

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Michael J. Glass Senior Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 (213) 765-1254 Bar # 102700	Case Number(s): 11-O-11437 RAP 11-O-15689 (Inv.) 12-O-10217 (Inv.)	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED OCT 29 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Michael G. Gerner 425 South Beverly Drive, Suite 210 Beverly Hills, CA 90212 (310) 556-1300 Bar # 65906	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: TANYA CORA ZEROUNIAN Bar # 235207 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 3, 2005.
- (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 16 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)

Actual Suspension



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

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

- (1) ☐ Prior record of discipline [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment Page 4.
- (5) ☒ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. See Attachment Page 5.

- (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 4.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

- (13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

See Attachment Page 5.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of two (2) years.

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

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

- (2) ☒ **Probation:**

Respondent must be placed on probation for a period of eighteen (18) months, 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 1.4(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

(Do not write above this line.)

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.**

(Do not write above this line.)

- ☐ 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:**

(Do not write above this line.)

In the Matter of:
ZEROUNIAN, TANYA CORA
Member No.: **235207**

Case Number(s):
11-O-11437 RAP; 11-O-15689 (Inv.); 12-O-10217 (Inv.)

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
Thelma Herrera	\$1,700.00	January 6, 2011
Daniel Sanchez	\$1,800.00	January 14, 2011
Jose Terrazas Hernandez	\$2,100.00	December 27, 2010

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than sixty (60) days prior to the expiration of Respondent's 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 (60) 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.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Thelma Herrera	One payment of \$500 must be made monthly to either any of the listed payees or CSF	The minimum payment of \$500 per month must be made on the first day of each month beginning the month following the effective date of discipline.
Daniel Sanchez		
Jose Terrazas Hernandez		

- ☐ 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 certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent as 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";

(Do not write above this line.)

In the Matter of: ZEROUNIAN, TANYA CORA Member No.: 235207	Case Number(s): 11-O-11437 RAP; 11-O-15689 (Inv.); 12-O-10217 (Inv.)
--	--

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: Tanya Cora Zerounian

CASE NUMBER(S): 11-O-11437 RAP; 11-O-15689 (Inv.); 12-O-10217 (Inv.)

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 11-O-11437 RAP (Complainant: Thelma Herrera)

FACTS:

1. On November 17, 2009, Thelma Herrera ("Herrera") employed Respondent to file a Chapter 7 Bankruptcy Petition on Herrera's behalf. Herrera paid Respondent \$1,700 as an advanced fee.

2. On July 9, 2010, Herrera met with Respondent, who at that time had still not filed Herrera's bankruptcy petition. Respondent told Herrera that Respondent would soon be filing Herrera's bankruptcy petition.

3. On August 24, 2010, Herrera had not heard from Respondent. Herrera called Respondent's office and made an appointment for August 26, 2010. On August 25, 2010, Respondent's employee Sara called Herrera and advised Herrera that Respondent had to cancel Herrera's appointment scheduled for August 26, 2010. Sara also stated that Respondent would call Herrera on September 2, 2010, and reschedule their meeting.

4. On September 2, 2010, Respondent did not call Herrera.

5. Between September 2, 2010, and November 15, 2010, Herrera called Respondent's office daily and left a voice mail message requesting a return call from Respondent, or left a message with one of Respondent's employees requesting a return call from Respondent. Respondent received all of Herrera's messages, but did not return any calls to Herrera.

6. On November 15, 2010, Herrera went to Respondent's office and Respondent's employees informed Herrera that Respondent had not filed Herrera's bankruptcy petition.

7. On January 6, 2011, Herrera terminated Respondent as Herrera's counsel.

8. On January 6, 2011, Herrera employed Christopher Cantore ("Cantore") as Herrera's new counsel with regard to Herrera's bankruptcy petition. On January 6, 2011, Cantore sent a letter to Respondent demanding a refund of Herrera's advanced fee. Respondent received the letter but never provided any refund of Herrera's advanced fee.

Actual Suspension
Attachment Page 1

9. On December 17, 2010, the State Bar opened an investigation in Case No. 11-O-11437, following a State Bar Complaint against Respondent by Herrera.

