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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>REPROVAL</b>		
<b>Counsel For The State Bar</b>  Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000  Bar # 228137	<b>Case Number(s):</b> 10-O-11314-PEM (11-O-13943)	<b>For Court use only</b> <div style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED <i>[Signature]</i></div> <div style="text-align: center;">FEB 16 2012</div> <div style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</div>
<b>In Pro Per Respondent</b>  Oscar A. R. De Chavez P. O. Box 711204 Santee, CA 92072 (619) 987-9273  Bar # 108605	Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PRIVATE REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Oscar Arturo Ruiz De Chavez  Bar # 108605  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted June 8, 1983.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 11 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."

(Effective January 1, 2011)



- (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):
- ☐ Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
  - ☒ Case ineligible for costs (private reproof).
  - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b) ☒ A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c) ☐ A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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

(Do not write above this line.)

- (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent has been candid and cooperative with the State Bar during the pendency of the disciplinary matter and has entered into this comprehensive stipulation to resolve the matters included herein without the necessity of a trial. (Std. 1.2(e)(v); Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071, 1079; Pineda v. State Bar (1989) 49 Cal.3d 753, 760.)
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.

(Effective January 1, 2011)

- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

Respondent has no prior record of discipline in over 28 1/2 years of practicing law.

Respondent was suffering from chest pains and sporadic health issues in April 2011 through July 2011. Respondent continued to practice law but his health worsened in September 2011. In May 2011, Respondent's serious cardiovascular health problems contributed, in part, to his delay in providing a timely written response to the State Bar investigation in the Kohles matter.

Respondent underwent open-heart surgery in October 2011 and his physician approved of his returning to full-time work on December 7, 2011. Respondent's health has stabilized and is under control.

**D. Discipline:**

- (1) ☒ **Private reproof (check applicable conditions, if any, below)**
- (a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b) ☒ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2) ☐ **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1) ☒ Respondent must comply with the conditions attached to the reproof for a period of ONE (1) YEAR.
- (2) ☒ During the condition period attached to the reproof, 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 condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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) ☒ Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.
- ☐ No MPRE recommended. Reason: .
- (11) ☐ The following conditions are attached hereto and incorporated:
- ☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions

☐ Financial Conditions

**F. Other Conditions Negotiated by the Parties:**

(1) CLIENT TRUST ACCOUNTING SCHOOL.

Within one (1) year of the effective date of the discipline herein, Respondent must supply the Office of Probation satisfactory proof of attendance of a session of the State Bar of California Client Trust Accounting School and passage of the test given at the end of that session.

(2) ETHICS SCHOOL & CLIENT TRUST ACCOUNTING SCHOOL.

Because Respondent has agreed to attend State Bar of California Ethics School and Client Trust Accounting School as part of this stipulation, Respondent will receive Minimum Continuing Legal Education credit upon the satisfactory completion of these courses.

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Attachment language (if any):

**ATTACHMENT TO  
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        OSCAR ARTURO RUIZ De CHAVEZ, 108605  
CASE NUMBERS:            10-O-11314-PEM & (11-O-13943)

Respondent Oscar De Chavez, admits the facts set forth in the stipulation are true and that he is culpable of violations of the specified statutes and State Bar Act.

**Case No. 10-O-11314 (Kohles Matter)**

**FACTS**

1. On November 20, 2009, Sacari Collections, Inc. (Sacari), a company owned by William Kohles (Kohles), was sued in a cross-complaint in a civil matter entitled *Ramirez v. Cooper*, case no. 30-2009 00312956, Orange County Superior Court (*Ramirez v. Cooper*).
2. On February 4, 2010, Kohles hired Respondent to represent and defend Sacari on the cross-complaint in *Ramirez v. Cooper*.
3. On October 4, 2010, Kohles filed a complaint with the State Bar. Pursuant to Kohles's complaint, the State Bar opened investigation case no. 10-O-11314.
4. On March 11, 2011, and on April 11, 2011, a State Bar investigator mailed letters to Respondent at his official membership records address regarding the allegations in case no. 10-O-11314. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in case no. 10-O-11314 by March 28, 2011, and April 5, 2011, respectively. Respondent received the letters.
5. Respondent provided a belated written response on December 13, 2011, after the Notice of Disciplinary Charges was filed.

**CONCLUSION OF LAW**

6. By not providing a timely written response to the allegations in case no. 10-O-11314, Respondent failed to cooperate in a disciplinary investigation in wilful violation of Business and Professions Code section 6068(i).

**Case No. 11-O-13943 (Ayala Matter)**

**FACTS**

7. In February 2008, Silvia Ayala (Ayala) retained attorney Joseph La Costa (La Costa) to represent her in a personal injury matter arising out of a December 25, 2007, auto accident where Ms. Register, the other driver, carried auto insurance with Western General Insurance, Co. (Western).

8. On November 11, 2008, Ayala retained Respondent to take over the handling of her insurance claim in the personal injury matter. At that time, the settlement terms were being considered by Western.

9. In early October 2009, the settlement with Western concluded and Ayala consented to a \$10,000 settlement. On October 11, 2009, Ayala signed a release of all claims in the amount of \$10,000. On October 23, 2009, Western sent a check in the amount of \$10,000 payable to the Law Offices of La Costa and Ayala, despite the fact that Respondent had informed Western that Respondent was now the retained attorney.

