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

Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number (s) 09-O-13823	(for Court's use) PUBLIC MATTER FILED <i>Ru</i> MAR 30 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent William F. Bosque, Jr. 220 Montgomery St Ste 1094 San Francisco, CA 94104 (415) 291-0919 Bar # 75886	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: William F. Bosque, Jr. Bar # 75886 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 21, 1977**.
- (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 **8** 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):
- costs added to membership fee for calendar year following effective date of discipline.
 - 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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved. **See page 7.**

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. **See page 7.**
- (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. **See page 7.**
- (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. **See page 7.**
- (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. **See page 7.**
- (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 (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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **four (4) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.
- (6) 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

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directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) 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.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> 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 within one year. **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) **Other Conditions:**
- Respondent will continue to work with Fisher to ensure the return all of the papers and property from the Clark estate that are currently in respondent's possession. Respondent must return all of the papers and property from the Clark estate to Fisher within thirty (30) days of the effective date of discipline herein. Within sixty (60) days of the effective date of the discipline herein. respondent must submit a declaration under penalty of perjury to the Office of Probation stating that he has returned of all the papers and properties from the Clark estate to Fisher.**

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. On July 25, 2002, respondent was hired by Robert Fisher ("Fisher") to handle a probate matter. Specifically, Fisher, the executor of Irma Clark's estate ("Clark estate"), hired respondent to handle the probate for the Clark estate. Thereafter, respondent took no action in the probate matter aside from filing Irma Clark's will on August 19, 2008.
2. From 2007 through September 2008, Fisher repeatedly called the telephone number provided to him by respondent and left numerous messages for respondent inquiring about the status of the probate matter. Respondent received the messages, but failed to respond to them.
3. On September 30, 2008, Fisher sent a letter to respondent requesting him to complete the probate matter by November 5, 2008. Soon thereafter, respondent received Fisher's September 30, 2008, but failed to take any action in the probate matter.
4. On December 15, 2008, Fisher filed a complaint against respondent with the State Bar ("Fisher complaint"). On February 6, 2009, a State Bar complaint analyst sent a letter to respondent regarding the Fisher complaint. Soon thereafter, respondent received the State Bar's letter. On February 20, 2009, respondent sent a letter to Fisher, with a copy to the State Bar. In the February 20, 2009 letter, respondent promised to perform work in the probate matter. Thereafter, respondent took no action in the probate matter.
5. On October 16, 2009, Fisher terminated respondent's services. On the same date, Fisher sent a letter to respondent requesting return of the papers and property from the Clark estate by November 13, 2009. Soon thereafter, respondent received Fisher's October 16, 2009 letter, but failed to return the papers and property. From December 2009 to present, respondent has returned portions of the papers and property from the Clark estate.

Conclusions of Law

1. By failing to take any action in the probate matter for more than seven years (July 25, 2002 – October 16, 2009), and by failing to take any action in the probate matter after sending the February 20, 2009 letter promising to perform work on the matter, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence.
2. By failing to respond to Fisher's numerous messages inquiring about the status of the probate matter, respondent failed to respond promptly to reasonable status inquiries of a client, in willful violation of section 6068(m) of the Business and Professions Code.
3. By failing to promptly return all of the papers and property to Fisher, 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) of the Rules of Professional Conduct.

PENDING PROCEEDINGS

The disclosure date referred to on page two, paragraph A (7) was March 9, 2010.

STATE BAR ETHICS SCHOOL

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

There are no aggravating circumstances.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(i). Respondent has been practicing law since 1977, and has no prior record of discipline.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vi). Respondent has performed pro bono work.

Standard 1.2(e)(vii). Respondent displayed remorse for his misconduct.

SUPPORTING AUTHORITY

Standard 2.4(b) requires reproof or suspension for a respondent who has wilfully failed to perform services in which he was retained.

Standard 2.6 requires that a violation of Business and Professions Code section 6068(m) shall result in disbarment or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Standard 2.10 requires that a violation of any provision of the Rules of Professional Conduct not specified in the standards (e.g., rule 3-700(D)(1)) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Respondent's misconduct is similar to the misconduct in *Layton v. State Bar* (1990) 50 Cal.3d 889 [30 days' actual suspension for failing to perform in one client matter; no prior record of discipline]. In *Layton*, the respondent also failed to perform in a simple probate matter. However, *Layton's* misconduct was more egregious than the misconduct in this matter. In addition, the court found aggravating factors of significant harm to the client and the estate and an indifference toward rectification. The discipline in this matter should be lower than that imposed in *Layton* since respondent's misconduct is less egregious and there are no aggravating circumstances and several mitigating circumstances. Although respondent's failure to perform is exceedingly long, given his 33 years of discipline-free practice and other mitigation, a two-year stayed suspension is both fair and protects the public, especially given the long probationary period.

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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 Fact, Conclusions of Law and Disposition.

March 25, 2010
Date

Wm. F. Bosque, Jr.
Respondent's Signature

William F. Bosque, Jr.
Print Name

Date
3/25/10
Date

Respondent's Counsel Signature
[Signature]
Deputy Trial Counsel's Signature

N/A
Print Name

Susan I. Kagan
Print Name

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In the Matter Of William F. Bosque, Jr.	Case Number(s): 09-O-13823
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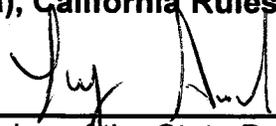
ORDER

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.)**

March 30, 2010
Date


Judge of the State Bar Court

LUCY ARMENDARIZ

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 March 30, 2010, I deposited a true copy of the following document(s):

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

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

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

**WILLIAM FRANCIS BOSQUE, JR.
220 MONTGOMERY ST STE 1094
SAN FRANCISCO, CA 94104**

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- by overnight mail at , California, addressed as follows:
- by fax transmission, at fax number . No error was reported by the fax machine that I used.
- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

SUSAN I. KAGAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 30, 2010.



Bernadette C.O. Molina
Case Administrator
State Bar Court