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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 11-O-19314-RAH 12-O-12959	For Court use only <div style="text-align: center;"> FILED DEC 04 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Raymond Carl Prospero P.O. Box 2950 Corona, CA 92878 Bar # 238087	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Raymond Carl Prospero Bar # 238087 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted November 22, 2005.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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-08238 et. al. (See Stipulation Attachment at Page 12)
 - (b) ☒ Date prior discipline effective June 16, 2012
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6068(m), 6106.3, 6103, 6106, 6068(a) and Rules of Professional Conduct, rule 3-700(D)(2), 3-700(A)(2), 4-100(B)(3), 4-100(B)(4), 3-110(A), 3-700(D)(1)
 - (d) ☒ Degree of prior discipline four (4) years suspension, stayed, Four (4) years probation, and two (2) years actual suspension, and until Respondent pays restitution and complies with Standard 1.4(c)(2)
 - (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 13.

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- (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 13.
- (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.

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(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 Page 13.

D. Discipline:

(1) ☒ **Stayed Suspension:**

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

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

(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 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:

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.

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- (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: Respondent was ordered to take Ethics School in State Bar Case number 10-O-08238 et. al. (\$198705).
- (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**

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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 was ordered to take the MPRE in State Bar Case number 10-O-08238 et. al. (S198705).

- (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:** Respondent shall receive credit towards completion of restitution for payments made prior to the issuance of the disciplinary order.

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In the Matter of: Raymond Carl Prospero	Case Number(s): 11-O-19314 and 12-O-12959
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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
April Hunter	\$2,500.00	September 24, 2008
Mary Lena Rilloraza	\$6,275.61	October 22, 2009

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

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";

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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: RAYMOND CARL PROSPERO

CASE NUMBER(S): 11-O-19314 and 12-O-12959

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-19314 (Complainant: April Hunter)

FACTS:

1. On September 24, 2008, April Hunter ("Hunter") retained Respondent to file a Chapter 7 bankruptcy petition. Hunter paid Respondent \$2500 in advanced fees.
2. On December 3, 2008, Hunter participated in credit counseling from GreenPath, Inc., as required for the bankruptcy petition.
3. Pursuant to 11 U.S.C. § 109(h)(1), an individual may not be a debtor unless during the 180-day period preceding the date of filing of the petition, the individual received credit counseling.
4. From December 4, 2008 to on or about May 16, 2010, Respondent did not perform legal services of value for Hunter and did not file Hunter's bankruptcy petition.
5. On May 17, 2010, Respondent filed a bankruptcy petition on Hunter's behalf in U.S. Bankruptcy Court Central District of California, case number 8:10-bk-16598-ES.
6. As part of the bankruptcy petition, Respondent filed a Statement of Compliance with Credit Counseling Requirement, which indicated that Hunter had received credit counseling during the 180-day period preceding the filing of her bankruptcy petition. Attached to the Statement of Compliance was the Certificate of Compliance without a completion date on the certificate.
7. On July 1, 2010, Hunter appeared at the 341(a) creditors meeting. Respondent did not appear but another attorney, Darbin Dawes, made a special appearance to represent her at the hearing.
8. On July 9, 2010, the United States Trustee filed and served Respondent with a Notice of Motion and Motion to Dismiss the petition on the grounds that Hunter failed to obtain credit counseling 180 days before filing her petition. Respondent received the motion but did not respond to the motion.
9. On July 9, 2010, the United States Trustee also filed and served Respondent with a Notice of Motion and Motion to Determine Whether Compensation Paid to Counsel Was Excessive

because Respondent failed to ensure that Hunter timely complied with the requirements of 11 U.S.C. §§ 521(b)(1) and 109(h) by filing a Credit Counseling Certificate without a completion date on the certificate. Under the circumstances, the U.S. Trustee submitted that Respondent's fee provided no benefit to Hunter and it should be disgorged. Respondent received the motion but did not respond.

