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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Katherine Kinsey Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 213-765-1503 Bar # 183740	Case Number(s): 09-O-16244-DFM 10-O-00127	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED SEP 05 2012 <i>R</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES kwiktag® 152 141 672  </div>
In Pro Per Respondent Larry Gene Noe Law Offices of Larry G. Noe 17621 Irvine Blvd Ste 200 Tustin, CA 92780 714-730-7084 Bar # 128640	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED Previous Stipulation Returned by Supreme Court Order S199840	
In the Matter of: Larry Gene Noe Bar # 128640 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 June 17, 1987.
- (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 13 pages, not including the order.

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- (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: 2014, 2015. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment Page 10.

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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 Page Attachment 10
- (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:

See Attachment Page 10

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of One Year.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of One Year, 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.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

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

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

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

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Larry Gene Noe

CASE NUMBER(S): 09-O-16244, 10-O-00127

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-16244 (Complainant: Robert Flores)

FACTS:

1. By at least 2008, William L. Cook ("Cook") was an officer for WLC Mortgage Services, Inc., and Arturo J. Ochoa ("Ochoa") was also an officer for WLC Mortgage Services, Inc. ("WLC"). Cook also controlled ConquistAmerica. Both Cook and Ochoa are not attorneys.
2. By December 2008, Cook had hired Respondent to work for ConquistAmerica as its corporate counsel. In addition, Respondent hired WLC/ConquistAmerica to process loan modifications under Respondent's supervision.
3. On February 1, 2009, Robert M. Flores ("Flores") met with Jody Chavez ("Chavez"), a loan consultant with ConquistAmerica, regarding obtaining a loan modification because his mortgage was in default. Chavez referred Flores to Respondent for the handling of the loan modification.
4. On February 19, 2009, Respondent sent Chavez to Flores's home to provide Flores with a copy of Respondent's retainer agreement.
5. On February 19, 2009, Flores signed Respondent's retainer agreement employing Respondent for loan modification services. Pursuant to Respondent's retainer agreement, Respondent may use WLC for loan modification services and Flores agreed to "hereby totally & unconditionally release and forever discharge [WLC] and agreed to indemnify and hold harmless [WLC] ... from and against any and all liability whatsoever due to judgments, claims, damages, expense and costs (including attorney's fees) ..."
6. Respondent did not obtain the informed written consent of Flores prior to agreeing to represent Flores in matter that was in actual conflict with WLC/ConquistAmerica.
7. Pursuant to Respondent's retainer, Flores agreed to pay \$3,000 in legal fees. On February 19, 2009, Flores gave three blank checks to Chavez. Chavez dated one check in the amount of \$1,000 for February 27, 2009, and according to Respondent, WLC was to receive \$905 of the \$1,000. Chavez post-dated the remaining two checks for \$1,000 each for March 27, 2009 and April 27, 2009, respectively.

8. On February 27, 2009, ConquistAmerica faxed a signed Borrowers Authorization to Flores's lender, Washington Mutual, giving Respondent and WLC authorization to negotiate and discuss Flores's account. In February 2009, Respondent also submitted a loan modification package to Flores's lender.

9. From March 2, 2009 through March 14, 2009, Flores telephoned ConquistAmerica four or five times seeking the status of his loan modification and was told each time that everything was fine. Flores did not contact Respondent seeking the status of his loan modification. By March 14, 2009, Flores's home had been scheduled for auction by his lender.

10. On March 14, 2009, Flores received a telephone call from an unknown entity informing him that his home was scheduled for auction and asked if he would be interested in a loan modification. In response, Flores immediately contacted his lender who told him that they had only received an authorization letter from Respondent and confirmed that his house was scheduled to be auctioned on May 12, 2009. Following his conversation with his lender, Flores put a stop payment on the two checks for \$1,000 each.

11. On April 3, 2009, although his retainer agreement was with Respondent, Flores called ConquistAmerica terminating his retainer agreement and requesting a refund. A ConquistAmerica employee told Flores that they would give Flores a refund if he would submit a letter releasing ConquistAmerica from liability.

12. On July 8, 2009, Flores sent a letter to ConquistAmerica by fax once again canceling the loan modification and freeing ConquistAmerica "of all responsibility." In the letter, Flores asked that the two checks for \$1,000 be returned and asked for a refund. ConquistAmerica received the letter from Flores. By on or about July 9, 2009, Respondent became aware that Flores had requested a refund. Respondent returned the two checks that had not been cashed but did not immediately provide a refund.

