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| <b>State Bar Court of California</b><br><b>Hearing Department</b><br><b>Los Angeles</b><br><b>ACTUAL SUSPENSION</b>  |  |  |
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| <b>Counsel For The State Bar</b><br><br>AGUSTIN HERNANDEZ<br>Deputy Trial Counsel<br>1149 South Hill St.<br>Los Angeles, CA 90015-2299<br>(213) 765-1713<br><br>Bar # 161625 | <b>Case Number(s):</b><br>11-O-16057   | <b>For Court use only</b><br><br><b>PUBLIC MATTER</b><br><br><b>FILED</b><br><br><b>DEC 21 2012</b><br><br><b>STATE BAR COURT</b><br><b>CLERK'S OFFICE</b><br><b>LOS ANGELES</b> |
| <b>In Pro Per Respondent</b><br><br>ADRIAN HENRY TRIMINIO<br>P.O. Box 20322<br>Fountain Valley, CA 92728<br>(714) 615-2770<br><br>Bar # 192894                               | <b>Submitted to: Assigned Judge</b><br><br>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br>DISPOSITION AND ORDER APPROVING<br><br><b>ACTUAL SUSPENSION</b><br><br><input type="checkbox"/> PREVIOUS STIPULATION REJECTED |  |
| <b>In the Matter of:</b><br>ADRIAN HENRY TRIMINIO<br><br>Bar # 192894<br><br>A Member of the State Bar of California<br>(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 December 9, 1997.
- (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 15 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)



ABJ  
12-14-12

- (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 imposing 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 page 9.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See page 9.
- (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 page 10.

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of two 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 three 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 90 days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
  - ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
  - iii. ☐ and until Respondent does the following:

**E. Additional Conditions of Probation:**

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

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

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

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

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☐ 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:**

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

IN THE MATTER OF:

ADRIAN HENRY TRIMINIO

CASE NUMBER(S):

11-O-16057

**FACTS AND CONCLUSIONS OF LAW.**

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

**Case No. 11-O-16057 (Complainant: Hoa Thi Nguyen)**

**FACTS:**

1. On February 8, 2006, Hoa Thi Nguyen ("Nguyen") employed Respondent to represent her in a real estate fraud action. Pursuant to the fee agreement, Respondent's fees were to be billed at \$200 per hour plus costs. Throughout Respondent's representation of Nguyen, Nguyen paid Respondent \$13,000 in fees and costs.

2. On April 5, 2006, Respondent filed an action on behalf of Nguyen in Orange County Superior Court entitled *Hoa Thi Nguyen v. Linh Ngoc Nguyen, Jean H. Su, Phillip Ngo, Leesa Thuy Nguyen, Executive Corporation dba Century 21 Olympic Team, and Platinum Escrow*, case no. 06CC04807 ("Nguyen matter").

3. In April 2007, defendants Phillip Ngo, Leesa Thuy Nguyen, Executive Corporation dba Century 21 Olympic Team (collectively referred to as the "Settling Defendants") communicated to Respondent an offer of \$18,000 to settle the Nguyen matter as to these defendants only, contingent upon the court's determination that the settlement was entered into in good faith. Thereafter, Respondent communicated this settlement offer to Nguyen. Nguyen informed Respondent that she did not accept this settlement offer.

4. On April 20, 2007, Respondent accepted the \$18,000 settlement offer on behalf of Nguyen without Nguyen's knowledge and in violation of Nguyen's instructions. At no time did Respondent communicate to Nguyen that he had accepted the settlement offer on her behalf.

5. On April 25, 2007, the Settling Defendants filed an application for determination of a good faith settlement.

6. On May 22, 2007, the court filed an order finding that the settlement purportedly entered into by Nguyen and the Settling Defendants was made and entered into in good faith.

7. At no time did Nguyen accept this settlement offer and at no time did she execute a settlement agreement or release.

8. After not receiving a settlement agreement or release executed by Nguyen from Respondent, on August 9, 2007, the Settling Defendants filed an Ex Parte Application to Request the Court's Inquiry into Plaintiff's Failure to Execute Settlement Documents; and to Schedule a Date for Plaintiff and Her Attorney to Appear to Execute Settlement Documents ("Ex Parte Hearing"). Respondent failed to appear at the Ex Parte Hearing.

9. On August 9, 2007, the court set an OSC re Enforcement of the Settlement Agreement to be heard on August 30, 2007 ("OSC re Enforcement of Settlement"). On August 10, 2007, opposing counsel served notice of the August 30, 2007 OSC re Enforcement of Settlement on Respondent at his then current membership records address. Respondent received the notice.

10. On August 30, 2007, Respondent failed to appear at the OSC re Enforcement of Settlement. On August 30, 2007, the court denied the OSC re Enforcement of Settlement but scheduled an OSC re dismissal for failure to prosecute the Nguyen matter and for Respondent's failure to appear at the Ex Parte Hearing and at the OSC re Enforcement of Settlement ("OSC re Dismissal"). The OSC re Dismissal was scheduled for September 19, 2007. On or about August 31, 2007, opposing counsel served notice of the September 19, 2007 OSC re Dismissal on Respondent at his then current membership records address. Respondent received the notice.