10. On March 15, 2011, and April 11, 2011, a State Bar Investigator mailed letters to Respondent at Respondent's membership records address requesting that Respondent provide a written response to the allegations of misconduct made by Herrera. Respondent received the letters from the State Bar Investigator but did not provide a written response to the letters.

CONCLUSIONS OF LAW:

11. By not preparing and filing Herrera's Chapter 7 Bankruptcy Petition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

12. By not responding to Herrera's voice mail messages, or messages left with Respondent's employees, from September 2, 2010, through November 15, 2010, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

13. By not providing Herrera any refund of her unearned advanced fee, Respondent failed to refund promptly any part of a fee paid in advance in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

14. By not responding in writing to the State Bar Investigator's letters with regard to the allegations of misconduct by Herrera, as requested by the State Bar Investigator, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code section 6068(i).

Case No. 11-O-15689 (Inv.) (Complainant: Daniel Sanchez)

FACTS:

15. On November 20, 2009, Daniel Sanchez and his wife Ana Sanchez ("the Sanchezes") employed Respondent to file a Chapter 7 Bankruptcy Petition on their behalf. The Sanchezes paid Respondent \$1,800 as an advanced fee.

16. On February 8, 2010, the Sanchezes met with Respondent. At that time, Respondent advised the Sanchezes that Respondent would be filing their Chapter 7 Bankruptcy Petition in the next few weeks.

17. Between March 2010 and December 2010 Mr. Sanchez called Respondent's office approximately 20 times in order to get a status update on the Sanchezes' bankruptcy petition. Each time Mr. Sanchez would call, Mr. Sanchez would leave a message for Respondent to call Mr. Sanchez. Respondent received the messages. Respondent never returned Mr. Sanchez's calls.

18. On January 14, 2011, Mr. Sanchez sent Respondent a letter terminating Respondent's services and requesting a full refund. Respondent received the letter but never provided the Sanchezes with any refund.

19. On February 25, 2011, the Sanchezes hired Attorney Michael Grennier as their new counsel to file their Chapter 7 Bankruptcy Petition.

20. On August 5, 2011, the State Bar opened an investigation in Case No. 11-O-15689, pursuant to a State Bar Complaint by the Sanchezes against Respondent.

21. On August 31, 2011, and September 14, 2011, a State Bar Investigator mailed letters to Respondent at Respondent's membership records address requesting that Respondent provide a written response to the allegations of misconduct made by the Sanchezes. Respondent received the letters from the State Bar Investigator but did not provide a written response to the letters.

CONCLUSIONS OF LAW:

22. By not preparing and filing the Sanchezes' Chapter 7 Bankruptcy Petition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

23. By not responding to Mr. Sanchez's messages left with Respondent's office from March 2010 through December 2010, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

24. By not providing the Sanchezes any refund of their unearned advanced fee, Respondent failed to refund promptly any part of a fee paid in advance in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

25. By not responding in writing to the State Bar Investigator's letters with regard to the allegations of misconduct by the Sanchezes, as requested by the State Bar Investigator, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code section 6068(i).

Case No. 12-O-10217 (Inv.) (Complainant: Jose Terrazas Hernandez)

FACTS:

26. On October 26, 2009, Jose Terrazas Hernandez ("Hernandez") employed Respondent to file a Chapter 7 Bankruptcy Petition on behalf of Mr. Hernandez. Hernandez paid Respondent \$2,100 as an advanced fee.

27. Between January 2010 and April 2010, Hernandez called Respondent's office multiple times and left messages for Respondent to call Hernandez regarding the status of Hernandez's bankruptcy petition. Respondent received the messages. Respondent failed to return Hernandez's phone calls. Respondent also failed to inform Hernandez that Respondent had not filed Hernandez's bankruptcy petition. Respondent also failed to file Hernandez's bankruptcy petition.

28. On December 27, 2010, Hernandez terminated Respondent's employment as Hernandez's counsel and employed Steven Ross ("Ross") as Hernandez's new counsel for the bankruptcy petition.

