

State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Donald R. Steedman Supervising Senior Trial Counsel 180 Howard Street, 7th Floor San Francisco, CA 94105 (415) 538-2345 Bar # 104927	Case Number(s): 12-C-18195-LMA	For Court use only PUBLIC MATTER FILED SEP 15 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Jonathan I. Arons Law Office of Jonathon I. Arons 100 Bush Street, Ste. 918 San Francisco, CA 94104 (415) 957-1818 Bar # 111257	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: Christopher Michael Salaysay Bar # 264317 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 **September 14, 2009**.
- (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 **14** 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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline**
 - (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) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

- (7) ☐ **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.
- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See attachment at page 10.**
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment at page 10.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (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 extraordinarily 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:

Pretrial stipulation. See attachment at page 9.

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **five years**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) 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 **two years, with credit for the time respondent has been placed on inactive status pursuant to Business and Professions Code section 6233.**
- i. ☒ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), 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: **Respondent must undergo an independent mental examination, as further explained on page 12 below.**

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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason: .

- (9) ☒ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☐ No MPRE recommended. Reason: .
- (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 attachment at page 12.**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: CHRISTOPHER MICHAEL SALAYSAY

CASE NUMBER: 12-C-18195-LMA

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved moral turpitude.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On July 24, 2012, the Santa Clara County District Attorney filed a criminal complaint in the matter, *People v. Salaysay*, Santa Clara County Superior Court, case no. C1237463, charging respondent with one count of violation of Penal Code section 646.9(c)(2) [stalking with a prior conviction for stalking], a felony.
3. On April 28, 2014, the court entered respondent's plea of no contest to violation of Penal Code section 646.9(c)(1) [stalking with a prior conviction for stalking], a misdemeanor, and based thereon, the court found respondent guilty of that count.
4. On June 23, 2014, the court suspended the imposition of sentence and placed respondent on formal probation for a period of three years. The court ordered that respondent serve six months in county jail, but this was changed to allow respondent to participate in the Santa Clara County Electronic Monitoring Program in lieu of incarceration. The court also ordered that respondent, among other things, participate in a domestic violence program and pay fines and fees.
5. On October 23, 2014, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department found that the facts and circumstances surrounding the offense for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.
6. While this matter was pending in the Hearing Department, respondent applied to participate in the State Bar's Alternative Discipline Program (ADP). As part of the ADP, respondent has been participating in the State Bar's Lawyer's Assistance Program (LAP). So far, the LAP has reported that respondent has complied with the terms and conditions of his treatment agreement with the LAP. By order filed April 6, 2015, the Hearing Department placed respondent on inactive status pursuant to Business and Professions Code section 6233. That section authorizes the Hearing Department to place attorneys participating in the ADP on inactive status. It further provides that attorneys who successfully complete the ADP may receive credit for the inactive enrollment when the Supreme Court issues its

final disciplinary order. The inactive enrollment became effective on April 21, 2015, but the ADP process has not been finalized. Instead, by this stipulation, the parties intend to convert this case from an ADP proceeding to a standard-track disciplinary proceeding.

FACTS:

7. Respondent was admitted to practice law on September 14, 2009.

8. During 2011, respondent dated the victim in this matter. After the relationship ended in June 2011, respondent called the victim more than 50 times per day for weeks at a time. Respondent also sent the victim harassing and threatening emails and text messages. In August 2011, respondent called the victim and stated: "If you were here, I would kill you." The victim stopped answering calls from respondent, and in October 2011, reported respondent's conduct to the police. The police did not take any action at that time based on a lack of resources.

9. Respondent continued to send harassing and threatening emails and text messages to the victim. Respondent used aliases to create fake email addresses and Facebook accounts to send threatening messages to the victim. In May 2012, respondent made threats to the victim in text messages sent to the victim's friend. For example, some of the messages stated:

- I am going to make her bleed
- I am coming after her family before I get her
- She won't have to find me, when I'm ready, I'll find her
- It's going to be fun punching her
- It's gonna be fun hittin ur homegirl in the guts
- Imma go after her family before I gut her
- Imma make her bleed Shes not going to have to find me. When I decide, I'll find her

10. During the same time period, respondent posted the following threats on Facebook using an alias: "I want [victim] dead" and "I want [victim] from San Jose dead."

11. Respondent also posed as the victim on several on-line sex websites and distributed the victim's telephone number. The victim received approximately 50 text messages and telephone calls from men who believed they met her online and wanted to confirm arrangements to have sex with her.

12. On May 10, 2012, respondent called the victim from a blocked number. When the victim answered, respondent described in detail how he could get into her apartment once "I get my ducks in a row" and "get" her. That same day, respondent sent the victim an email from one of respondent's known aliases. The email forwarded correspondence from respondent and a person selling a handgun. The email contained a photo of the handgun.