13. In February 2012, Respondent paid Flores \$1,260, reflecting a refund of the \$1,000 plus interest.

CONCLUSIONS OF LAW:

14. By entering into an agreement to represent WLC/ConquistAmerica as corporate counsel and then entering into an agreement to represent Flores in his loan modification matter, without the informed written consent of the client, Respondent represented more than one client in a matter in which the interests of the clients actually conflicted in willful violation of Rules of Professional Conduct, rule 3-310(C)(2).

15. By paying a portion of the legal fees paid by Flores to WLC, Respondent shared legal fees with a person who is not a lawyer in willful violation of Rules of Professional Conduct, rule 1-320(A).

16. By failing to promptly refund \$1,000 in unearned attorney's fees to Flores, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

FACTS:

1. On April 30, 2009, Carlos Nunez ("Nunez") contacted Respondent's office after hearing his radio advertisement for loan modification services and scheduled a meeting with a Miguel Ciccía ("Ciccía"), a non-attorney employee of Respondent.
2. On May 2, 2009, because it was inconvenient for Nunez to travel to Respondent's office, Respondent sent Ciccía to Nunez's home for the meeting. Jose Castro ("Castro") was also present in the meeting because he co-signed the home loan mortgage with Nunez. On May 2, 2009, Ciccía provided Nunez and Castro with a copy of Respondent's retainer agreement. Pursuant to the retainer agreement, Nunez and Castro employed Respondent's Loss Mitigation Firm ("LMF") for a loan modification/mitigation submission.
3. Nunez paid Respondent \$3,000 in advanced attorney's fees for loan modification services.
4. On May 18, 2009, LMF faxed the Borrower's Authorization to SunTrust Mortgage, Castro's lender giving SunTrust authorization to speak to Respondent's office. Thereafter, Respondent took no additional steps to obtain a mortgage on behalf of Nunez and Castro.
5. On June 18, 2009, SunTrust Mortgage filed a Notice of Default on the Nunez/Castro property, and on or about July 16, 2009, SunTrust approved the Nunez/Castro property for foreclosure.
6. Thereafter, in August 2009, Castro contacted SunTrust directly regarding obtaining a loan Modification. In or about September 2009, Castro submitted his own loan modification package to SunTrust. On or about December 15, 2009, SunTrust approved Castro for a trial period plan under its Home Affordable Modification Program.
7. Respondent did not provide any services of value to Nunez and Castro and did not earn the advanced attorney's fees he received.
8. While Respondent was only able to locate documentation indicating Nunez had paid him \$2,400 in fees, Respondent agreed to refund the entire \$3,000 acknowledging that Nunez had previously given him a blank money order, and Nunez may have not been properly credited for the funds if the remaining \$600 also had been paid with a blank money order.
9. On December 29, 2010, Respondent sent a refund of \$900 to Nunez. On April 30, 2012, Respondent refunded \$1,500 to Nunez. In July 2012, Respondent refunded the remaining \$600 to Nunez and paid Nunez an additional \$630 in interest.

CONCLUSIONS OF LAW:

10. By failing to pursue a loan modification on behalf of Nunez and Castro, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
11. By failing to promptly refund the \$3,000 in attorney's fees to Nunez, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 4, 2012.

FACTS RE AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(iv) Multiple Acts: Respondent's five acts of misconduct in two client matters evidences multiple acts of misconduct.

Standard 1.2(b)(ii) Harm: Respondent's delay in refunding unearned fees to both clients harmed his clients.

ADDITIONAL MITIGATING CIRCUMSTANCES

Respondent has cooperated with the State Bar throughout the investigation and these proceedings and has entered into a stipulation of facts and conclusions of law. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50; *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 196.)

Respondent was admitted to the practice of law on June 17, 1987 and has no prior record of discipline. Although the present matter is serious, Respondent's years of discipline free practice is a significant mitigating factor. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106 fn. 13 [Noting that the Supreme Court has repeatedly applied Standard 1.2(e)(1) in cases involving serious misconduct and citing *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 317; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing five acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The Standards that are applicable to Respondent's misconduct are Standards 2.4(b) and 2.10. Standard 2.4(b) states that culpability of a member for willfully failing to perform services for a client not demonstrating a pattern of misconduct shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client. Standard 2.10 requires reproof or suspension for a violation of any provision of the Rules of Professional Conduct not specified by the Standards, according to the gravity of the offense or the harm, if any, to the victim, with due regard for the purposes of imposing discipline set forth in Standard 1.3. The applicable rule violations under this Standard are Rules of Professional Conduct, rules 1-320(A), 3-310(C)(2) and 3-700(D)(2).

