

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

<p>Counsel For The State Bar</p> <p>Kimberly G. Anderson 1149 S. Hill Street Los Angeles, CA 90015 (213)765-1083</p> <p>Bar # 150359</p>	<p>Case Number(s): 11-O-18216 and 11-O-19217</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED</p> <p>JAN 12 2012</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Francisco S. Nogales P.O. Box 220705 Santa Clarita, CA 91322</p> <p>Bar # 212819</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Francisco S. Nogales</p> <p>Bar # 212819</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 4, 2001.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



(Do not write above this line.)

- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2014, 2015, 2016 and 2017. (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 10-O-04886 et al. (42 cases)
 - (b) Date prior discipline effective Pending Supreme Court Order
 - (c) Rules of Professional Conduct/ State Bar Act violations: 3-110(a), 3-700(a)(2), 3-700(d)(2)
 - (d) Degree of prior discipline Five (5) years' probation, three (3) years' stayed suspension and two (2) years' actual suspension, Respondent to remain suspended until he satisfies Standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Stipulation Attachment at page 4 (Attachment page 14).
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(Do not write above this line.)

- (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 4 (Attachment 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 pages 14-15 (Attachment pages 4-5).
- (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. See Stipulation Attachment at pages 14-15 (Attachment pages 4-5).
- (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. See Stipulation Attachment at pages 14-15 (Attachment pages 4-5).
- (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. See Stipulation Attachment at pages 14-15 (Attachment pages 4-5).

(Do not write above this line.)

- (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 Stipulation Attachment at pages 14-15(Attachment pages 4-5).

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of three (3) 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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of five (5) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

- (6) 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.

- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: Respondent is already required to complete Ethics School as a condition of his probation in disciplinary case no. 10-O-04886.

- (8) 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.

- (9) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **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 within one year. **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 is already required to provide proof of passage of the MPRE as a condition of his probation in disciplinary case no. 10-O-04886 et al.

- (2) **Other Conditions:**

(Do not write above this line.)

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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
Antonio Arango	\$3,800	December 31, 2009
Antonio Arango	\$600	May 17, 2010
Celia Ledesma	\$1,000	April 23, 2010
Celia Ledesma	\$5,000	June 1, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days prior to the expiration of the period of probation.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of revocation), 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: Francisco S. Nogales	Case Number(s): 11-O-18216 and 11-O-19217
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Substance Abuse Conditions

- a. Respondent must abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
- b. Respondent must attend at least 4 meetings per month of:
- Alcoholics Anonymous
 - Narcotics Anonymous
 - The Other Bar
 - Other program

As a separate reporting requirement, Respondent must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth (10th) day of the following month, during the condition or probation period.

- c. Respondent must select a license medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory blood and/or urine samples as may be required to show that Respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at the Respondent's expense, a screening report on or before the tenth day of each month of the condition or probation period, containing an analysis of Respondent's blood and/or urine obtained not more than ten (10) days previously.
- d. Respondent must maintain with the Office of Probation a current address and a current telephone number at which Respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within twelve (12) hours. For good cause, the Office of Probation may require Respondent to deliver Respondent's urine and/or blood sample(s) for additional reports to the laboratory described above no later than six hours after actual notice to Respondent that the Office of Probation requires an additional screening report.
- e. Upon the request of the Office of Probation, Respondent must provide the Office of Probation with medical waivers and access to all of Respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

(Do not write above this line.)

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Medical Conditions

- a. Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.

- b. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of _____ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for _____ days or _____ months or _____ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c. Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

stopped his radio advertising. After these actions, Respondent's receipt of new clients slowed to about 10 per week.

7. Respondent's services offered to his "distressed homeowner" clients of NLC were characterized as provision of a "3 letter" program:

- a. A "Qualified Written Request" to the client's bank seeking a copy of the client's mortgage note and other documents;
- b. A "loan review" or "forensic audit" to determine whether the homeowner's loan was compliant with federal lending requirements; and
- c. Written or telephoned communication with the clients' lenders seeking renegotiation of the mortgage note terms.

8. For this "3 letter" program of services, Respondent received a fee of \$3,800. Per the retainer agreement, this was applied to: *"assistance in collecting and preparing your application, assistance in collecting the necessary mortgage documents and other documents that are required, consult with our attorney and/or auditor regarding the necessary audit preparation."*

9. Of each \$3,800 fee that was paid by an NLC client for their "3 letter" services, NLFC paid \$1,000 to a company called "National Association of Mortgage Auditors" or "NAMA" for the actual "forensic audit" the clients paid for. Most of the remainder of the fee was paid for marketing services to Juan Carlos Jaramillo DBA "Financial Success," from whom Respondent also disassociated himself in March 2010. Approximately 10-15% of the clients who paid Respondent for a "forensic audit" were actually provided with audits. In Respondent's opinion, virtually 100% of the mortgage loan documents supplied by the lenders included errors, most of which were obvious without an audit by NAMA.

