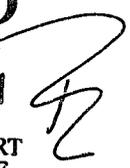


ORIGINAL

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

<p>Counsel For The State Bar</p> <p>Timothy G. Byer, DTC 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1325</p> <p>Bar # 172472</p>	<p>Case Number(s):</p> <p>10-O-04886 10-O-05920 10-O-06223 10-O-06490 10-O-06948 10-O-06953 10-O-07477 10-O-07495</p>	<p>For Court use only</p> <p>PUBLIC MATTER FILED</p> <p>NOV 08 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> 
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<p>In Pro Per Respondent</p> <p>Francisco S. Nogales P.O. Box 220705 Santa Clarita, CA 91322</p> <p>Bar # 212819</p>	<p>10-O-07538 10-O-07542 10-O-08326 10-O-08718 10-O-08753 10-O-09420 10-O-09421 10-O-09422 10-O-09424 10-O-09448 10-O-09574 10-O-09563 10-O-09801 10-O-10082 10-O-10526 10-O-10655 10-O-10657 10-O-11009 10-O-11142 10-O-11187 10-O-11233 10-O-11239 11-O-10013 11-O-10320 11-O-10401 11-O-10652 11-O-11190 11-O-11445 11-O-11906 11-O-13527 11-O-13626 11-O-14668 11-O-15075 11-O-16366</p>	
<p>In the Matter of: Francisco S. Nogales</p> <p>Bar # 212819</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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

(Effective January 1, 2011)

Actual Suspension

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted May 4, 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 28 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2014, 2015, 2016, 2017. (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.

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- (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 17: "Aggravating Circumstances"
- (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 Attachment, page 17: "Aggravating Circumstances"
- (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. See Attachment, page 17: "Mitigating Circumstances"
- (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 Attachment, page 17: "Mitigating Circumstances"
- (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 Attachment, page 17: "Mitigating Circumstances"
- (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

(Do not write above this line.)

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. See Attachment, page 17-18: "Mitigating Circumstances"

- (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. See Attachment, page 17-18: "Mitigating Circumstances"
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of 3 years.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of 5 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 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

(10) The following conditions are attached hereto and incorporated:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" 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: _____
- (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:** Respondent must, as part of his showing pursuant to standard 1.4(c)(ii), present testimony from a medical expert that Respondent's depression has resolved sufficiently to allow him to return to the practice of law.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Francisco S. Nogales

CASE NUMBERS: 10-O-04886, 10-O-05920, 10-O-06223, 10-O-06490, 10-O-06948,
10-O-06953, 10-O-07477, 10-O-07495, 10-O-07538, 10-O-07542, 10-O-08326, 10-O-08718,
10-O-08753, 10-O-09420, 10-O-09421, 10-O-09422, 10-O-09424, 10-O-09563, 10-O-09574,
10-O-09448, 10-O-09801, 10-O-10082, 10-O-10526, 10-O-10655, 10-O-10657, 10-O-11009,
10-O-11142, 10-O-11187, 10-O-11233, 10-O-11239, 11-O-10013, 11-O-10320, 11-O-10401,
11-O-10652, 11-O-11190, 11-O-11445, 11-O-11906, 11-O-13527, 11-O-13626, 11-O-14668,
11-O-15075, 11-O-16366

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 NUMBERS: 10-O-04886, 10-O-05920, 10-O-06223, 10-O-06490, 10-O-06948,
10-O-06953, 10-O-07477, 10-O-07495, 10-O-07538, 10-O-07542, 10-O-08326, 10-O-08718,
10-O-08753, 10-O-09420, 10-O-09421, 10-O-09422, 10-O-09424, 10-O-09563, 10-O-09574,
10-O-09801, 10-O-10082, 10-O-10526, 10-O-10655, 10-O-10657, 10-O-11009, 10-O-11142,
10-O-11187, 10-O-11233, 10-O-11239, 11-O-10013, 11-O-10320, 11-O-10401, 11-O-10652,
11-O-11190, 11-O-11445, 11-O-11906, 11-O-13527, 11-O-13626, 11-O-14668, 11-O-15075,
11-O-16366

FACTS:

1. Respondent, in the 7 years following his admission to practice in 2001, had been primarily employed as a consultant with the City of Los Angeles. He also had a small private practice as a solo practitioner, and had performed legal services for two months at Advantage Tax Relief ("ATR"), a company whose business consisted of representing debtors in negotiated settlements of state and federal income tax arrearages and tax liens. After losing his position with the City of Los Angeles in 2008, Respondent decided to prepare himself for a transition into full time legal practice.