10. On September 24, 2010, the Bankruptcy Court filed an order granting the motion to disgorge fees. It ordered that Respondent shall disgorge the sum of \$2,500.00 for services rendered in connection with the bankruptcy case, no later than 30 days from entry date of order. Respondent received the order.
11. Respondent did not perform legal services of value on Hunter's behalf and did not earn the \$2,500.
12. On March 5, 2012, Respondent sent Hunter a letter acknowledging that he owed her a refund of fees. Respondent enclosed a check to Hunter for \$250. Hunter received the check.
13. To date, Respondent has failed to disgorge the entire amount.
14. Respondent is making monthly payments to Hunter in the amount of \$250.
15. From on or about June 30, 2010 to on or about July 15, 2010, Hunter left voicemails for Respondent and sent two emails regarding the status of her bankruptcy petition. Respondent received the voicemails and emails but did not respond to Hunter.

CONCLUSIONS OF LAW:

16. By delaying in filing the bankruptcy petition, filing the petition without a correct or complete certificate of counseling, failing to respond to the motion to dismiss and motion to determine whether compensation paid to counsel was excessive, and failing to ensure that Hunter timely complied with the requirements of 11 U.S.C. §§ 521(i)(1) and 109(h), Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
17. By causing the Statement of Compliance with Credit Counseling Requirement and the Certificate of Compliance to be filed with the Bankruptcy Court indicating that Hunter completed credit counseling within 180 days of Respondent filing the bankruptcy petition, when he knew she had not, Respondent knew or should have known that it would mislead the judge, in willful violation of Business and Professions Code section 6068(d).
18. By failing to respond to Hunter's voicemails and emails regarding the status of her bankruptcy petition, 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).
19. By failing to refund the unearned fees, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

20. By failing to disgorge the \$2500 within thirty days, Respondent willfully 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 violation of Business and Professions Code Section 6103.

Case No. 12-O-12959 (Complainant: Mary Lena Rilloraza)

FACTS:

21. On October 22, 2009, Mary Lena Rilloraza (Rilloraza) retained Respondent to assist in a home loan modification and stay foreclosure proceedings against her property.
22. On October 27, 2009, Rilloraza paid Respondent \$2,895.
23. On November 10, 2009, Respondent filed a lawsuit against Rilloraza's lender entitled *Mary Lena Rilloraza v. U.S. Bank National Association*, KC0572359 ("lender litigation").
24. On December 14, 2009, Rilloraza received a notice to vacate her property.
25. On December 21, 2009, the lender filed an unlawful detainer ("UD action") action against Rilloraza, entitled *U.S. Bank National Association v. Mary Lena Rilloraza*, CIT09U02339. Respondent filed a demurrer and an answer to the UD action. Judgment was entered against Rilloraza and she was ordered to vacate the property.
26. On April 7, 2010, Respondent filed a motion for a Temporary Restraining Order (TRO) in the lender litigation, which was initially granted. As a condition of the TRO, Rilloraza had to deposit \$1237.61 one monthly mortgage payment, with Respondent. Rilloraza gave Respondent a check for \$1237.61, which Respondent received and deposited into his client trust account.
27. Between March 25, 2010 and April 16, 2010, Rilloraza paid Respondent \$2,143 in additional fees and costs.
28. Between April 2010 and June 2010, Rilloraza called Respondent several times regarding the status of her cases. She left messages with Respondent's staff. Respondent received the messages but did not return Rilloraza's calls.
29. On June 10, 2012, the Court dismissed the lender litigation because Respondent failed to properly serve U.S. Bank National Association, failed to appear at a case management conference and failed to diligently prosecute the matter.
30. Respondent did not earn all \$5038 of fees paid.
31. Respondent did not provide Rilloraza with an accounting.

32. Respondent did not return the \$1237.61 Rillaroza paid Respondent toward the mortgage payment, upon Rillaroza's request.