10. Following the "Forensic Loan Review," Respondent requested that his clients sign a "Litigation Retainer" for which Respondent required an additional fee of \$5,000. On some occasions these two states were described as "Pre-Litigation" and "Litigation," at other times they were described as "Forensic Review" and "Pre-Litigation." In some cases, Respondent's clients signed agreements for "Forensic Review," "Pre-Litigation," and "Litigation."

11. Respondent, who knew very little about loan modifications prior to his association with Lira and his associates, attended a seminar in January 2010 to learn about the practice. At this seminar, Respondent learned of two additional "statutory letters" that an attorney may send on behalf of a delinquent real estate borrower: a "Fair Credit and Lending Act" letter to the credit reporting agencies (contesting any negative credit comments that might result from a client's late or missed mortgage payments), and a "Rescission Request" to the client's lender.

12. At the same time that Respondent was marketing NLC's services, Respondent was attempting to reorganize the business of ATR and to make it efficient and profitable. Respondent was unable to meet the payroll expenses of ATR, and twice he borrowed money from his parents (between \$30,000 and \$40,000) to meet his payroll expenses. In April 2010, Respondent laid off all ATR personnel and in May 2010 he closed the doors to ATR without notice to the clients who had hired the firm. Respondent had taken on no additional ATR clients since purchasing the company about 6 months earlier. At the time he closed ATR, the company had approximately 20 active cases.

13. In May 2010, two of the fired ATR executives changed the locks on the NLC offices, preventing Respondent from having access to his client files. Respondent complained to the police, who

told him the lockout was a “civil matter.” Respondent hired an attorney to send a letter to the offending former employees, and filed a civil action against them. Respondent was finally able to gain access to his client files approximately three weeks later.

14. In June 2010 Respondent moved NLC into a new office, and tried to stay afloat financially by going back to the NLC clients who had employed him prior to his attendance at the loan modification seminar, and charging each of them an additional \$1,200 for the two “statutory letters” he had been unaware of prior to that seminar.

15. From July 2010 through October 2010, Respondent attempted to stay in business by laying off employees, but was no longer marketing NLC as he had at the outset, and was no longer receiving new clients to employ his services. By October 2010, Respondent was down to one employee. On October 27, 2010, Respondent sent a letter to all of his NLC clients advising them that he was closing his practice, and promising that all clients would receive their file materials, an accounting, and refunds where applicable, within 60 days. No such return of file materials, renderings of accountings, or refunds, were made.

16. In none of Respondent’s NLC matters was a home mortgage loan modification applied for, nor were the terms of any client’s mortgage loan successfully renegotiated. In none of these client matters did Respondent provide any services beyond mailing the “statutory letters” to the client’s lender. In nearly all of these cases, Respondent sent only one letter to the client’s lender, consisting of a “3rd party authorization” form. In none of the matters covered by this stipulation did Respondent provide any legal services of value to the client.

17. On October 19, 2011, Respondent executed a stipulation with the State Bar in State Bar Court Case Nos. 10-O-04886, 10-O-05920, 10-O-06223, 10-O-06490, 10-O-06948, 10-O-06953, 10-O-07477, 10-O-07495, 10-O-07538, 10-O-07542, 10-O-08326, 10-O-08718, 10-O-08753, 10-O-09420, 10-O-09421, 10-O-09422, 10-O-09424, 10-O-09563, 10-O-09574, 10-O-09448, 10-O-09801, 10-O-10082, 10-O-10526, 10-O-10655, 10-O-10657, 10-O-11009, 10-O-11142, 10-O-11187, 10-O-11233, 10-O-11239, 11-O-10013, 11-O-10320, 11-O-10401, 11-O-10652, 11-O-11190, 11-O-11445, 11-O-11906, 11-O-13527, 11-O-13626, 11-O-14668, 11-O-15075, 11-O-16366 admitting to misconduct in 42 client matters. On November 8, 2011, the State Bar Court filed an Order approving the stipulation with modifications and recommended to the California Supreme Court that Respondent receive the recommended discipline in that matter. The matter is still pending before the California Supreme Court.

