

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

<p>Counsel For The State Bar</p> <p>Kimberly G. Anderson Senior Trial Counsel The State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1083</p> <p>Bar # 150359</p>	<p>Case Number(s): 11-O-18098 11-O-18136 12-O-10265 12-O-10588 12-O-11469</p>	<p>For Court use only</p> <p>FILED <i>HC</i> MAY 10 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Aaron M. Ellis Serenity Plaza 6518 Greenleaf Ave., Suite 26 Whittier, CA 90601 (562) 277-3233</p> <p>Bar # 248862</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Aaron M. Ellis</p> <p>Bar # 248862</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted May 28, 2007.
- (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 18 pages, not including the order.



- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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 Stipulation Attachment at page 14.

(Do not write above this line.)

- (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 Stipulation Attachment at page 14.
- (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. See Stipulation Attachment at page 14.
- (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:

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of one (1) year.
- 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 (3) 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 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 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:
 - Substance Abuse Conditions
 - Medical Conditions
 - Law Office Management Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:** See Stipulation Attachment at pages 15-17.

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In the Matter of: Aaron M. Ellis	Case Number(s): 11-O-18098, 11-O-18136, 12-O-10265, 12-O-10588 and 12-O-11469
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Lawrence Castro	\$1,800.00	May 20, 2011
Jacob Koerber	\$1,000.00	February 1, 2012

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than one (1) year after the effective date of discipline 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:
- a. 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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Aaron Ellis

CASE NUMBER(S): 11-O-18098, 11-O-18136, 12-O-10265, 12-O-10588 and 12-O-11469

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-18098 (Complainant: Jessie Flores)

FACTS:

1. On August 27, 2011, Jessie Flores ("Flores") hired Respondent to file a Chapter 13 bankruptcy case on behalf of Flores and his wife. On August 27, 2011, Respondent and Flores agreed that Flores would pay Respondent a total of \$3,500 in attorneys' fees to handle the bankruptcy case and that Flores would pay monthly payments to Respondent of \$500.00 per month. Respondent also agreed to provide Flores with an introductory document packet for Flores and his wife to complete.
2. On September 1, 2011, Flores paid Respondent \$500.00 in advanced fees.
3. Between September 1, 2011 and September 26, 2011, Flores repeatedly requested that Respondent provide him with the introductory document packet for Flores and his wife to complete, but Flores never received it.
4. On September 26, 2011, Flores sent Respondent an email requesting a refund of the \$500.00 and terminating Respondent's services. Respondent received the email and he had not performed any services of value for Flores and his wife.
5. On September 27, 2011, Respondent sent Flores an email agreeing to refund Flores's money. In the email, Respondent stated, "I understand your decision and am sending the refund this week. I apologize for the inconvenience."
6. On October 6, 2011, when Respondent had not refunded the money to Flores, Flores sent him another email confirming that he had not received the refund and that he would be filing a State Bar complaint against Respondent. Respondent received the email.
7. On October 7, 2011, Respondent sent Flores an email promising to send Flores his money that day. Respondent did not send Flores his money as promised.
8. On October 12, 2011, when Respondent had not refunded the money to Flores, Flores filed a State Bar complaint against Respondent, alleging in part, that Respondent would not return the \$500.00 in unearned fees.

9. On October 31, 2011, when Respondent had not refunded the money to Flores, Flores sent him another email stating he had filed a State Bar complaint against Respondent and demanding return of his money. Respondent received the email. But Respondent did not refund the money.

10. On November 18, 2011, Respondent received a letter from State Bar Investigator Rose Ackerman, which asked him to respond to the allegations in Flores' State Bar complaint, including specifically the allegations that Respondent had failed to refund his \$500.00 in unearned fees.

11. On December 1, 2011, Respondent refunded the \$500.00 to Flores.

CONCLUSIONS OF LAW:

12. By failing to refund the \$500.00 to Flores from September 26, 2011 until December 1, 2011, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule 3-700(d)(2) of the Rules of Professional Conduct.

