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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION			ORIGINAL
Counsel For The State Bar Jamie Kim Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1000 Bar # 281574	Case Number(s): 10-O-1209-DFM; 10-O-1821; 10-O-2287; 10-O-3744; 10-O-5261; 10-O-10245 (INV)	For Court use only PUBLIC MATTER FILED MAY 05 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
In Pro Per Respondent Gary P. Royle 1411 Stockton St., #109 San Francisco, CA 94133 (415) 374-9300 Bar # 212199	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: GARY P. ROYLE Bar # 212199 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 **January 9, 2001**.
- (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 **20** 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".

(Effective January 1, 2014)



- (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: **three billing cycles following the effective date of the Supreme Court order in this matter.** (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline**
- (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 intentional, 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.

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- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See, Stipulation, p. 16.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

N/A

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) ☒ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct. **See, Stipulation p. 16.**
- (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 extraordinarily 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:

Good Character, No Prior Discipline, Remorse & Recognition of Wrongdoing and Pre-Trial Stipulation; see, Stipulation, p. 16-17.

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 1.2(c)(1) 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 **three (3) 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 **six (6) months**.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), 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 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

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

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

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

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

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

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" 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 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: .

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- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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In the Matter of: GARY P. ROYLE	Case Number(s): 10-O-1209; 10-O-1821; 10-O-2287; 10-O-3744; 10-O-5261; 10-O-10245 (INV)
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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
Sang T. Chung, who was reimbursed \$3,600 by CSF.	\$3,600. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	2/5/2010
Victoria K. Kim, who was reimbursed \$3,000 by CSF.	\$3,000. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	11/30/2009
Ciria Vivar	\$2,790. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	10/1/2009
Elmer Roberto Salazar-Florian	\$2,500. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	2/15/2008
Erkinoye Hasanova	\$3,000. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	2/6/2008
Ernesto I. Ramirez	\$3,500. Respondent will receive credit for all payments made prior to the filing of the Stipulation.	8/17/2007

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

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.

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Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Ciria Vivar	\$500	Quarterly; first payment due no later than thirty (30) days after the effective date of the disciplinary order.
Elmer Roberto Salazar-Florian	\$500	Quarterly; first payment due no later than thirty (30) days after the effective date of the disciplinary order.
Erkinoye Hasanova	\$500	Quarterly; first payment due no later than thirty (30) days after the effective date of the disciplinary order.
Ernesto I. Ramirez	\$500	Quarterly; first payment due no later than thirty (30) days after the effective date of the disciplinary order.

- ☒ 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: GARY P. ROYLE
CASE NUMBERS: 10-O-1209; 10-O-1821; 10-O-2287;
 10-O-3744; 10-O-5261; 10-O-10245 (INV)

FACTS AND CONCLUSIONS OF LAW.

Respondent, GARY P. ROYLE, admits the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

A. Case No. 10-O-1209 – THE SALAZAR MATTER

FACTS:

1. In January 2008, Elmer Roberto Salazar-Florian (“Salazar”) employed respondent to represent him in a pending immigration removal proceeding, to seek asylum for Salazar, and to obtain a work permit for him. Between January 2008 and September 2009, Salazar paid respondent \$2,500 as advance fees and costs for the representation.

2. On April 25, 2008, respondent appeared with Salazar at an immigration hearing and informed the court that he would be filing an application for asylum on behalf of Salazar. The court continued the hearing to October 3, 2008.

3. On October 3, 2008, respondent appeared with Salazar at an immigration hearing and filed an application for asylum and withholding of removal on behalf of Salazar with the court. The court set the application for a hearing on the merits for September 1, 2009.

4. On September 1, 2009, Salazar appeared for the hearing without respondent. The court informed Salazar that respondent had contacted the court and stated that he was ill. The court continued the hearing to December 4, 2009. Respondent received notice of the hearing.

5. On November 30, 2009, respondent voluntarily enrolled himself as an inactive member of the State Bar of California without notice to Salazar, which constructively terminated his representation of Salazar.

6. On December 4, 2009, Salazar appeared for the hearing without respondent. Respondent did not complete the asylum matter and did not file an application for a work permit on behalf of Salazar.