18. The following are the additional clients who employed Respondent for “foreclosure relief” services, or paid Respondent additional fees for his tax resolution services, the amounts of their advanced fees, and the dates they paid those fees, no portions of which were earned by Respondent:

Case Number	Client	Retainer Fee	Date Paid
11-O-18216	Antonio Arango	\$3,800	December 31, 2009
		\$600	May 17, 2010
11-O-19217	Celia Ledesma	\$1,000	April 23, 2010
		\$5,000	June 1, 2010

CONCLUSIONS OF LAW:

19. By failing to perform any legal services of value to the above-listed clients, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

20. By closing ATR without notice to the existing clients Respondent took on at the time he purchased the company, he withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his clients, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 20, 2011.

AGGRAVATION.

Harm: Respondent's ATR clients were harmed by the abandonment of their matters.

Multiple/Pattern of Misconduct: Respondent's failures to perform in all these client matters demonstrates a pattern of misconduct.

MITIGATION.

Additional Mitigation: Respondent was admitted to the State Bar on May 4, 2001, and had no prior record of State Bar discipline until he stipulated to the misconduct in Disciplinary Case No. 10-O-04886 et al., which has not yet been approved by the Supreme Court. Case No. 10-O-04886 et al. involves 42 client matters and the same time frame and same course of misconduct occurred in this additional matter.

Remorse: Respondent has expressed acknowledgment of and contrition for the harm his actions have caused, and has expressed a desire to atone for his misconduct through his agreement to make full restitution, with interest, to the victims of his misconduct.

Candor/Cooperation: Respondent volunteered to submit to a recorded interview by State Bar trial counsel and investigators, and has agreed to settle this matter at an early stage in the disciplinary proceedings. (Standards for Attorney Sanctions for Professional Misconduct, Standard 1.2(e)(v).)

Emotional/Physical Problems and Family Problems: in 2005, Respondent's wife of 27 years was diagnosed with uterine cancer, followed by her treatment with aggressive chemotherapy. Respondent's daughter became despondent over her mother's illness and began to abuse heroin, and became addicted to the drug. At one point Respondent's daughter's weight dropped to a low of 76 pounds. In August 2007 Respondent's wife succumbed to her cancer. Respondent became depressed and began to drink heavily.

Additional mitigation credit is given for the personal family tragedies Respondent suffered and the depression and alcohol abuse which followed, which affected his ability to make prudent decisions about the expansion of his legal practice and his response when he became overwhelmed by subsequent events, and which also negatively affected his judgment, work performance, and diligence during the period of his misconduct herein. Respondent entered the Lawyer's Assistance Program and has regularly attended Alcoholics Anonymous for help with his drinking, which he has since brought under

control. Respondent has been treated by a physician for his depression, which has been brought under control with anti-depressant medication.

AUTHORITIES SUPPORTING DISCIPLINE.

Respondent received a two year actual suspension, five years' probation and three years' stayed suspension in his prior discipline case, Case No. 10-O-18216 et. al.

The instant matter involves two additional incidents of misconduct involving violations of Rules 3-110(a) and 3-700(a)(2) of the Rules of Professional conduct arising out of the same course of conduct in Case No. 10-O-18216 et. al. If this case had been settled in connection with the prior disciplinary matter, it would not have warranted any additional actual suspension. (*See, In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.)

COSTS OF DISCIPLINARY PROCEEDINGS.

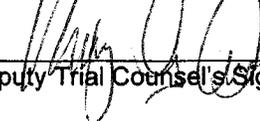
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 20, 2011, the prosecution costs in this matter are \$3,416. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

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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.

12/27/11 Date	 Respondent's Signature	FRANCISCO S. NOGALES Print Name
# Date	Respondent's Counsel Signature	Print Name
12/28/11 Date	 Deputy Trial Counsel's Signature	KIMBERLY G. ANDERSON Print Name

(Do not write above this line.)

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STAYED 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 page 6, an "X" is inserted in the box at paragraph F.(1) next to "No MPRE recommended."

On page 15 of the stipulation, in the first paragraph under the heading "Authorities Supporting Discipline," line one, "Respondent received" is deleted, and in its place is inserted "It has been recommended to the Supreme Court that Respondent receive". Also, in line two, "10-O-18216 et. al." is deleted, and in its place is inserted "10-O-04886 etc."

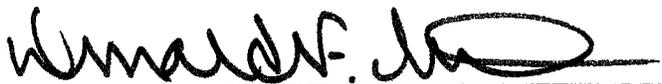
On page 15 of the stipulation, in the second paragraph under the heading "Authorities Supporting Discipline," line three, "10-O-18216 et. al." is deleted, and in its place is inserted "10-O-04886 etc."

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

1/12/12

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 January 12, 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:

FRANCISCO S. NOGALES
FRANCISCO S. NOGALES, ESQ.
PO BOX 220705
SANTA CLARITA, CA 91322

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 January 12, 2012.



Rose Luthi
Case Administrator
State Bar Court