29. On December 27, 2010, Ross sent a letter, dated December 27, 2010, to Respondent advising Respondent that Hernandez had terminated Respondent's employment. Ross' letter also requested a refund of unearned fees in the amount of \$2,100. Respondent received the letter. Respondent failed to respond to Ross' letter and failed to provide any refund to Respondent.

30. On July 14, 2011, Hernandez obtained a Small Claims Judgment against Respondent in the amount of \$2,100 in principal and \$195.00 in costs, with regard to the unearned fees. Respondent has not paid the Small Claims judgment.

CONCLUSIONS OF LAW:

31. By not preparing and filing Hernandez's Chapter 7 Bankruptcy Petition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

32. By not responding to Hernandez's messages left with Respondent's office from January 2010 through April 2010, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

33. By not providing Hernandez with any refund of his unearned advanced fee, Respondent failed to refund promptly any part of a fee paid in advance in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Multiple/Pattern of Misconduct: Aggravation under standard 1.2(b)(ii) includes the fact that Respondent has engaged in multiple acts of misconduct by failing to file the clients bankruptcy petitions, failing to respond to the clients status inquiries, and failing to refund unearned fees in three client matters and failing to cooperate in State Bar investigations in two client matters.

Harm: Aggravation under standard 1.2(b)(iv) includes the fact that clients Herrera, Sanchez, and Hernandez all suffered harm as they were required to employ new counsel to file their bankruptcy petitions. *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126. Client Hernandez also filed a Small Claims action and obtained a judgment against Respondent in an effort to collect unearned fees from Respondent.

Indifference: Aggravation under standard 1.2(b)(v) includes the fact that Respondent demonstrated indifference toward rectification of or atonement for the consequences of her misconduct by failing to provide any refunds of unearned fees to clients Herrera, Sanchez, or Hernandez despite receiving letters from the clients or the clients' new counsel requesting a refund due to Respondent's misconduct. *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 913.

ADDITIONAL MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances: Respondent is entitled to some mitigation as she experienced marital problems with her husband which distracted Respondent from her law practice during the period of her misconduct. *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, 519.

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re 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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing 11 acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.6, which applies to Respondent's violations of Business and Professions Code section 6068(m) and 6068(i).

Standard 2.6 provides, in pertinent part, that, "Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3:

(a) Sections 6067 and 6068;...."

Actual Suspension
Attachment Page 5

In the instant case, as Respondent has failed to file the clients bankruptcy petitions and failed to communicate with the clients in three client matters, and failed to cooperate in a State Bar Investigation in two client matters, under standard. 2.6 (a), discipline consisting of suspension is appropriate. Additionally, Respondent has failed to refund unearned client funds totaling \$5,600 to three clients in bankruptcy matters. In aggravation, the clients were required to retain new counsel to file their bankruptcy petitions and try to obtain refunds from Respondent. Respondent has also failed show any remorse by ignoring the efforts of the clients and/or their new counsel to obtain refunds of the unearned fees. While Respondent is entitled to some mitigation for her marital difficulties, the aggravating circumstances clearly outweigh the mitigating circumstances.

In *Amante v. State Bar* (1990) 50 Cal. 3d 247, Respondent stipulated to facts concerning five matters. In three matters, Respondent failed to perform services, failed to return phone calls from the clients, failed to return unearned fees and, in two of the matters, misappropriated cost money advanced by the clients. In the two remaining matters, Respondent wrote NSF checks on his client trust account when he knew or should have known he did not have the funds on deposit in that account to pay the checks. The court imposed discipline consisting of a three year stayed suspension, three years probation with conditions, including a six month actual suspension. Respondent was not entitled to mitigation for his youth and inexperience, pro bono work on one case, delay of 22 months in his prosecution, nor for his financial difficulties. Respondent was given some mitigation for his complaint-free period of practice following the present complaints. In aggravation, Respondent's misconduct began approximately one year after Respondent was admitted to the State Bar.