CONCLUSION OF LAW:

7. By not appearing at the hearing on September 1, 2009, by not completing the asylum matter, and by not filing an application for a work permit on behalf of Salazar, respondent

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

8. By enrolling himself as an inactive member of the State Bar without informing client Salazar, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Salazar, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

B. Case No. 10-O-1821 – THE KIM MATTER

FACTS:

9. In April 2008, Victoria Kim (“Kim”) employed respondent to represent her in a pending immigration removal proceeding and application for asylum. A removal hearing was set for May 9, 2008. Between April 2008 and April 2009, Kim paid respondent \$3,000 as an advance fee for the representation.

10. On May 9, 2008, respondent appeared with Kim at the hearing and filed an application for asylum and withholding of removal on behalf of Kim with the court. The court issued an order that Kim file all documents supporting her application for asylum and provide biometrics/fingerprints in support of her application by April 24, 2009. The court set a hearing on the merits for May 26, 2009.

11. On April 24, 2009, the court re-scheduled the hearing of May 26, 2009 to June 10, 2010. Respondent received notice of the hearing and notified Kim of the new hearing date.

12. Kim last spoke with respondent about her case in September or October 2009. Throughout the remainder of 2009, Kim left numerous telephone messages for respondent, asking for the status of her case. Respondent received the messages, but did not respond to Kim’s messages.

13. On November 30, 2009, respondent voluntarily enrolled himself as an inactive member of the State Bar without notice to Kim, which constructively terminated his representation of Kim. Respondent did not complete the asylum matter for Kim.

14. By April 14, 2015, respondent refunded \$1,000 to Kim.

CONCLUSIONS OF LAW:

15. By not completing the asylum matter for Kim, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

16. By enrolling himself as an inactive member of the State Bar without informing client Kim, respondent withdrew from employment without taking reasonable steps to avoid

reasonably foreseeable prejudice to Kim, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

17. By not responding to Kim's messages inquiring about the status of her case, respondent failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code section 6068(m).

C. Case No. 10-O-2287 – THE HASANOVA MATTER

FACTS:

18. In January 2008, Erkinoye Hasanova ("Hasanova") employed respondent to represent her in a pending immigration removal proceeding and to seek asylum for her. Hasanova had filed an application for asylum and withholding of removal on October 11, 2007 and a removal hearing was set for February 6, 2008. Between January and July 2008, Hasanova paid respondent \$3,000 as an advance fee for the representation.

19. On August 5, 2008, respondent appeared with Hasanova at the hearing and submitted additional documents in support of the asylum application. The government requested that further original documents be submitted in support of the asylum application. The court set a hearing for January 6, 2009 for receipt of the additional original documents requested by the government.

20. On January 6, 2009, respondent appeared with Hasanova at the hearing and submitted only copies of the additional documents requested by the government. The court set the hearing for March 10, 2009 for receipt of the additional original documents requested by the government.

21. On March 10, 2009, respondent appeared with Hasanova at the hearing and provided the original documents requested by the government. The government requested time to examine the documents. The court set a hearing for April 27, 2010.

22. When Hasanova contacted respondent in the fall of 2009 to discuss her case, respondent informed Hasanova that he was having personal problems. Respondent declined Hasanova's request to perform legal services to renew her authorization card.

23. On November 30, 2009, respondent voluntarily enrolled himself as an inactive member of the State Bar without notice to Hasanova, which constructively terminated his representation of Hasanova.

24. On April 27, 2010, respondent did not appear for the hearing with Hasanova. Respondent did not complete the asylum matter for Hasanova.

25. Despite attempts by Hasanova to reach respondent in or about December 2009, she was no longer able to reach respondent as his telephone was disconnected and he had closed his office.

26. By April 14, 2015, respondent refunded \$3,000 to Hasanova.

CONCLUSION OF LAW:

27. By not completing Hasanova's asylum matter, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

28. By enrolling himself as an inactive member of the State Bar without informing client Hasanova, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Hasanova, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

D. Case No. 10-O-3744 – THE RAMIREZ MATTER

FACTS:

29. In May 2006, Ernesto Ramirez ("Ramirez") employed respondent to represent him in a pending immigration removal proceeding and to seek asylum for him. Between May and November 2006, Ramirez paid respondent \$3,070 as an advance fee for the representation.

30. On September 25, 2006, respondent's office filed a notice of entry of appearance as the attorney for Ramirez, identifying attorney Martin Fontes and respondent as the attorneys for Ramirez. On September 25, 2006, respondent's office also filed an application for asylum on behalf of Ramirez.

31. On September 25, 2006, the court set a hearing on the asylum application for March 20, 2007. Respondent was the attorney of record as of September 25, 2006, and the court sent notice of the hearing to respondent.