2. In August 2009, Respondent answered an advertisement on Craigslist seeking an “attorney [needed] for foreclosure relief.”
3. In approximately October 2009, Respondent learned that ATR was facing dissolution, and Respondent expressed an interest in purchasing ATR’s business from its owners.
4. Concurrently with beginning discussions about his purchase of ATR, Respondent received a response from an individual named Carlos Lira, the individual who had placed the Craigslist advertisement seeking the “foreclosure relief” attorney. Lira and a group of other non-attorneys were offering loan modification services under the name “SMY Legal Services,” which advertised on Spanish language radio in the San Jose, California area. Lira and the others were seeking an attorney to join and become “the face” of their enterprise. In November 2009, Respondent changed the name of his practice to “Nogales Law Center,” (“NLC”), focused his practice on “foreclosure relief,” including litigation, and employed Lira and the others non-attorneys as NLC staff.
5. Also in November 2009, Respondent purchased ATR for approximately \$100. The assets Respondent bought consisted of several computers, office furniture, and ATR’s client list. Respondent moved his NLC offices into an office adjoining the ATR offices, and operated the two companies simultaneously.
6. NLC had approximately 20 clients signed up for its “foreclosure relief” services in November 2009, approximately 50 clients in December 2009, and approximately 60 clients in January 2010. By February 2010, the stream of clients employing NLC had grown to over 30 per week. In March 2010, after receiving numerous complaints concerning representations made by his new client intake personnel, and in an attempt to correct these problems, Respondent fired many of his employees, and stopped his radio advertising. After these actions, Respondent’s receipt of new clients slowed to about 10 per week.

7. Respondent's services offered to his "distressed homeowner" clients of NLC were characterized as provision of a "3 letter" program:
- a. A "Qualified Written Request" to the client's bank seeking a copy of the client's mortgage note and other documents;
 - b. A "loan review" or "forensic audit" to determine whether the homeowner's loan was compliant with federal lending requirements; and
 - c. Written or telephoned communication with the clients' lenders, seeking renegotiation of the mortgage note terms.
8. For this "3 letter" program of services, Respondent received a fee of \$3,800. Per the retainer agreement, this was applied to: *"assistance in collecting and preparing your application, assistance in collecting the necessary mortgage documents and other documents that are required, consult with our attorney and/or auditor regarding the necessary audit preparation."*
9. Of each \$3,800 fee that was paid by an NLC client for their "3 letter" services, NLC paid \$1,000 to a company called "National Association of Mortgage Auditors" or "NAMA" for the actual "forensic audit" the clients paid for. Most of the remainder of the fee was paid for marketing services to Juan Carlos Jaramillo DBA "Financial Success," from whom Respondent also disassociated himself in March 2010. Approximately 10-15% of the clients who paid Respondent for a "forensic audit" were actually provided audits. In Respondent's opinion, virtually 100% of the mortgage loan documents supplied by the lenders included errors, most of which were obvious without an audit by NAMA.
10. Following the "Forensic Loan Review", Respondent requested that his clients sign a "Litigation Retainer" for which Respondent required an additional fee of \$5,000. On some occasions these two stages were described as "Pre-Litigation" and "Litigation," at other times they were described as "Forensic Review" and "Pre-Litigation." In some cases, Respondent's clients signed agreements for "Forensic Review," "Pre-Litigation," and "Litigation."

11. Respondent, who knew very little about loan modifications prior to his association with Lira and his associates, attended a seminar in January 2010 to learn about the practice. At this seminar, Respondent learned of two additional “statutory letters” that an attorney may send on behalf of a delinquent real estate borrower: a “Fair Credit and Lending Act” letter to the credit reporting agencies (contesting any negative credit comments that might result from a client’s late or missed mortgage payments), and a “Rescission Request” to the client’s lender.
12. At the same time that Respondent was marketing NLC’s services, Respondent was attempting to reorganize the business of ATR and to make it efficient and profitable. Respondent was unable to meet the payroll expenses of ATR, and twice he borrowed money from his parents (between \$30,000 and \$40,000) to meet his payroll expenses. In April 2010, Respondent laid off all ATR personnel and in May 2010 he closed the doors to ATR without notice to the clients who had hired the firm. Respondent had taken on no additional ATR clients since purchasing the company about 6 months earlier. At the time he closed ATR, the company had approximately 20 active cases.
13. In May 2010, two of the fired ATR executives changed the locks on the NLC offices, preventing Respondent from having access to his client files. Respondent complained to the police, who told him the lockout was a “civil matter.” Respondent hired an attorney to send a letter to the offending former employees, and filed a civil action against them. Respondent was finally able to gain access to his client files approximately three weeks later.
14. In June 2010 Respondent moved NLC into a new office, and tried to stay afloat financially by going back to the NLC clients who had employed him prior to his attendance at the loan modification seminar, and charging each of them an additional \$1,200 for the two “statutory letters” he had been unaware of prior to that seminar.
15. From July 2010 through October 2010, Respondent attempted to stay in business by laying off employees, but was no longer marketing NLC as he had at the outset, and was no