CONCLUSIONS OF LAW:

33. By failing to respond to Rillaroza's calls, 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).
34. By failing to refund \$5038 to Rillaroza in unearned fees, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).
35. By failing to properly serve U.S. Bank National Association in the lender litigation, failing to appear at the case management conference for the lender litigation and failing to diligently prosecute the lender litigation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
36. By failing to provide Rillaroza with an accounting, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in violation of Rules of Professional Conduct, rule 4-100(B)(3).
37. By not returning the \$1237.61 mortgage payment Rillaroza paid Respondent, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to received in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline: Respondent has a prior record of discipline. Effective June 16, 2012, (case numbers 10-O-08238 et.al. (12 client matters)), Respondents stipulated to violating Business and Professions Code: Sections 6068(m)(3 counts), 6106.3(1 count), 6103 (1 count), 6106(2 counts), 6068(a) (1 count), and Rules of Professional Conduct: Rules 3-700(D)(2)(7 counts), 3-700(A)(2) (3 counts), 4-100(B)(3)(2 counts), 4-100(B)(4) (2 counts), 3-110(A)(5 counts) , 3-700(D)(1)(1 count). The misconduct occurred between August 28, 2009 and March 7, 2011. Respondent's misconduct included his failures to perform and failures to make appearances related to civil and bankruptcy matters, and refund unearned fees related to that representation. Respondent stipulated to four (4) years suspension, stayed, four (4) years probation, and two (2) years actual and until Respondent pays restitution and complies with Standard 1.4(c)(2). The discipline includes restitution and substance abuse conditions. The parties stipulated that Respondent abused alcohol and then from June 30, 2010 to August 15, 2010, Respondent was out of the office obtaining medical treatment and counseling for alcohol addiction. Standard 1.2(b)(i)

The misconduct in the present matters, occurred between September 24, 2008 and September 24, 2010. As the misconduct in the current matter also surrounded Respondent's bankruptcy and civil practice, it is nearly identical to the misconduct that occurred in the prior imposition of discipline. Therefore, the aggravation of a prior discipline is diminished. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602,619) The level of discipline that Respondent should have received for all case numbers 10-O-08238 et. al. and 11-O-19314 et. al is analyzed below.

Harm: The current misconduct caused significant harm to Hunter and Rillaroza, as the clients were financially distressed and seeking bankruptcies and home loan modifications. Standard 1.2(b)(iv)

Multiple/Pattern of Misconduct: The current misconduct involves multiple acts of wrongdoing as there are nine counts of misconduct in two client matters. The instant case does not evidence a pattern of misconduct as it did not extend over a prolonged course of time. *Young v. State Bar*, (1990) 50 Cal.3d 1204. Standard 1.2(b)(ii)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances: Respondent has been cooperative in stipulating to facts and conclusions of law in this matter. Entering into a Stipulation deserves varying amounts of mitigation. (*In the Matter of Connor* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 107.) The greatest weight is afforded to those stipulations of facts not easily proven or stipulations to level of discipline. (*In the Matter of Silver* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902, 906.) The facts in the instant matters could have been proven by the testimony of the complaining witnesses and documentary evidence. Thus, Respondent's cooperation is given some, but not great weight in mitigation.

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing nine acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are

prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.2(b), which applies to Respondent's violation(s) of Rules of Professional Conduct, rule 4-100(B)(3) and 4-100(B)(4) as it requires actual suspension.

Standard 2.2(b) culpability of a member of commingling of entrusted 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.

As discussed above, Respondent has one prior record of discipline. The current misconduct occurred at nearly the exact time as the conduct underlying Respondent's actual suspension in case numbers 10-O-08238 et. al. The parties stipulated in mitigation that Respondent abused alcohol and that from June 30, 2010 to August 15, 2010, Respondent was out of the office obtaining medical treatment and counseling for alcohol addiction. Further, the misconduct in the current matter is nearly identical to the misconduct in the prior imposition of discipline. Therefore, the aggravating weight of Respondent's prior discipline is diminished. Rather, Respondent's current misconduct must be analyzed with the most recent prior misconduct to determine what the level of discipline would have been were these two matters resolved at the same time. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ctr. Rptr., 602, 619) The level of discipline that Respondent stipulated to in the prior matter, two years actual suspension, is not an appropriate level of discipline when including the current matter. The nine added acts of misconduct warrant a higher level of discipline consisting of one additional year actual suspension. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ctr. Rptr., 602, 619)