32. On or about November 22, 2006, Ramirez advanced \$180 to respondent as costs to file an application for a work permit (Form I-765). Respondent did not file an application for a work permit on behalf of Ramirez.

33. On or about March 9, 2007, respondent requested a continuance of the March 20, 2007 hearing.

34. On March 20, 2007, the court continued the hearing in Ramirez's case to August 2, 2007. Respondent received notice of the August 2, 2007 hearing.

35. Before the August 2, 2007 hearing, Ramirez notified respondent that he would not be able to appear at the hearing because he had a dental emergency. On August 2, 2007, respondent did not appear at the hearing on behalf of Ramirez or inform the court that Ramirez would not be appearing because of his dental emergency. Instead, respondent called the court and informed the court that respondent was ill. The court ordered Ramirez removed to El Salvador in absentia.

36. On August 17, 2007, Ramirez paid respondent \$250 as an advance fee to file a motion to reopen his case and provided respondent with a doctor report confirming Ramirez's dental emergency. Respondent did not file any motion to reopen the case on behalf of Ramirez, and thereafter abandoned the representation without informing Ramirez, which constructively terminated his representation of Ramirez.

37. Despite attempts by Ramirez to reach respondent in or about the latter portion of 2009, he was unable to reach respondent as his telephone was disconnected and he had closed his office. Respondent did not earn any portion of the \$250 advance fee paid by Ramirez to file a motion to reopen his case, and respondent has not refunded any unearned fees or unearned costs to Ramirez.

CONCLUSION OF LAW:

38. By not filing an application for a work permit on behalf of Ramirez, by not informing the court of the reason for Ramirez's absence at the hearing on August 2, 2007, and by not filing a motion to reopen the case on behalf of Ramirez, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

39. By abandoning the representation without informing client Ramirez, and without returning unearned fees or unused advanced costs, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Ramirez and without complying with Rules of Professional Conduct, rule 3-700(D), in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

E. Case No. 10-O-5261 – THE CHUNG MATTER

FACTS:

40. In April 2008, Sang Thai Chung ("Chung") employed respondent to represent him in a pending immigration removal proceeding and to seek asylum for him. Between April 2008 and October 2009, Chung paid respondent \$3,600 as an advance fee for the representation.

41. On May 6 and August 11, 2008, respondent appeared at immigration hearings with Chung. On August 11, 2008, respondent filed an application for asylum and withholding of removal on behalf of Chung. The immigration court set a hearing on the application for June 23, 2009.

42. On June 23, 2009, respondent appeared at the immigration hearing with Chung. The court continued the hearing to October 20, 2009, to allow Chung time to submit documents supporting the application.

43. On October 20, 2009, respondent appeared at the immigration hearing with Chung and filed documents supporting the application. The court held an evidentiary hearing on the application and continued the hearing to February 5, 2010.

44. On November 30, 2009, respondent voluntarily enrolled himself as an inactive member of the State Bar without notice to Chung, which constructively terminated his representation of Chung. Respondent did not complete the asylum matter for Chung.

45. Two days prior to the February 5, 2010 hearing, Chung was informed by respondent's office that respondent had left the country and would not be appearing at the hearing on behalf of Chung, which was not sufficient time for Chung to obtain other legal representation.

46. By April 14, 2015, respondent refunded \$1,000 to Chung.

CONCLUSION OF LAW:

47. By not completing the asylum matter for Chung, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

48. By enrolling himself as an inactive member of the State Bar without informing a client, Chung, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Chung, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

F. Case No. 10-O-10245 – THE VIVAR/VASQUEZ MATTER (INV)

FACTS:

49. In February 2009, Ciria Vivar ("Vivar") and Artemio Vasquez ("Vasquez") retained respondent to represent them in their joint removal proceedings pending before the United States Department of Justice Executive Office for Immigration Review ("EOIR"), file nos. A 077 233 916 and A 099 367 431, respectively.

50. In April 2009, Vivar paid respondent \$2,790 in advance attorney fees.

51. Respondent was put on notice by the EOIR to file supplemental documentation or a pre-hearing statement and a response to the government's submissions in Vivar and Vasquez's matter. Respondent did not submit supplemental documentation, a pre-hearing statement or a response to the government's submissions in the matter.

52. Respondent failed to appear at a September 29, 2009 hearing and an October 28, 2009 hearing in both matters. Thereafter, respondent did not complete the EOIR removal proceedings for Vivar and Vasquez and abandoned the representation without informing the clients, which constructively terminated his representation of Vivar and Vasquez.