Case No. 11-O-18136 (Complainant: Lawrence Castro)

FACTS:

13. On May 10, 2010, Lawrence Castro ("Castro") hired Respondent to represent him in a Chapter 7 bankruptcy matter. Castro agreed to pay Respondent \$1,800.00, \$1,500.00 in attorneys' fees and \$299.00 for filing fees for the bankruptcy petition.

14. On June 3, 2010, Castro paid Respondent \$1,800.00, \$1,500.00 which was for advanced fees and \$299.00, which was for filing fees.

15. Respondent failed to file the bankruptcy petition on behalf of Castro at any time.

16. On May 20, 2011, Castro sent Respondent a letter stating that it had come to his attention that Respondent had not filed the bankruptcy petition on his behalf for one year. In the letter, Castro demanded that Respondent do one of the following three things: 1) file the bankruptcy papers immediately, 2) schedule an appointment with him to discuss the matter, or 3) refund the \$1,800.00. Respondent received the letter.

17. Respondent did not file the bankruptcy petition on behalf of Castro, did not scheduled an appointment to discuss the matter with Castro and did not refund Castro's money.

18. On July 22, 2011, Respondent sent Castro a letter notifying Castro that he was closing his law practice, but promising to handle his matter, "for as long as it is still pending in the courts." However, Respondent never filed the bankruptcy case prior to July 22, 2011 or at any time after that date.

19. After Castro received the July 22, 2011 letter, Castro telephoned Respondent at his cell phone number, which he provided to Castro in the letter. Castro left a message requesting a status update and a return telephone call. Respondent received the message from Castro, but did not call him back or provide him with any status update.

20. From July 2010 through September 2011, Castro telephoned Respondent approximately five to six times per month and left messages requesting status updates. Respondent received the telephone calls but failed to return any of them.

21. Respondent did not earn any of the fees because he did not provide any services of value to Castro and he never filed the bankruptcy petition on behalf of Castro.

22. Respondent did not incur any filing fees on behalf of Castro because he never filed the bankruptcy case.

23. Respondent failed to provide Castro with any accounting.

CONCLUSIONS OF LAW:

24. By failing to file the bankruptcy petition on behalf of Castro for more than one year, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rule 3-110(a) of the Rules of Professional Conduct.

25. By failing to return any of Castro's telephone calls between July 2010 through September 2011, and by failing to otherwise provide him with any status updates, 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).

26. By failing to refund Castro's \$1,500.00 unearned fees at any time between May 20, 2011 and the present, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule 3-700(d)(2) of the Rules of Professional Conduct.

27. By failing to return the \$299.00, which Castro gave to him to use for filing fees, at any time between May 20, 2011 and the present, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in willful violation of Rule 4-100(b)(4) of the Rules of Professional Conduct.

28. By failing to provide Castro with any accounting for the \$1,800.00 at any time between May 20, 2011 and the present, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rule 4-100(b)(3) of the Rules of Professional Conduct.

Case No. 12-O-10265 (Complainant: George Colon)

FACTS:

29. In October 2010, George Colon ("Colon") hired Respondent handle a bankruptcy case, and he paid Respondent \$1,500.00 in advanced fees and a \$299.00 filing fee.

30. In March 2011, Respondent did file the bankruptcy petition, but then on September 12, 2011, the bankruptcy case was dismissed without Colon receiving a discharge. The case was dismissed because Respondent did not comply with the court's order at an April 6, 2011 Meeting of Creditors

hearing to file a post-petition credit counseling class certification within 45 days of the Meeting of Creditors.

31. Respondent did not tell Colon that he had not filed the post-petition credit counseling class certification at any time between April 6, 2011 and September 12, 2011, and Respondent did not tell Colon that his case had been dismissed. Colon learned of the dismissal when he received the September 12, 2011 notice from the bankruptcy court that the case was closed without discharge because the post-petition credit counseling class certification had not been filed.

32. Colon then contacted the Respondent and Respondent offered to file a form to reopen the bankruptcy and offered to pay the filing fees. But Colon went to court and filed his own paperwork and new filing fees to reopen the case.