11. On September 19, 2007, Respondent appeared at the OSC re Dismissal. On this date, the court continued the OSC re Dismissal to October 24, 2007, and ordered Respondent to make a showing of good cause on that date with sufficient details of substantial work performed to prosecute the Nguyen matter, or the case would be dismissed. On September 19, 2007, the court imposed sanctions of \$500 against Respondent and Nguyen jointly and severally payable within 30 days to the Settling Defendants. Respondent was present in court and had notice of the court's orders.

12. On October 24, 2007, Respondent failed to appear at continued OSC re Dismissal. On this date, the court dismissed the Nguyen matter with prejudice.

13. On October 24, 2007, Respondent filed a request for dismissal of the Nguyen matter without Nguyen's knowledge or consent.

14. On October 29, 2007, opposing counsel served Respondent with a notice of ruling indicating that on October 24, 2007, the court dismissed the Nguyen matter with prejudice at Respondent's then current membership records address. Respondent received the notice.

15. At no time did Respondent file a motion to set aside or vacate the dismissal of the Nguyen matter.

16. To date, Respondent has failed to pay any portion of the \$500 in sanctions that were imposed on September 19, 2007.

17. At no time did Respondent inform Nguyen that the court imposed sanctions of \$500 against her and Respondent.

18. At no time did Respondent inform Nguyen that the court had scheduled the OSC re Enforcement of Settlement, OSC re Dismissal and a continued OSC re Dismissal.



19. At no time did Respondent inform Nguyen that her case was dismissed.

#### CONCLUSIONS OF LAW:

20. By accepting the \$18,000 settlement offer in contravention of his client's instructions, failing to appear at the August 9, 2007 Ex Parte Hearing, failing to appear at the August 30, 2007 OSC re Enforcement of Settlement, failing to appear at the October 24, 2007 continued OSC re Dismissal, allowing the Nguyen matter to be dismissed, and failing to file a motion to set aside or vacate the dismissal, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

21. By filing a request for dismissal of the Nguyen matter without Nguyen's knowledge or consent, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

22. By failing to pay any portion of the \$500 in sanctions that were imposed on September 19, 2007, Respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear, in willful violation of Business and Professions Code, section 6103.

23. By failing to inform Nguyen that the court imposed sanctions of \$500 against her and Respondent, the court had scheduled the OSC re Enforcement of Settlement, OSC re Dismissal and a continued OSC re Dismissal, and by failing to inform Nguyen that her case was dismissed, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

##### **Harm:**

Respondent's misconduct significantly harmed Nguyen. She paid Respondent \$13,000 in fees and costs and her case was dismissed due to Respondent's misconduct which includes failing to appear at the August 9, 2007 Ex Parte Hearing, failing to appear at the August 30, 2007 OSC re Enforcement of Settlement, failing to appear at the October 24, 2007 continued OSC re Dismissal, allowing the Nguyen matter to be dismissed, and failing to file a motion to set aside or vacate the dismissal. (Standard 1.2(b)(iv).)

##### **Multiple/Pattern of Misconduct:**

Respondent's misconduct evidences multiple acts of wrongdoing. Respondent committed numerous separate acts of professional misconduct violating four disciplinary provisions of the State Bar Act and Rules of Professional Conduct. (Standard 1.2(b)(ii).)

## **ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

### **No Prior Discipline:**

Though Respondent's misconduct is serious, Respondent has no prior record of discipline in 15 years of practice and is entitled to mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49; *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.)

### **Candor/Cooperation:**

Respondent cooperated with the State Bar in these proceedings to the extent he acknowledged his misconduct and entered into a stipulation of facts, conclusions of law and disposition without the necessity of having a trial on this matter. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190.)

## **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.4<sup>th</sup> 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.4<sup>th</sup> 81, 92, quoting *In re Brown* (1995) 12 Cal.4<sup>th</sup> 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 committed numerous separate acts of professional misconduct violating four disciplinary provisions of the State Bar Act and Rules of Professional Conduct. Standard 1.6 (a) provides that where a Respondent commits 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.

In this matter, the most severe sanction applicable to Respondent's misconduct is found in standard 2.3, which applies to Respondent's violation of Business and Professions Code section 6106. Standard 2.3 provides that culpability of an act of moral turpitude, fraud, or intentional dishonesty toward a client or of concealment of a material fact shall result in actual suspension or disbarment depending upon the extent to which the client is harmed or misled and depending upon the magnitude of the act of

misconduct and the degree to which it relates to the member's acts within the practice of law. The level of discipline agreed to herein falls within the range provided for in standard 2.3.

In analyzing standard 2.3 to determine the appropriate discipline in this matter, it is important to consider the magnitude of Respondent's misconduct which was inextricably related to the practice of law. Nguyen suffered significant harm as a result of Respondent's misconduct. Respondent failed to perform competently to such an extent that the case was dismissed by the court at an OSC at which Respondent failed to appear. Respondent compounded his misconduct by filing a request for dismissal without Nguyen's knowledge and consent on the same day that the court dismissed the case. Respondent did not inform Nguyen that the court dismissed her complaint or that he had filed a request for dismissal. Respondent did not inform Nguyen that the court sanctioned her and Respondent \$500 for failing to appear at an OSC. To date, the sanctions have not been paid. Respondent did not provide any legal services of value after Nguyen paid him \$13,000 in fees and costs.