53. Both the Vivar and Vasquez applications for cancellation of removal were denied.

54. In October 2009, after respondent's employment had terminated, Vivar and Vasquez requested a refund. Respondent did not provide a refund of the fees which were unearned.

CONCLUSION OF LAW:

55. By not filing the required supplemental documentation and pre-hearing statements in both matters, by failing to respond to the government's submissions, and by failing to appear at the September 29, 2009 hearing and the October 28, 2009 hearing in the Vivar and Vasquez matters, respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

56. By abandoning the representation of clients Vivar and Vasquez without informing them, and without refunding unearned fees to Vivar and Vasquez, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Vivar and Vasquez and without complying with Rules of Professional Conduct, rule 3-700(D), in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent engaged in multiple acts of wrongdoing by failing to competently perform legal services in six client matters, not properly withdrawing from his representation in six matters and failing to communicate in one matter. (*Grim v. State Bar* (1991) 53 Cal.3d 21, 34.)

MITIGATING CIRCUMSTANCES.

Extreme Emotional/Physical Difficulties (Std. 1.6(d)): At the time of respondent's misconduct, he suffered from severe depression. Respondent voluntarily enrolled himself inactive on November 30, 2009 to address his condition and moved to Russia to receive treatment. Respondent's physician in Russia reported that respondent had been diagnosed with "reactive depression," and in December 2009, began treatment through antidepressants and neuroleptics. The physician explained that respondent's depression had negatively affected his ability to work professionally. This establishes the nexus between respondent's depression and his abandonment of many of his clients as he not only left the United States to receive treatment in Russia, but also because he found himself unable to work due to depression. Respondent's physician has since reported that respondent has rehabilitated from depression, and, therefore, is able to work again. In light of the emotional/physical difficulty that respondent experienced at the time of the misconduct and his subsequent recovery, he is entitled to significant mitigation.

Additional mitigating circumstances:

Good Character: Nine individuals have given character references attesting to respondent's good moral character and fitness to practice law. The character references were

from a wide range of sources, including a colleague, a former client, a family member and friends. They all explained that they observed in respondent a strong dedication to practicing law and good character. Six of the nine character references were aware of respondent's misconduct, as well as his past struggle with depression. Eight of the references explained that respondent's misconduct was aberrational and that it was not in his normal conduct/behavior to abandon his clients or his law practice. (*In re Respondent F* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17, 29.)

No Prior Discipline: Respondent was admitted to the State Bar of California on January 8, 2001 and has no prior record of discipline in the six and half years of practice preceding his first act of misconduct, which is entitled to some but not strong weight in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 598 [over 10 years without prior discipline entitled to significant weight in mitigation]; *Kelly v. State Bar* (1988) 45 Cal.3d 649; 657 [seven and a half years not especially commendable].)

Remorse & Recognition of Wrongdoing: Respondent has demonstrated remorse and recognition of wrongdoing by agreeing to give a full refund of fees to his former clients, despite having earned at least some of the fees paid with the exception of the fees paid by Vivar and Vasquez which were unearned. As of April 14, 2015, respondent secured a loan and refunded \$5,000 to his former clients and will pay the remaining balance in installments pursuant to a payment plan as provided in this stipulation. (*See In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 519 [confession of misconduct entitled to some mitigation].)

Pre-trial Stipulation: Respondent has stipulated to facts and culpability prior to the filing of pre-trial statements and prior to trial and thereby saved State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING AUTHORITY

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. Of State Bar, tit. IV, Stds. For Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as

to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigation circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The most severe sanction applicable here is Standard 2.5(b), which applies to respondent's violations of Rules of Professional Conduct, rule 3-110(A). It provides for actual suspension for failing to perform legal services or communicate in multiple client matters, not demonstrating a pattern of misconduct.

Respondent's misconduct of failing to perform legal services in six client matters, failing to properly communicate in one client matter and constructively withdrawing without completing the legal services for which he was hired in six matters does not demonstrate a pattern of misconduct. In *In the Matter of Collins* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1, 13, the Review Department found that misconduct spanning a period of six years clearly exhibited a pattern of misconduct. In *In re Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, the Review Department explained that misconduct spanning a period of two and a half years did not obviously demonstrate a pattern of misconduct, but indicated that in some circumstances it could. Here, in all but one of the original matters, respondent's misconduct occurred in 2009 when he voluntarily enrolled himself as an inactive member of the State Bar, effectively withdrawing from his clients' cases. The facts here do not establish a pattern of wrongdoing over a period of time as all the conduct occurred in the same year, except for one case.