longer receiving new clients to employ his services. By October 2010, Respondent was down to one employee. On October 27, 2010, Respondent sent a letter to all of his NLC clients advising them that he was closing his practice, and promising that all clients would receive their file materials, an accounting, and refunds where applicable, within 60 days. No such return of file materials, renderings of accountings, or refunds, were made.

16. In none of Respondent's NLC matters was a home mortgage loan modification applied for, nor were the terms of any client's mortgage loan successfully renegotiated. In none of these client matters did Respondent provide any services beyond mailing the "statutory letters" to the client's lender. In nearly all of these cases, Respondent sent only one letter to the client's lender, consisting of a "3rd party authorization" form. In none of the matters covered by this stipulation did Respondent provide any legal services of value to the client.

17. The following are the clients who employed Respondent for "foreclosure relief" services, or paid Respondent additional fees for his tax resolution services, the amounts of their advanced fees, and the dates they paid those fees, no portions of which were earned by Respondent:

Case Number	CW	Retainer Fee	Date Paid
10-O-04886	Kevin Menjivar	\$2,500	12/28/09
10-O-05920	Angelica Soto	\$1,900	1/31/10
		\$1,900	3/3/10
10-O-07495	Ilma Rodriguez	\$1,800	12/7/09
10-O-06223	Fermin Navarro	\$2,000	3/22/10
		\$1,800	4/8/10
10-O-06490	Guadalupe Avalos	\$1,800	12/7/09
		\$1,700	1/4/10
		\$2,000	3/23/10
		\$2,000	4/24/10

10-O-06948	Ramon Ramirez	\$2,000	3/9/10
		\$1,800	3/23/10
10-O-06953	Patricia Paniagua	\$2,000	2/16/10
		\$1,800	2/28/10
10-O-07477	Maria Plascencia	\$2,000	1/27/10
		\$1,800	2/5/10
		\$1,200	4/2/10
10-O-07538	Ramon E. Vargas	\$2,000	3/6/10
		\$1,800	3/19/10
10-O-08326	Leticia H. Torres	\$2,000	3/24/10
		\$1,800	4/3/10
10-O-08718	Antonio Caballero	\$1,800	12/10/09
		\$1,066	5/10/10
10-O-09420	Ramon Anguiano	\$2000	3/1/10
		\$1800	4/5/10
10-O-09421	Israel Joseph III	\$300	3/8/10
		\$240	4/6/10
10-O-09422	Daniel Snyder	\$470	3/29/10
		\$350	4/28/10
10-O-09563	Alfonso Goma	\$1000	2/9/10
		\$1000	2/17/10
		\$1800	2/24/10
		\$1200	5/7/10
10-O-09574	Alonzo Martinez	\$8,000	2/16/10
		\$4,000	4/30/10
		\$3,500	7/9/10
10-O-09801	Gerardo Hernandez	\$2000	12/18/09
		\$1400	3/12/10
		\$1400	4/9/10
10-O-10526	Jose Zepeda	\$3800	1/5/10
10-O-10652	Ludivina Sanchez	\$3600	1/21/10
		\$700	4/23/10
		\$700	5/18/10