33. Respondent refunded the \$299.00 filing fees to Colon.

CONCLUSIONS OF LAW:

34. By failing to timely file the post-petition credit counseling class certification within 45 days of the April 6, 2011 Meeting of Creditors, and by failing to discover at any time between April 6, 2011 and September 12, 2011 that the post-petition credit counseling class certification had not been filed, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rule 3-110(a) of the Rules of Professional Conduct.

35. By failing to tell Colon that he had not filed the post-petition credit counseling class certification at any time between April 6, 2011 and September 12, 2011, and by failing to tell Colon that his case had been dismissed on September 12, 2011, Respondent failed to advise his client 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).

Case No. 12-O-10588 (Complainant: Gary Guerrero)

FACTS:

36. On November 18, 2010, Gary Guerrero ("Guerrero") hired Respondent to represent him in a child custody and marital dissolution matter. Pursuant to the retainer agreement Respondent agreed to charge Guerrero "an initial deposit" of \$2,500.00 in advanced fees.

37. Between November 18, 2010 and July 31, 2011, Guerrero paid Respondent \$1,800.00 of the \$2,500.00 in advanced fees.

38. In or about August 2011, Respondent sent Guerrero a letter stating he could not represent him any longer thereby terminating his services

39. Between in or about August 2011 and January 4, 2012, Guerrero demanded Respondent refund his money, but Respondent did not refund the money.

40. Respondent failed to promptly submit an accounting to Guerrero upon his termination of the attorney-client relationship. Respondent acknowledges he was obligated to promptly account to Guerrero irrespective of whether he believes he earned all of the fees or not.

41. Respondent agrees, as is set forth below, to offer fee arbitration to Guerrero as a condition of his disciplinary probation in this matter and to pay any fee arbitration award.

CONCLUSIONS OF LAW:

42. By failing to provide Guerrero with any accounting for the \$1,800.00 at any time between August 2011 and the present, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rule 4-100(b)(3) of the Rules of Professional Conduct.

Case No. 12-O-11469 (Complainant: Jacob Koerber)

FACTS:

43. In June 2010, Jacob Koerber ("Koerber") hired Respondent to represent him in a child custody matter. Koerber made clear that time was of the essence as he would be relocating to Illinois in July 2010. Koerber paid Respondent \$1,000.00 in advanced fees plus the filing fees.

44. Respondent did not file the petition for paternity with the court at any time between July 2010 when Koerber and the opposing party had signed a child sharing agreement and October 27, 2012, even though Koerber had signed and provided the necessary documentation to Respondent in July 2012.

45. On October 27, 2010, Respondent filed a petition for paternity on behalf of Koerber, but took no further action. Respondent attempted to submit a judgment to the court consisting of a paternity agreement, but it was rejected by the court.

46. On September 28, 2011, Respondent missed a court appearance on the case and the court issued an OSC re sanctions for failing to appear pursuant to Code of Civil Procedure, section 177.5 The court set the case for an OSC hearing on November 22, 2011.

47. At the November 22, 2011 OSC hearing, Respondent advised the court that a corrected judgment would be filed.

48. In February 2012, Koerber hired new counsel to complete his case and terminated Respondent's services.

49. Koerber repeatedly telephoned and emailed Respondent for status updates on his case. Respondent received telephone messages and emails from Koerber between July 2010 and February 2012, but failed to respond to them and failed to provide Koerber with reasonable status updates on his case.

50. Respondent did not earn any portion of the \$1,000.00 in advanced fees because he did not provide any services of value to Koerber. To date, Respondent has not provided Koerber with an accounting for any services rendered and he has not refunded the unearned fees.

CONCLUSIONS OF LAW:

51. By failing to ensure judgment was entered pursuant to the child sharing agreement at any time between October 27, 2010 and February 2012, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rule 3-110(a) of the Rules of Professional Conduct.

52. By failing to return any of Koerber's telephone calls or respond to his emails between July 2010 through February 2012, and by failing to otherwise provide him with any status updates, 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).

53. By failing to refund Koerber's \$1,000.00 unearned fees at any time between February 2012 and the present, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule 3-700(d)(2) of the Rules of Professional Conduct.