10. On October 29, 2009, with the consent of Ayala, La Costa deposited the settlement funds into his client trust account.

11. Once the settlement funds from Western were deposited into La Costa's client trust account on October 29, 2009, Respondent did not follow-up with La Costa to obtain the settlement funds to make disbursements because, according to Respondent, Respondent believed that La Costa had handled the distribution of the settlement funds. Respondent now acknowledges that this mistaken belief was not reasonable under the circumstances.

12. Respondent acknowledges that it was his responsibility and obligation to ensure that the disbursements were approved by Ayala and completed and he should have promptly followed through with handling the matter to its conclusion.

13. In January 2010, La Costa contacted Respondent to inquire as to the status of the Ayala matter. According to Respondent, Respondent believed that La Costa was calling regarding the Silvia Ayala Vega matter, which was a separate slip and fall case being handled by Respondent on behalf of Ayala's mother who has the same name as Ayala. According to Respondent and La Costa, the identical mother-daughter names caused confusion and a miscommunication between the attorneys which led to the delay in finalizing the details of Ayala's matter by Respondent. Based on the January 2010 miscommunication, La Costa had the mistaken belief that Respondent had resolved the Ayala matter and had made disbursements out of his own funds, because Respondent owed La Costa fees in an unrelated matter in the same amount.

14. On September 8, 2011, the State Bar brought the allegations in the Ayala matter to Respondent's attention. After inquiring with La Costa, Respondent learned that La Costa had not handled the distribution of the settlement funds on Ayala's behalf.

15. On December 9, 2011, La Costa and Respondent contacted the two medical providers in the Ayala matter. In December 2011 and January 2012, they negotiated reductions of the liens with the medical providers and on January 12, 2012, finalized all disbursements with Ayala's consent. The aggregate amount owed to the medical providers exceeded the settlement



funds. Respondent waived his right to any portion of the settlement funds in order to satisfy the outstanding liens.

16. On January 22, 2012, Respondent finalized Ayala's matter by disbursing the funds to satisfy the medical providers' outstanding liens.

### CONCLUSION OF LAW

17. By failing to ensure that the settlement funds were properly and promptly disbursed to the lien holders on behalf of Ayala, and/or to Ayala, by failing to follow-up with La Costa to obtain the settlement funds, by failing to negotiate lien reductions, and by failing to promptly finalize disbursements on behalf of Ayala, Respondent recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

### DISMISSALS

The parties respectfully request the Court dismiss two alleged violations from the NDC in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
10-O-11314	One	Rules of Professional Conduct, rule 3-110(A)
10-O-11314	Two	Rules of Professional Conduct, rule 3-700(D)(2)

### SUPPORTING AUTHORITY

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys.<sup>1</sup>

Standard 2.4(b) of the Standards for Attorney Sanctions for Professional Misconduct, Rules of Procedure of the State Bar, Title IV, provides for a reproof or suspension where there is a failure to perform depending upon the extent of the misconduct and the degree of harm to the client. Standard 2.6 provides for disbarment or suspension where there is a failure to cooperate with a State Bar investigation. Standard 1.6(a) provides for imposition of the more severe sanction where two apply.

The standards are guidelines<sup>2</sup> and are afforded great weight<sup>3</sup> but they are not applied in a talismanic fashion.<sup>4</sup> The determination of discipline involves an analysis of the standards on balance with any mitigation and aggravation.<sup>5</sup>

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<sup>1</sup> *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.3.

<sup>2</sup> *Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.

<sup>3</sup> *In re Silverton* (2005) 36 Cal.4th 81, 91-92.

<sup>4</sup> *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.

Respondent has no prior record of history in over 28 years of practice. A one-year private reproof<sup>6</sup> serves to protect the public based on the facts and circumstances surrounding the misconduct.

**PENDING PROCEEDINGS.**

The disclosure date referred to on page two, paragraph A.(7), was January 19, 2012.

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<sup>5</sup> Std. 1.6(b); *Segal v. State Bar* (1988) 44 Cal.3d 1077, 1089; *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-11.

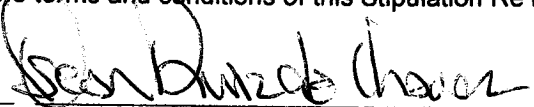

<sup>6</sup> *In the Matter of Respondent F* (Review Dept. 1992) 2 Cal.State Bar Ct. Rptr. 17.

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In the Matter of: Oscar Arturo Ruiz De Chavez	Case number(s): 10-O-11314-PEM (11-O-13943)
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### SIGNATURE OF THE PARTIES

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

<u>1-31-2012</u> Date	<u></u> Respondent's Signature	<u>Oscar A R De Chavez</u> Print Name
<u>2-1-2012</u> Date	<u></u> Respondent's Counsel Signature	<u>Jean Cha</u> Print Name

(Do not write above this line.)

In the Matter of:  
Oscar Arturo Ruiz De Chavez

Case Number(s):  
10-O-11314-PEM  
(11-O-13943)

### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date

2-15-12

Judge of the State Bar Court

RICHARD A. HONN

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On February 16, 2012, I deposited a true copy of the following document(s):

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

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


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

OSCAR ARTURO RUIZ DECHAVEZ  
PO BOX 711204  
SANTEE, CA 92072

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

JEAN CHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 16, 2012.

  
Laurretta Cramer  
Case Administrator  
State Bar Court