10-O-10657	Martin Acosta	\$3,800	2/16/10
10-O-10655	Francisco Leal	\$1500	3/31/10
		\$2700	6/1/10
		\$2500	6/16/10
10-O-11009	Luis Avalos	\$2000	2/20/10
		\$1800	3/5/10
		\$1200	4/20/10
10-O-11187	Veronica Barrigan	\$2,000	3/22/10
		\$1,800	4/2/10
10-O-11233	Elmer de Leon	\$2,000	4/2/10
		\$1,800	5/2/10
10-O-11239	Jose Gonzalez	\$4,000	3/1/10
		\$3,200	3/15/10
11-O-10013	Marco Garcia	\$2,000	2/18/10
		\$1,800	3/15/10
		\$2,000	9/18/10
		\$500	9/20/10
		\$1,000	10/12/10
		\$1,000	10/13/10
11-O-10320	Blanca Hernandez	\$2,000	3/15/10
		\$1,800	4/16/10
		\$1,200	5/10/10
		\$5,000	7/18/10
11-O-10401	Valdemar Valencia	\$2,500	1/9/10
11-O-11190	Fernando Tostado	\$2,000	3/26/10
		\$1,800	4/14/10
11-O-11445	Fernando Valenzuela	\$2,000	3/8/10
		\$1,800	3/26/10
11-O-11906	Gustavo Ramirez	\$3,800	2/24/10
		\$600	5/19/10
		\$600	7/27/10
		\$2,000	9/30/10
11-O-13527	Pablo Rico	\$3,800	1/30/10
		\$600	5/3/10
		\$600	5/6/10

		\$2,200	9/30/10
		\$2,100	10/18/10
11-O-14668	Maria Rodriguez	\$2,000	2/16/10
		\$1,600	3/5/10
		\$700	5/10/10
		\$700	6/4/10
11-O-13626	Mercedes Erazo	\$7,200	2/4/10
		\$5,600	2/16/10
		\$9,000	6/19/10
11-O-15075	Antonio Arango	\$3,800	2/4/10
		\$600	5/17/10
11-O-16366	Raul Moreno	\$3,800	4/27/10

CONCLUSIONS OF LAW:

18. By failing to perform any legal services of value to the above-listed clients, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
19. By closing ATR without notice to the existing clients Respondent took on at the time he purchased the company, he withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his clients, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

CASE NUMBER: 10-O-09448

FACTS:

20. In May 2007, Respondent was contacted by Mark Kageyama, who managed his family's nursery business, "F.K. Nursery." Kageyama had become aware of proposed federal legislation informally known as "comprehensive immigration reform."
21. Also in May 2007, F.K. Nursery employed Respondent to review the records for 6 nursery employees, all of whom were illegal immigrants from Mexico or Central America, and

to begin preparing green card applications for the 6 employees, in the event that the proposed immigration legislation became law. F.K. Nursery paid Respondent advanced fees in the sum of \$8,400.

22. The 6 employees had each agreed to reimburse the nursery for their \$1,200 fee through payroll deductions. The advanced fee included \$1,200 paid by Kageyama to Respondent for his work on behalf of the employees. The legislation did not become law, and Respondent did not refund the advanced fees.

23. The following are the clients who employed Respondent to prepare green card applications, the amounts of their advanced fees, and the dates they paid those fees, no portions of which were earned by Respondent:

10-O-09448	F.K. Nursery obo Mark Kageyama	\$1,200	5/31/07
	F.K. Nursery obo Antonio Garcia	\$1,200	5/31/07
	F.K. Nursery obo Simon Lazaro	\$1,200	5/31/07
	F.K. Nursery obo Jorge Sanchez	\$1,200	5/31/07
	F.K. Nursery obo Alejandro Broca	\$1,200	5/31/07
	F.K. Nursery obo Federico Rodriguez	\$1,200	5/31/07
	F.K. Nursery obo Guadalupe Rodriguez Garcia	\$1,200	5/31/07

CONCLUSIONS OF LAW:

By failing to perform any legal services of value to the above-listed clients, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

By not providing a refund of unearned advanced fees to the above-listed clients, Respondent willfully 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).

AGGRAVATING CIRCUMSTANCES.

Harm: Respondent's ATR clients were harmed by the abandonment of their matters.

Multiple/Pattern of Misconduct: Respondent's failures to perform in all these client matters demonstrates a pattern of misconduct.

MITIGATING CIRCUMSTANCES.

No Prior State Bar Discipline (Standard 1.2(e)(i)): Respondent was admitted to the State Bar on May 4, 2001, and has no prior record of State Bar discipline. Standard 1.2(e)(i) has been applied to give an attorney some mitigating credit for no prior discipline even where the underlying misconduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, ft. 13).

Remorse: Respondent has expressed acknowledgment of and contrition for the harm his actions have caused, and has expressed a desire to atone for his misconduct through his agreement to make full restitution, with interest, to the victims of his misconduct.

Candor/Cooperation: Respondent volunteered to submit to a recorded interview by State Bar trial counsel and investigators, and has agreed to settle this matter at an early stage in the disciplinary proceedings. (Standards for Attorney Sanctions for Professional Misconduct, Standard 1.2(e)(v).)