13. The victim felt threatened and was afraid of respondent because she believed that respondent was capable of harming or killing her. The victim again reported respondent's conduct to the police. On May 11, 2012, the victim obtained a temporary restraining order ("TRO") against respondent. Respondent was served with the TRO on May 16, 2012. Thereafter, respondent ceased contacting the victim. The victim still lives in fear of respondent.

14. Prior to his admission to practice law, respondent was previously convicted of stalking a different woman in violation of Penal Code section 646.9(a), a felony, as follows: Respondent dated this victim between November 1998 and April 1999, at which point the victim ended the relationship. In May 1999, respondent began calling the victim and making death threats. In the morning of May 6, 1999, while they were driving separate vehicles, respondent followed the victim on her way to work. After the victim tried to evade pursuit, respondent tried to run this victim's car off of the freeway. On May 6, 1999, the victim obtained a restraining order against respondent. Respondent was served with the order on May 8, 1999, but continued to call the victim and make death threats. On the night of June 7, 1999, respondent was arrested after the victim called police to report that he was trespassing on her property. The victim was only alerted to respondent's presence because her dog started barking. The victim initially spotted respondent standing in the bushes across the street from her house. She then saw respondent cross the street to enter her property. Police arrested respondent on the victim's property. Respondent resisted arrest and injured a peace officer during the arrest. At the time of his arrest, respondent was wearing rubber gloves and carrying a kitchen knife with a five-inch blade. On July 15, 1999, respondent pled no contest in *People v. Salaysay*, Alameda County Superior Court Case No. 184467, to violation of Penal Code section 646.9(b) [stalking], a felony, with an enhancement. The sentencing transcript indicates that the enhancements were based on an allegation that respondent committed the violations while released on bail. However, the parties believe that the enhancement was based on an allegation that respondent committed the crime after he became aware of the restraining order. On the same date, the court suspended the imposition of sentence and placed respondent on formal probation for a period of five years. The court ordered that respondent serve one year in county jail, but respondent was released early based on good behavior while in custody. The court also ordered that respondent, among other things, pay fines and fees. On March 4, 2005, the charge against respondent was reduced to a misdemeanor. On May 20, 2005, the court issued an order vacating the plea and dismissing the action pursuant to Penal Code section 1203.4a. The victim of this crime still lives in fear of respondent.

CONCLUSION OF LAW

The facts and circumstances surrounding the above-described violation involved moral turpitude. (Bus. & Prof. Code, § 6106; see *In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160 [numerous threatening and harassing voicemail messages to administrators and court officers constituted moral turpitude]; *In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 147 [numerous phone calls to client resulting in harassment and intentional infliction of emotional distress constituted acts of moral turpitude].)

MITIGATING CIRCUMSTANCES:

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

Lack of Prior Discipline. Respondent is not entitled to mitigation for no prior record of discipline since he committed misconduct prior to his admission and had only been admitted to practice for three years before the present misconduct began. (See *In the Matter of Duxbury* (Review Dept. 1999) 4 Cal. Bar State Bar Ct. Rptr. 61, 67 [nominal weight for four years in practice before committing misconduct].)

AGGRAVATING CIRCUMSTANCES

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's two convictions for stalking—and the multiple instances of harassment and threats underlying the convictions—represent multiple acts of misconduct.

Harm (Std. 1.5(f)): Respondent's threats and harassment caused significant harm to the victims of his misconduct. Both victims still live in fear of respondent. Their fear is justified because stalking poses significant danger to victims. (*In re Ajami* (BIA 1999) 22 I. & N. Dec., *supra* at p. 952 ["The threat of violence, real or perceived, is almost always present in [stalking] cases; tragically, it is far from unheard of for a pattern of stalking to end in the stalker killing the stalked." Quoting *People v. White* (1995) 212 Mich.App. 298, 536 N.W.2d 876, 883.]

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 2.15(c) provides: "Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude."

There is authority for the proposition that stalking necessarily involves moral turpitude. (*In re Ajami* (BIA 1999) 22 I. & N. Dec. 949, 950-952 [holding that Michigan's aggravated stalking statute was categorically a crime involving moral turpitude was "evidence of a vicious motive or a corrupt mind" and thus involved moral turpitude]; *Zavaleta-Gallegos v. I.N.S.* (9th Cir. 2001) 261 F.3d 951, 955 [alien conceded that his stalking conviction involved moral turpitude]; *In re Grant* (2014) 58 Cal.4th 469, 480

[moral turpitude formulation used in immigration cases is “substantially similar” to the moral turpitude definition used in attorney discipline cases].) Thus, on its face, respondent’s conviction for recidivist stalking is a very serious matter, justifying discipline at the high end of the applicable standard. Further, the facts and circumstances surrounding both convictions involved moral turpitude and are extremely egregious and further support the imposition of discipline at the high end of the applicable standard. Respondent was convicted of felony stalking for making death threats in 1999 to an ex-girlfriend, violating a restraining order, and trespassing on the ex-girlfriend’s property while wearing rubber gloves and carrying a weapon. Respondent was also convicted of misdemeanor stalking for making threatening telephone calls in 2012 to a different ex-girlfriend, sending her threatening text messages and emails, and posting threats against her on Facebook. Respondent harassed the victim by distributing her telephone number on adult websites sites, which resulted in her receiving approximately 50 text messages and telephone calls from men who believed they met her online and wanted to confirm arrangements to have sex with her.