54. By failing to provide Koerber with any accounting for the \$1,000.00 at any time between February 2012 and the present, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rule 4-100(b)(3) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was April 17, 2012.

MITIGATION.

Candor and Cooperation: Respondent has agreed to settle this matter at an early stage in the disciplinary proceedings prior to the filing of disciplinary charges.

AGGRAVATION.

Harm: Respondent's clients were harmed by the delay in having their cases completed, by having to hire new counsel to complete work left unfinished by Respondent and by a delay in receiving a refund of unearned fees and unspent costs.

Multiple Acts of Misconduct: Respondent's misconduct in the five client matters involved multiple acts of misconduct.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.6 of the Standards for Attorney Sanctions for Professional Misconduct ("Standard" or "Standards) provides that where culpability is found with respect to more than one violation, the discipline imposed shall be the more or most severe of the different applicable sanctions.

Standard 2.4(b) provides,

Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 is applicable to the misconduct based upon the violation of Business and Professions Code, section 6068(m). It provides for, "disbarment or suspension depending upon the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3."

Standard 2.2(b) provides:

Culpability of a member of commingling of entrust funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.10 provides for reproof or suspension for a violation of Rule 3-700(d)(2) of the Rules of Professional Conduct.

In fashioning the appropriate level of discipline, the Standards are the starting point. Nevertheless, the Court must also consider whether the recommended discipline is consistent with or disproportional to prior decisions of the California Supreme Court and the Review Department of the State Bar Court. *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.

In *Lester v. State Bar* (1976) 17 Cal.3d 547, the Court determined that an attorney's willful failure to perform legal services in four matters in which he was retained, combined with conduct involving failure to return unearned fees and misrepresentations warranted a two year stayed suspension and six months actual suspension. The attorney had practiced law for many years and the misconduct occurred over a two year time period. In the instant case, Respondent did not engage in any acts of dishonesty, but he did engage in misconduct in five client matters, as opposed to four client matters. The Respondent in this case is not entitled to mitigation for many years in practice.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 17, 2012, the prosecution costs in this matter are approximately \$6,365.00. 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.

OTHER CONDITIONS OF PROBATION

Fee Arbitration Conditions:

A. Duty to Notify Individuals of Right to Mandatory Fee Arbitration

Within thirty (30) days of the effective date of discipline, Respondent agrees to send a letter by certified mail, return receipt requested, to the individuals set forth below and agrees to therein offer to initiate, pay any costs and fees associated with the fee arbitration, and participate in binding fee arbitration with said individuals, upon the request of any such individuals, regarding fees respondent received for representation of the former clients set forth below, unless Respondent has previously sent such a written offer to said individuals. The letter shall include the address and phone number of the Office of Probation along with a statement that the Office of Probation will be monitoring his fee arbitration conditions and may be contacted by the individual.

Gary Guerrero
13310 Safari Dr.
Whittier, CA 90605

B. Upon Individual's Consent to Mandatory Fee Arbitration, Duty to Initiate Fee Arbitration

Within forty (40) days after the effective date of discipline, Respondent agrees to provide the Office of Probation with a copy of the letters offering to initiate and participate in fee arbitration with the individuals set forth above, along with a copy of the return receipt from the U.S. Postal Service, or other proof of mailing.

Within sixty (60) days after the effective date of discipline, Respondent agrees to provide the Office of Probation a declaration from each of the individuals setting forth that a letter had been received from Respondent offering to initiate, pay any costs and fees associated with the fee arbitration, and participate in fee arbitration.

Respondent agrees to advise the Office of Probation, in writing, of any request to participate in fee arbitration made by any individual set forth above within fifteen (15) days after any such request or within sixty (60) days after the effective date of discipline, whichever is later. Respondent agrees to provide the Office of Probation with any information requested to verify Respondent's compliance, including submission of any written request for fee arbitration or the submission of a declaration from any individual setting forth the date arbitration was requested.