In determining the appropriate level of discipline, the matter of *Levin v. State Bar* (1989) 47 Cal.3d 1140, is instructive. The Supreme Court imposed a three-year stayed suspension, with six months of actual suspension and three years of probation on an attorney who settled a client's case without consent. *Levin*, however, involved more serious misconduct and two separate client matters. He settled a client's case without her consent and simulated her signature on the release and the settlement check. He also misrepresented that he actually witnessed her sign the release. When she found out that the member settled her case, he told her that he would provide her with a copy of the check and an accounting. He failed to do so and she complained to the State Bar. After he was contacted by the State Bar, he paid her an additional \$650 to resolve the matter. In another client matter, the member misrepresented to opposing counsel that he had authority to settle the case when he did not. Opposing counsel learned of the member's misrepresentation and the matter did not settle. He also communicated with a represented party. In aggravation, he attempted to conceal his dishonesty, offered to file a perjured document with the court, and committed multiple acts of misconduct. In mitigation, he had no record of discipline in 18 years of practice and displayed cooperation by stipulating to relevant facts. (*Levin v. State Bar* (1989) 47 Cal.3d 1140.)

In the instant matter, Triminio dismissed his client's case with her consent instead of settling it as *Levin* did. The end result, however, is the same in that their respective client's cases were terminated without their consent. As discussed above, the *Levin* matter is more egregious than the instant matter. *Levin's* aggravating circumstances are also more egregious. The mitigating circumstances are similar.

Pursuant to Standard 2.3, and considering the magnitude of Respondent's misconduct and aggravating circumstances and mitigated by his 15 years of practice without prior discipline and cooperating with the State Bar by entering into this stipulation, a two-year stayed suspension, with 90 days of actual suspension and three years of probation is an appropriate level of discipline to protect the public, the courts and the integrity of the legal profession.

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was November 30, 2012.

**WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.**

The parties waive any variance between the Notice of Disciplinary Charges filed in this matter, and the facts and/or conclusions of law obtained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 30, 2012, the prosecution costs in this matter are \$6,944. 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, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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| In the Matter of:<br><b>ADRIAN HENRY TRIMINIO</b> | Case Number(s):<br><b>11-O-16057</b> |
|---|--------------------------------------|

## 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 |
|---|------------------|-----------------------|
| Hoa Thi Nguyen  | \$13,000         | October 24, 2007      |
| Leesa Nguyen and/or Phillip Ngo & Executive Corporation | \$500            | September 19, 2007    |
|   |                  |                       |
|   |                  |                       |

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than six months prior to the end of the disciplinary probation period herein.

### b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

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

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

### c. Client Funds Certificate

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

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. **Client Trust Accounting School**

- ☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of:  
ADRIAN HENRY TRIMINIO

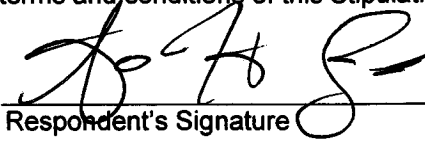
Case number(s):  
11-O-16057

### 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.

12/3/12

Date



Respondent's Signature

ADRIAN HENRY TRIMINIO

Print Name

Date

12/3/12

Respondent's Counsel Signature

Print Name

AGUSTIN HERNANDEZ

Print Name

Deputy Trial Counsel's Signature

(Do not write above this line.)

|   |                                      |
|---|--------------------------------------|
| In the Matter of:<br><b>ADRIAN HENRY TRIMINIO</b> | Case Number(s):<br><b>11-O-16057</b> |
|---|--------------------------------------|

### 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.

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

12-11-2012

  
**RICHARD A. PLATEL**  
Judge of the State Bar Court

**RICHARD A. PLATEL**



## 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 December 21, 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:

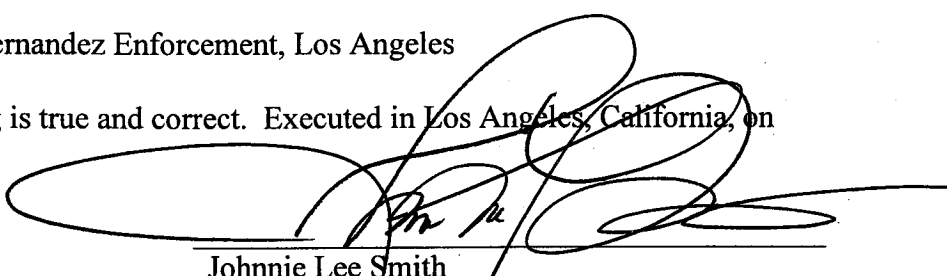
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ADRIAN H. TRIMINIO  
TRIMINIO LAW OFFICE  
PO BOX 20322  
FOUNTAIN VALLEY, CA 92728

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

Agustin Hernandez Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 21, 2012.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court