Respondent's misconduct occurred during a period when he was dealing with severe depression, from which he now has been rehabilitated. (*In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 959.) This significant mitigating factor, along with respondent's lack of a prior record of discipline, pre-trial stipulation, demonstration of good character and remorse and recognition of wrongdoing, clearly outweighs the aggravating factor of respondent's multiple acts of misconduct. The various mitigating circumstances and declarations of respondent's character witnesses demonstrate that respondent's misconduct was an aberration caused by his illness, from which, according to his treating physician, he has now been rehabilitated. Therefore, the level of discipline here should be on the lower end of the range provided in the Standard. Accordingly, a six-month actual suspension with a three-year probation is appropriate to ensure protection of the public, courts and legal profession; to maintain high professional standards by attorneys; and to preserve public confidence in the legal profession.

This is consistent with case law. In *Hawes v. State Bar* (1990) 51 Cal.3d 587 an attorney was actually suspended for one-year for committing misconduct in six client matters, including

failures to perform, failures to communicate, failures to return unearned fees, and failures to respond to the State Bar investigation. Hawes was given mitigation for showing that he had undergone a meaningful and sustained period of rehabilitation from alcohol and prescription methamphetamines addiction as well as bipolar affective disorder for one year, demonstrated that the mental disturbance substantially contributed to the misconduct, was under control and unlikely to again lead to misconduct, and that the attorney had a discipline-free career of over 10 years.

The misconduct of both Hawes and respondent were both similar in nature and caused by emotional/physical difficulties. However, there is greater mitigation here than there was in *Hawes*. Respondent is entitled to mitigation for good character and demonstrated remorse and recognition of wrongdoing. While Hawes had practiced law without a record of discipline for a longer period than respondent, Hawes failed to respond to the State Bar investigation, whereas respondent has been responsive to the State Bar throughout the entire investigation. Also respondent has been cooperative with the State Bar in resolving this matter by entering into a pre-trial stipulation, which has saved State Bar time and resources. In light of the greater mitigation, a shorter period of actual suspension than that in *Hawes* is appropriate in this matter.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 6, 2015, the prosecution costs in this matter are \$8,750. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of Ethics School ordered as a condition of discipline. (Rules Proc. of State Bar, rule 3201.)

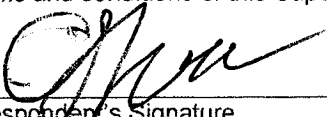

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In the Matter of:
GARY P. ROYLE

Case number(s):
10-O-1209; 10-O-1821; 10-O-2287; 10-O-3744; 10-O-5261;
10-O-10245 (INV) - DFM

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>4/6/15</u>		Gary P. Royle
Date	Respondent's Signature	Print Name
<hr/>		
<u>4/22/2015</u>		Jamie J. Kim
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: GARY P. ROYLE	Case Number(s): 10-O-1209; 10-O-1821; 10-O-2287; 10-O-3744; 10-O-5261; 10-O-10245 (INV) - DFM
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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.

On page 5 of the Stipulation, at paragraph E.(9), the "X" in the box is deleted, as there is no underlying criminal matter referenced in the Stipulation.

On page 7 of the Stipulation, an "X" is inserted in the box next to the language under the chart in paragraph a. The language next to the box is deleted, and in its place is inserted "Respondent must pay above-referenced restitution to Sang T. Chung and/or CSF and Victoria K. Kim and/or CSF and provide satisfactory proof of payment to the Office of Probation not later than the last day of his probation period."

On page 7 of the Stipulation, paragraph a, in each box under "Principal Amount," "provided satisfactory proof of such payment(s) has been provided to the Office of Probation" is added after "Stipulation".

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.)**

May 1, 2015
Date


REBECCA MEYER ROSENBERG, JUDGE PRO TEM
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 5, 2015, 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:

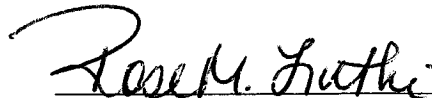
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GARY P. ROYLE
1411 STOCKTON ST # 109
SAN FRANCISCO, CA 94133

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

JAMIE KIM, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 5, 2015.



Rose M. Luthi
Case Administrator
State Bar Court