Respondent agrees to initiate fee arbitration within fourteen (14) days of any request, including making any payment required by the organization conducting the fee arbitration. Respondent agrees to fully and promptly participate in the fee arbitration as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration with respect to any of the above individuals.

Respondent further agrees to accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, Respondent hereby agrees to abide by the arbitration award and foregoes the right to file an action seeking a trial de novo in court to vacate the award.

C. Duty to Comply with the Arbitration Award

Within thirty (30) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, or within sixty (60) days after the effective

date of discipline, whichever is later, Respondent agrees to provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent agrees to abide by any award, judgment or stipulated award of any such fee arbitrator and agrees to provide proof thereof to the Office of Probation within thirty (30) days after compliance with any such award, judgment or stipulated award. If the award, judgment or stipulated award does not set forth a deadline for any payment, Respondent is to make full payment within thirty (30) days of the issuance of any such award, judgment or stipulated award.

To the extent that Respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, Respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been shown to the Office of Probation.

D. Obligation to Pay Restitution to the Client Security Fund.

If the State Bar Client Security Fund has reimbursed any of the above individuals for all or any portion of any award, judgment or stipulated award pursuant to fee arbitration, respondent agrees to pay restitution to the Client Security Fund of the amount paid, plus applicable interest and costs, in accordance with Business and Professions Code section 6140.5. To the extent the Client Security Fund has paid only principal amounts, Respondent will still be liable for interest payments to such individuals. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

E. Waiver of Objections

If the fee arbitration proceeding results in an award to any of the above individuals, Respondent waives any objections related to the Office of the Chief Trial Counsel, Client Security Fund or State Bar Court notification to any such individual regarding assistance in obtaining restitution or payment from the Client Security Fund or from Respondent.

F. Effect of Failure to Comply with Fee Arbitration Conditions

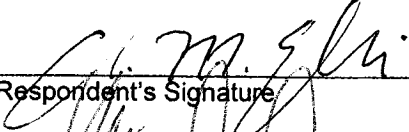
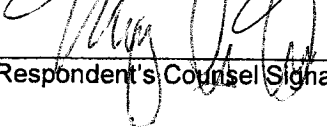
Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in a motion to revoke his probation in this matter, the filing of new disciplinary charges and/or additional discipline. Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court ordering Respondent to pay back the full amount of attorneys' fees paid to Respondent by each of the individuals listed plus 10% interest from the date Respondent received the fees.

(Do not write above this line.)

In the Matter of: Aaron M. Ellis	Case number(s): 11-O-18098, 11-O-18136, 12-O-10265, 12-O-10588, 12-O-11469
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SIGNATURE OF THE PARTIES

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

Date <u>4/20/12</u>	Respondent's Signature 	Print Name <u>Aaron M. Ellis</u>
Date <u>4/29/12</u>	Respondent's Counsel Signature 	Print Name <u>KIMBERLY G. ANDERSON</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: Aaron M. Ellis	Case Number(s): 11-O-18098, 11-O-18136, 12-O-10265, 12-O-10588 and 12-O-11469
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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.

- Substitute "3-700(D)(2)" for "3-700(d)(2)" at p. 10, paragraph 12; p. 11, paragraph 26; p. 14, paragraph 53; and p. 15, third full paragraph.
- At p. 11, paragraph 27, substitute "4-100(B)(4)" for "4-100(b)(4)";
- Substitute "4-100(B)(3)" for "4-100(b)(3)" at p. 11, paragraph 28, line 3; p. 13, paragraph 42; p. 14, paragraph 54, line 3;
- Substitute "3-110(A)" for "3-110(a)" at p. 11, paragraph 24; p. 12, paragraph 34; p. 14, paragraph 51; and
- At p. 13, paragraph 44, lines 2 and 3, substitute "2010" for "2012".

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.)**

5/9/12
Date


Judge of the State Bar Court **DONALD F. MILES**

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 10, 2012, I deposited a true copy of the following document(s):

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

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:

**AARON M. ELLIS
12361 PENN ST
WHITTIER, CA 90602**

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 10, 2012.



Tammy Cleaver
Case Administrator
State Bar Court