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**State Bar Court of California  
Hearing Department  
San Francisco  
ACTUAL SUSPENSION**

<b>Counsel For The State Bar</b>  Treva R. Stewart State Bar of California Office of the Chief Trial Counsel 180 Howard Street San Francisco, CA 94105  Bar # 239829	<b>Case Number(s):</b> 11-O-13878	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>mb</i>  MAR 2 2012  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Nwabueze Ezeife 480 Roland Way Ste 101 Oakland, CA 94621-2052  Bar # 165472	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Nwabueze Ezeife  Bar # 165472  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 15, 1993.
- (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."

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- (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 the Supreme Court order. (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 00-O-12263, et al (Ezeife I)
- (b) ☒ Date prior discipline effective January 4, 2004
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules 4-100(A), 4-100(B)(3), 3-700(D)(1), 3-100(A), 3-700(A)(2) and 1-300(A) of the Rules of Professional Conduct and Sections 6068(b), 6068(m), 6103 and 6106 of the State Bar Act
- (d) ☒ Degree of prior discipline Two years stayed suspension and until rehabilitation and three years probation conditioned on six months actual suspension and until respondent paid restitution
- (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Court case # of prior case 06-O-12913, et al. (Ezeife II)

Date prior discipline effective September 3, 2010

Rules of Professional Conduct/State Bar Act violations: Rules 3-110(A) and 3-200(B) of the Rules of Professional Conduct and Sections 6068(a), 6090.5(a)(2) and 6103 of the State Bar Act

Degree of Discipline One year stayed suspension; two years probation condition on nine months actual suspension

State Bar Court case # of prior case 08-O-14845 (Ezeife III)

Date prior discipline effective August 26, 2011

Rules of Profession Conduct/State Bar Act violations: Rule 4-100(A) (three counts) of the Rules of Professional Conduct

Degree of Discipline Three years stayed suspension and four years probation conditioned on one year actual suspension.

See Stipulation Attachment for further discussion regarding prior records of 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 was cooperative throughout the State Bar's investigation as well as the resolution of this matter. In his responses to the State Bar he openly and candidly expressed remorse for his misconduct in this matter as well as his prior matters.

- (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. At the time of the misconduct Respondent was unable to secure consistent gainful employment sufficient to provide for his four children and meet his other financial obligations. Also, he incurred substantial unexpected travel expenses to Nigeria to attend to his ill father.
- (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. At the time of the misconduct Respondent's 89 year old father suffered psychological problems requiring Respondent to make at least two trips to Nigeria to attend to him and obtain treatment for him. Respondent has also experienced difficulties in his marriage.
- (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 four 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 four 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 three 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.

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- (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: Respondent provided proof of attendance at Ethics School and passage of the test given at the end of the session on July 11, 2011 pursuant to Supreme Court order S182846.
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |                                                     |                                                           |
|-----------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

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

- (1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without 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: Respondent must remain actually suspended until he provides proof of passage of the Multistate Professional Responsibility Examination per Supreme Court order S182846.
- (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:

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(5) ☒ **Other Conditions:** See Stipulation Attachment

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

IN THE MATTER OF:                      NWABUEZE EZEIFE

CASE NUMBER(S):                      11-O-13878

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.

**FACTS AND CONCLUSIONS OF LAW.**

**FACTS:**

1.        On or about September 1, 2010 Respondent was placed on administrative suspension for failure to pay his State Bar membership dues.
2.        On or about September 3, 2010 Respondent was actually suspended from the practice of law in case number 06-O-12413 for nine months.
3.        During all relevant times, Respondent was not entitled to practice law.
4.        During all relevant times, Kelechi Charles Emeziem ("Emeziem") was the attorney of record for Ntita Kalonji ("Mr. Kalonji") in the matter, *Kalonji v. Kalonji*, Alameda Superior Court Case No. RF07309631.
5.        On November 23, 2010 Respondent appeared in court with Mr. Kalonji. Emeziem was not present.
6.        On March 30, 2011 Respondent appeared in court on behalf of Mr. Kalonji. Mr. Kalonji nor Emeziem were present.
7.        Respondent held himself out as entitled to practice law on November 23, 2010 and March 30, 2011 when he knew that he was not entitled to practice law.