DISCUSSION

Pursuant to the standards, the discipline provided by the applicable standards ranges from reproof to suspension depending on the harm to the client and the extent of the misconduct. In the Flores matter, Respondent entered into an agreement in which he clearly favored one client over another. Specifically, in case no. 09-O-16244, Respondent entered into a retainer agreement with Flores without reviewing the agreement with Flores or disclosing the fact that Respondent was corporate counsel for WLC/ConquistAmerica. The retainer agreement signed by Flores contained language absolving Respondent's one client, WLC, from liability to another, Flores. This created an actual conflict between Respondent's two clients. In addition, Respondent split fees with WLC by giving it a portion of the \$1,000 paid by Flores. This misconduct, in addition to the aggravating factors, calls for a period of actual suspension. Although the clients were harmed by the delay in receiving their funds, the State Bar has taken into consideration that Respondent made full restitution to the clients with interests, including amounts that were in dispute. Respondent has also cooperated with the State Bar throughout these proceedings and took responsibility for how the underlying matters were mishandled by his office. Finally, Respondent's twenty-five years of practice without any prior discipline is a significant factor in imposing actual suspension on the lower end of the spectrum.

In *Matthew v. State Bar* (1989) 40 Cal.3d 784, the respondent engaged in six acts of misconduct in three client matters. Specifically, the respondent failed to perform and failed to refund unearned fees in three client matters. The Supreme Court found the clients had suffered financial harm due to respondent's failure to refund unearned fees. The Court ordered respondent suspended for three years, stayed, and that he be actually suspended for sixty days. In the present matter, Respondent engaged in five acts of misconduct in two client matters, somewhat less than in *Matthew*. Respondent failed to promptly refund unearned fees in two client matters. However, Respondent also split fees with non-attorney/client WLC and entered into a retainer agreement with Flores that contained terms that favored WLC over Flores. That type of misconduct, the Court has noted, creates a risk where profit is elevated above the client's welfare. (*In the Matter of Bragg* (Review Dept. 1997) 3 Cal State Bar Ct. Rptr. 615 citing *In re Arnoff* (1978) 22 Cal.3d 740, 748, fn. 4.)) While Respondent committed less acts of misconduct than *Matthew*, the additional acts of misconduct here, at the very least, created a risk to the client's welfare. However, unlike the respondent in *Matthew*, Respondent has many years of practice without prior discipline. On balance, and considering the Standards, and the aggravating and mitigating circumstances, 60 days actual suspension serves the purposes of attorney discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 8, 2012, the prosecution estimated costs in this matter are \$3,689. 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.

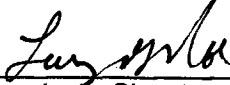
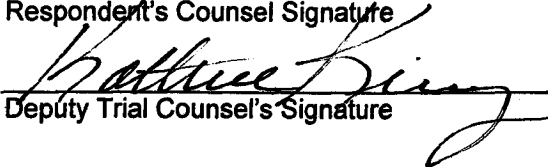
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In the Matter of:
Larry Gene Noe

Case number(s):
09-O-16244; 10-O-00127

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>9/4/12</u> Date	<u></u> Respondent's Signature	<u>Larry Gene Noe</u> Print Name
<u>9/4/12</u> Date	<u>Respondent's Counsel Signature</u>	<u>Print Name</u>
<u>9/4/12</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Katherine Kinsey</u> Print Name

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In the Matter of: Larry Gene Noe	Case Number(s): 09-O-16244; 10-O-00127
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ACTUAL SUSPENSION ORDER

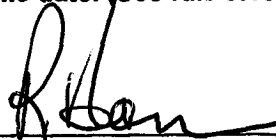
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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

9/4/12



Judge of the State Bar Court
RICHARD A. HONN

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 September 5, 2012, 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:

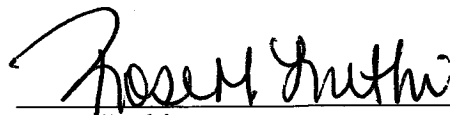
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LARRY G. NOE
LAW OFFICE OF LARRY G NOE
17621 IRVINE BLVD STE 200
TUSTIN, CA 92780

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

KATHERINE KINSEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 5, 2012.



Rose Luthi
Case Administrator
State Bar Court