In *Harris v. State Bar* (1990) 51 Cal. 3d 1082, in a personal injury case and a wrongful death case for the same client, Respondent did no work for 4 years, other than filing the complaint and serving it, both of which were done on the last possible day. Respondent also repeatedly failed to communicate with her client or his family attorney. Respondent also failed to promptly turn over the file to the client despite numerous requests that Respondent do so. The court imposed discipline consisting of a three year stayed suspension, three years probation with conditions, including a 90 day actual suspension. In mitigation, Respondent suffered from typhoid fever during one of the four years of inaction. Respondent also had no prior discipline. In aggravation, the court noted that Respondent failed to show remorse for her misconduct and failed to accept responsibility for her actions.

Respondent Zerounian's misconduct is more egregious than that of the Respondent in *Harris* and closer to that of the Respondent in *Amante*. In this regard, as in *Amante*, Respondent Zerounian's misconduct involves three client matters in which the misconduct included failure to perform, failure to return client phone calls, and failure to refund unearned fees.

As such, based on the facts, aggravating and mitigating circumstances, standards, and case law, discipline consisting of a two year stayed suspension, eighteen months probation with conditions, including a six month actual suspension is appropriate.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 19, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of October 19, 2012, the prosecution costs in this matter are \$8,563.00. 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.

EXCLUSION FROM MCLE CREDIT


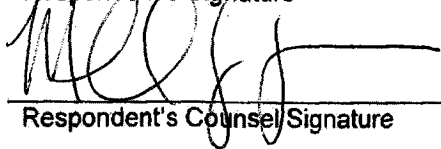
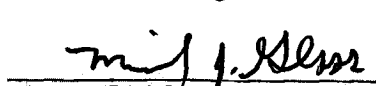
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of TANYA CORA ZEROUNIAN Member # 235207	Case number(s): 11-O-11437 RAP; 11-O-15689 (Inv.); 12-O-10217 (Inv.)
---	---

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>10/23/2012</u> Date	 Respondent's Signature	<u>Tanya C. Zerounian</u> Print Name
<u>10-23-12, 2012</u> Date	 Respondent's Counsel Signature	<u>Michael G. Gerner</u> Print Name
<u>October 24, 2012</u> Date	 Senior Trial Counsel's Signature	<u>Michael J. Glass</u> Print Name

(Do not write above this line.)

In the Matter of: TANYA CORA ZEROUNIAN Member # 235207	Case Number(s): 11-O-11437; 11-O-15689 (Inv.) 12-O-10217 (Inv)
--	---

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.

1. On page 7 of the stipulation, under the heading of "Financial Conditions," under subdivision "a. Restitution," at the end of the first paragraph, the following text is ADDED:

Any restitution to CSF is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

2. On page 7 of the stipulation, under the heading of "Financial Conditions," under subdivision "a. Restitution," the "Principal Amount" that respondent must pay to Jose Terrazas Hernandez is INCREASED from \$2,100 to \$2,295 so that respondent is required to pay Hernandez \$195 in costs in accordance with the small claims court's July 14, 2011 judgment in favor of Hernandez and against respondent. (See, e.g., Sorensen v. State Bar (1991) 52 Cal.3d 1036, 1044-1045.).

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

10-28-2012


RICHARD A. PLATEL

Judge of the State Bar Court

(Effective January 1, 2011)

Actual Suspension Order

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 October 29, 2012, I deposited a true copy of the following document(s):

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

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

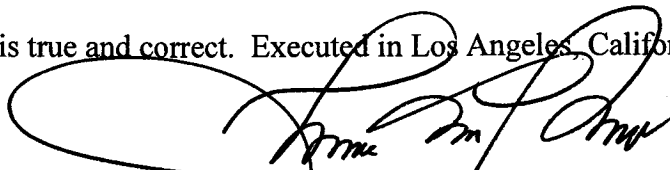
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL GALEN GERNER
MICHAEL G GERNER, A PROF LAW CORP
425 S BEVERLY DR STE 210
BEVERLY HILLS, CA 90212

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

Michael John Glass, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 29, 2012.



Johnnie Lee Smith
Case Administrator
State Bar Court