The applicable case law for the level of misconduct ranges from one year actual to disbarment. In the following cases, the Respondents did not have a prior record of discipline: *In re Billings* (1990) 50 Cal.3d 358; (15 cases of partial or complete abandonment; 1 conviction for DUI. Disbarment); *Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071 (13 instances of failure to perform in 14 matters; 4 dishonest acts; 1 yr actual suspension with consideration given to mitigating factors of tragic personal calamities and proof of 2 or 3 yrs subsequent trouble-free conduct with recent practice representing the disadvantaged); *Coombs v. State Bar* (1989) 49 Cal.3d 679 (13 matters of failure to perform with misrepresentation in 4 of the cases; 1 DUI conviction. Disbarment.); *Pineda v. State Bar* (1989) 49 Cal.3d 753; (7 matters of failure to perform with failure to refund in 4 cases, 1 misappropriation and 1 misrepresentation; 2 yrs actual suspension with consideration of mitigation given to the fact that misconduct occurred during stressful marriage breakup, and subsequent reforms to the practice were undertaken); *Hawes v. State Bar* (1990) 51 Cal.3d 587 (6 matters of failure to perform and communicate, to return unearned fees, and to cooperate with the State Bar, 3 yrs actual suspension with mitigation for mental issues resulting from bipolar disorder, and related alcoholism and drug abuse).

The misconduct in the instant action occurred during the same timeframe as the prior discipline. It also included similar misconduct related to Respondent's bankruptcy and civil practice. Respondent's prior stipulation accounts for his alcohol abuse and his treatment for alcohol addiction. The prior stipulation states that "Respondent's abuse of alcohol was a contributing factor to much of his misconduct." One of the more egregious acts in the current matter is the violation of Business and Professions Code Section 6068(d) in which Respondent sought to mislead a judge by filing the Certificate of Counseling for Hunter which indicated that she had completed counseling within 180 days of Respondent filing the bankruptcy petition. Respondent knew that this was false. Given the number of cases in the prior and

the similar current misconduct, including the charge of violating Business and Professions Code section 6068(d), taken as a whole, the level of discipline is consistent with the Standards and case law and serves the purpose of discipline.

PENDING PROCEEDINGS.

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

EXCLUSION FROM MCLE CREDIT

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

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 19, 2012, the prosecution costs in this matter are \$4,358.10. Respondent further acknowledges that this cost is an estimate and should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

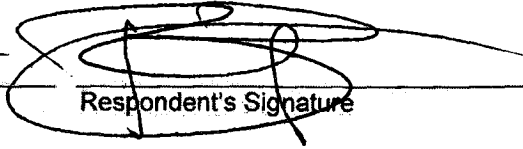
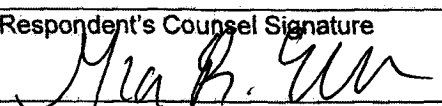
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In the Matter of:
Raymond Carl Prospero

Case number(s):
11-O-19314 and 12-O-12959

SIGNATURE OF THE PARTIES

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

<u>11/29/12</u>		<u>Raymond C. Prospero</u>
Date	Respondent's Signature	Print Name
<u>11/30/12</u>		<u>Mia Ellis</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
Raymond Carl Prospero

Case Number(s):
11-O-19314 and 12-O-12959

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

12/3/12

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 December 4, 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:

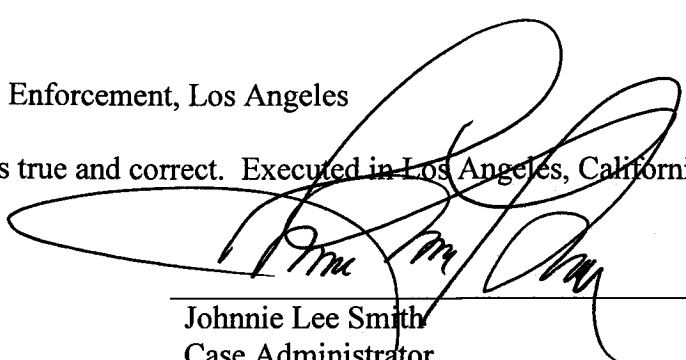
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RAYMOND C. PROSPERO
PO BOX 2950
CORONA, CA 92878

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 4, 2012.



Johnnie Lee Smith
Case Administrator
State Bar Court