**CONCLUSION OF LAW:**

By appearing in court on behalf of Mr. Kalonji on November 23, 2010 and March 30, 2011 and by holding himself out as entitled to practice law in California when he knew that he was not entitled to practice law in California, respondent held himself out as entitled to practice law when he was not an active member of the State Bar of California, respondent wilfully violated Business and Professions



Code sections 6125 and 6126 and thereby failed to abide by and support the laws of the State of California in violation of Business and Professions Code Section 6068(a).

### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was February 16, 2012.

### **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 1.7(b) imposes disbarment when a member with a record of two prior impositions of discipline is found culpable of professional misconduct in a pending proceeding, unless the most compelling mitigating circumstances clearly predominate.

Although there are three prior impositions of discipline, the weight to be accorded for purposes of aggravation is diminished by the fact that *Ezeife III* considered Respondent to only have one prior record of discipline based on almost all of the acts in *Ezeife III* being committed before the effective date in *Ezeife II*. Similarly, all of Respondent's acts in the instant matter (*Ezeife IV*) occurred before the effective date of *Ezeife III*.

Further, disbarment is not recommended where the nature and extent of the prior records do not warrant disbarment. *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697. While some of Respondent's past misconduct is serious, none of the prior matters warranted disbarment. The most severe discipline imposed was three years stayed and one year actual.

Finally, compelling mitigating circumstances notwithstanding, a rigid application of Standard 1.7(b) is not required to achieve the purposes of Standard 1.3. (See *Conroy v. State Bar* (1991) 53 Cal.3d 495). A lengthy suspension will serve the primary purposes of disciplinary proceedings provided for in Standard 1.3. *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131; *Arm v. State Bar* (1990) 50 Cal.3d 763.

Standard 2.6 provides that violation of Business & Professions Code Sections 6125 and 6126 "shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim."

Discipline for the unauthorized practice of law varies. In *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, Trousil, who had three prior records of discipline was suspended for two years stayed and 30 days actual for a single charge of practicing law while suspended. Trousil's prior discipline did not include any actual suspension. In *Morgan v. State Bar* (1990) 51 Cal.3d 598, Morgan was disbarred. In addition to engaging in the unauthorized practice of law, Morgan had obtained a pecuniary interest adverse to his client. He had five prior impositions of discipline, one of which involved the unauthorized practice of law and three involved actual discipline.

The matters in which Respondent appeared were essentially for case status and did not involve substantive findings. Further, there was no victim harmed by Respondent's misconduct.

Respondent acknowledges that any further disciplinary action instituted against him will likely result in disbarment.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 14, 2012, the prosecution costs in this matter are approximately \$2897. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of:  
Nwabueze C. I. Ezeife (SBN 165472)

Case number(s):  
11-O-13878

### 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.

2/21/2012  
Date

  
Respondent's Signature

Nwabueze C. I. Ezeife  
Print Name

2/21/2012  
Date

  
Respondent's Counsel Signature  
Deputy Trial Counsel's Signature

Print Name

Treva R. Stewart  
Print Name

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In the Matter of:  
Nwabueze C.I. Ezeife  
(SBN 165472)

Case Number(s):  
11-O-13878

### 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 p. 2, (8) Payment of Disciplinary Costs, add the years "2013, 2014, and 2015" to the installment payments.

On p. 2, B. (1)(e) Prior case number "06-O-12913" is deleted and replaced with "06-O-12413."

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.)**

March 2, 2012  
Date

  
LUCY ARMENDARIZ  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on March 2, 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:

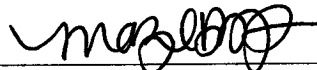
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

NWABUEZE C. I. EZEIFE  
EZEIFE & ASSOCIATES  
480 ROLAND WAY STE 101  
OAKLAND, CA 94621 - 2052

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

TREVA R. STEWART, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 2, 2012.

  
\_\_\_\_\_  
Mazie Yip  
Case Administrator  
State Bar Court