Emotional/Physical Problems and Family Problems: in 2005, Respondent's wife of 27 years was diagnosed with uterine cancer, followed by her treatment with aggressive chemotherapy. Respondent's daughter became despondent over her mother's illness and began to abuse heroin, and became addicted to the drug. At one point Respondent's daughter's weight dropped to a low of 76 pounds. In August 2007 Respondent's wife succumbed to her cancer. Respondent became depressed and began to drink heavily.

Additional mitigation credit is given for the personal family tragedies Respondent suffered and the depression and alcohol abuse which followed, which affected his ability to make prudent decisions about the expansion of his legal practice and his response when he became overwhelmed by subsequent events, and which also negatively affected his judgment, work performance, and diligence during the period of his misconduct herein. Respondent entered the Lawyer's Assistance Program and has regularly attended Alcoholics Anonymous for help with his drinking, which he has since brought under control. Respondent has been treated by a physician for his depression, which has been brought under control with anti-depressant medication.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4(a) provides that "Culpability of a member of willfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment." Standard 2.4(b) provides that "Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

Respondent's abandonment of the ATR clients without notice unquestionably represents a pattern of abandonment. Nevertheless, deviation from standard 2.4(a), as with any Standard, may be appropriate in certain circumstances. In the case of *In re: Silvertown*, (2005) 36 Cal.4th 81, the Supreme Court reaffirmed the fact that the Standards are entitled to great weight and the State Bar Court should follow their guidance whenever possible. *Id.* at 92.

However, the Supreme Court also made clear that the State Bar Court may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. *Id.* (See also *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1366.) For example, departure from the Standards may be appropriate where the imposition of discipline called for by the Standards would be

manifestly unjust or where extraordinary circumstances exist to do so. (*In re: Silverton, supra*, 36 Cal.4th at p. 92.)

Deviation from the disbarment described in Standard 2.4(a) is justified in this instance, given Respondent's extensive mitigation, including his lack of a prior disciplinary record, his level of cooperation and candor with the State Bar's investigation of his misconduct, and his willingness to settle these matters at an early stage of the proceedings with an agreement to make full restitution to his victims.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 19, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 19, 2011, the prosecution costs in this matter are \$42,045.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: Francisco S. Nogales	Case Number(s): 10-O-04886, et al.
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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
See Financial Conditions Attachment, pages 21-24		

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days prior to the expiration of the period of probation.

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 revocation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

Payee	Principal Amount	Interest Accrues From
Kevin Menjivar or CSF	\$2,500	12/28/09
Angelica Soto or CSF	\$1,900	1/31/10
	\$1,900	3/3/10
Ilma Rodriguez or CSF	\$1,800	12/7/09
Fermin Navarro or CSF	\$2,000	3/22/10
	\$1,800	4/8/10
Guadalupe Avalos or CSF	\$1,800	12/7/09
	\$1,700	1/4/10
	\$2,000	3/23/10
	\$2,000	4/24/10
Ramon Ramirez or CSF	\$2,000	3/9/10
	\$1,800	3/23/10
Patricia Paniagua or CSF	\$2,000	2/16/10
	\$1,800	2/28/10
Maria Plascencia or CSF	\$2,000	1/27/10
	\$1,800	2/5/10
	\$1,200	4/2/10
Ramon E. Vargas or CSF	\$2,000	3/6/10
	\$1,800	3/19/10
Leticia H. Torres or CSF	\$2,000	3/24/10
	\$1,800	4/3/10
Antonio Caballero or CSF	\$1,800	12/10/09
	\$1,066	5/10/10
Ramon Anguiano or CSF	\$2000	3/1/10
	\$1800	4/5/10
Israel Joseph III or CSF	\$300	3/8/10
	\$240	4/6/10
Daniel Snyder or CSF	\$470	3/29/10
	\$350	4/28/10

Payee	Principal Amount	Interest Accrues From
Alfonso Goma or CSF	\$1000	2/9/10
	\$1000	2/17/10
	\$1800	2/24/10
	\$1200	5/7/10
Alonzo Martinez or CSF	\$8,000	2/16/10
	\$4,000	4/30/10
	\$3,500	7/9/10
Gerardo Hernandez or CSF	\$2000	12/18/09
	\$1400	3/12/10
	\$1400	4/9/10
Jose Zepeda or CSF	\$3800	1/5/10
Ludivina Sanchez or CSF	\$3600	1/21/10
	\$700	4/23/10
	\$700	5/18/10
Martin Acosta or CSF	\$3,800	2/16/10
Francisco Leal or CSF	\$1500	3/31/10
	\$2700	6/1/10
	\$2500	6/16/10
Luis Avalos or CSF	\$2000	2/20/10
	\$1800	3/5/10
	\$1200	4/20/10
Veronica Barrigan or CSF	\$2,000	3/22/10
	\$1,800	4/2/10
Elmer de Leon or CSF	\$2,000	4/2/10
	\$1,800	5/2/10
Jose Gonzalez or CSF	\$4,000	3/1/10
	\$3,200	3/15/10

