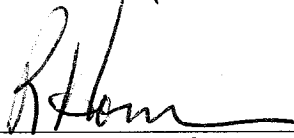
1. On page 4 of the stipulation, the "X" in the box at paragraph D.(3)(a)(ii) is deleted to remove the "and until" condition under which respondent's 60-day suspension will continue until he pays restitution.
2. On page 6 of the stipulation, the "X" in the box at paragraph F.(3) is deleted to remove the conditional California Rules of Court, rule 9.20 requirement.

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

5/4/11

Judge of the State Bar Court



RICHARD A. MILLER



## 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 May 5, 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:

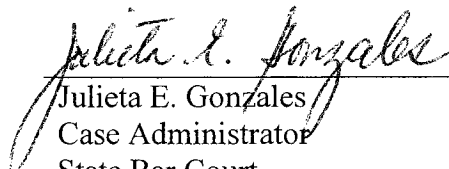
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

WILLIAM JOSEPH KOPESKY ESQ  
LAW OFFICE OF WILLIAM JOSEPH KOPESKY  
17 KNOWLTON ST APT C  
CAMDEN, ME 04843

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

Cynthia B. McCaughey, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 5, 2011.

  
Julieta E. Gonzales  
Case Administrator  
State Bar Court