Payee	Principal Amount	Interest Accrues From
Marco Garcia or CSF	\$2,000	2/18/10
	\$1,800	3/15/10
	\$2,000	9/18/10
	\$500	9/20/10
	\$1,000	10/12/10
	\$1,000	10/13/10
Blanca Hernandez or CSF	\$2,000	3/15/10
	\$1,800	4/16/10
	\$1,200	5/10/10
	\$5,000	7/18/10
Valdemar Valencia or CSF	\$2,500	1/9/10
Fernando Tostado or CSF	\$2,000	3/26/10
	\$1,800	4/14/10
Fernando Valenzuela or CSF	\$2,000	3/8/10
	\$1,800	3/26/10
Gustavo Ramirez or CSF	\$3,800	2/24/10
	\$600	5/19/10
	\$600	7/27/10
	\$2,000	9/30/10
Pablo Rico or CSF	\$3,800	1/30/10
	\$600	5/3/10
	\$600	5/6/10
	\$2,200	9/30/10
	\$2,100	10/18/10
Maria Rodriguez or CSF	\$2,000	2/16/10
	\$1,600	3/5/10
	\$700	5/10/10
	\$700	6/4/10
Mercedes Erazo or CSF	\$7,200	2/4/10
	\$5,600	2/16/10
	\$9,000	6/19/10
Antonio Arango or CSF	\$3,800	2/4/10
	\$600	5/17/10

Raul Moreno or CSF	\$3,800	4/27/10
F.K. Nursery obo Mark Kageyama or CSF	\$1,200	5/31/07
F.K. Nursery obo Antonio Garcia or CSF	\$1,200	5/31/07
F.K. Nursery obo Simon Lazaro or CSF	\$1,200	5/31/07
F.K. Nursery obo Jorge Sanchez or CSF	\$1,200	5/31/07
F.K. Nursery obo Alejandro Broca or CSF	\$1,200	5/31/07
F.K. Nursery obo Federico Rodriguez or CSF	\$1,200	5/31/07
F.K. Nursery obo Guadalupe Rodriguez Garcia or CSF	\$1,200	5/31/07

- 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.

(Do not write above this line.)

In the Matter of:
Francisco S. Nogales

Case Number(s):
10-O-04886, et al.

Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. Respondent must attend at least 4 meetings per month of:
- Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

(Do not write above this line.)

In the Matter of:
Francisco S. Nogales

Case Number(s):
10-O-04886, et al.

Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

(Do not write above this line.)

In the Matter of: Francisco S. Nogales	Case number(s): 10-O-04886, et al.
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

10/19/11 _____ Francisco Nogales _____ Francisco S. Nogales
Date Respondent's Signature Print Name

_____ _____ _____
Date Respondent's Counsel Signature Print Name

10-19-11 _____ Timothy G. Byer _____
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of:
Francisco S. Nogales

Case Number(s):
10-O-04886, et al.

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:

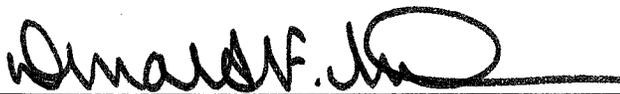
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

On page 6 of the stipulation, the "X" in box E(1) is DELETED to remove the conditional standard 1.4(c)(ii) requirement. (The conditional standard 1.4(c)(ii) requirement is inconsistent with the mandatory standard 1.4(c)(ii) requirement, which the parties selected in paragraph D(3)(a)(i) on page 5 of the 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.)**

Date

11/7/11



Judge of the State Bar Court

DONALD F. MILES

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 November 8, 2011, I deposited a true copy of the following document(s):

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

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

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

FRANCISCO S. NOGALES
FRANCISCO S. NOGALES, ESQ.
PO BOX 220705
SANTA CLARITA, CA 91322

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

TIMOTHY BYER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 8, 2011.



Rose Luthi
Case Administrator
State Bar Court