Respondent is entitled to limited mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, but there are two strong factors in aggravation—multiple acts of misconduct and harm to clients. Respondent’s misconduct was egregious, repetitive and absolutely contrary to the conduct expected of licensed attorneys.

Case law is instructive. In *In the Matter of Torres*, supra, 4 Cal. State Bar Ct. Rptr. 138, the Review Department recommended a three-year actual suspension be imposed on an attorney who made numerous harassing telephone calls to a client over a nine-month period. When the client filed suit, the respondent submitted vulgar discovery requests. The Court found that Torres committed acts of moral turpitude. In assessing the level of discipline, the court noted: “Here is a lawyer that turns on his client, without provocation, through a pattern of harassment and the intentional infliction of serious emotional distress for the purpose of causing the client grief. Such duplicitous conduct by a lawyer makes the legal profession not a highly essential aid to society, but a detriment.” (*Id.* at p. 151.)

Unlike Torres, respondent was criminally convicted of stalking of two victims and in both matters, the misconduct was more widespread than making harassing telephone calls. Respondent threatened both of his victims with death or violence.

Further, respondent’s misconduct cannot be characterized as aberrational. On the contrary, respondent re-offended after serving a lengthy jail sentence on the first conviction. However, there were significant aggravating circumstances in *Torres* that are not present here, i.e., Torres presented false testimony to the State Bar Court, and he committed his acts of stalking against one of his clients. Unlike *Torres*, respondent’s misconduct did not involve a client.

In reviewing the out-of-state precedent, it is clear that attorneys are not always disbarred for stalking. (See, e.g., *In re Wachtel* (N.Y.A.D. 2009) 63 A.D.3d 108, 880 N.Y.S.2d 71 [attorney suspended until proof of rehabilitation in other jurisdiction].) However, attorneys have sometimes been disbarred for aggravated acts of stalking. (See *State ex rel. Oklahoma Bar Ass’n v. Wilcox* (Okla. 2014) 318 P.3d 1114 [attorney with prior discipline disbarred for stalking wife of judge]; *State ex rel. Counsel for Discipline of Nebraska Supreme Court v. Janousek* (2004) 267 Neb. 328, 674 N.W.2d 464 [attorney with prior discipline disbarred for stalking girlfriend and threatening her life]; *Disciplinary Counsel v. Keith* (2001) 92 Ohio St.3d 404, 750 N.E.2d 1106 [attorney disbarred for multiple arson convictions arising from two years of stalking, harassing, physically assaulting, and vandalizing property belonging to former girlfriend]; *In re Frick* (Mo.1985) 694 S.W.2d 473 [respondent disbarred for conduct directed

at former girlfriend, including anonymous threatening letters, violence, vandalism, and use of firearm to avoid capture by security guards who interrupted act of vandalism].)

In light of the above authority, respondent's misconduct warrants a two-year actual suspension, accompanied by rigorous conditions of probation. In order to assure that the public is protected, respondent will be required to (1) continue complying with the terms and conditions of his agreement with the Lawyers Assistance Program, and (2) prove that he is rehabilitated before he is allowed to return to active practice. In order to prove that he is rehabilitated, respondent will also need to undergo an independent mental examination.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of August 19, 2015, the prosecution costs in this matter are \$5,249. 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 NEGOTIATED BY THE PARTIES

The parties agree that respondent must comply with the following additional condition of probation:

Respondent must comply with all provisions and conditions of his Participation Plan/Agreement with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Plan/Agreement to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation with information regarding the terms and conditions of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.

INDEPENDENT MENTAL EXAMINATION

The parties agreed that respondent must comply with the following condition before he may be reinstated as an active member of the State Bar:

After respondent files a petition for relief from actual suspension pursuant to standard 1.2(c)(i), respondent must undergo an independent mental examination conducted by a psychologist and/or psychiatrist. Respondent will select the examiner from a list of five practitioners identified by the Office of Chief Trial Counsel and will compensate the examiner in advance of the examination. Respondent must fully cooperate in the examination and participate in whatever testing is requested. The purpose of the examination will be to determine whether respondent suffers from a mental illness or impairment or a substance abuse issue, and whether any mental illness or condition or substance abuse issue that may have led to his commission of the crimes discussed in this stipulation no longer poses a risk that respondent will commit misconduct. Respondent agrees that the State Bar Court proceedings on the standard 1.2(c)(i) petition will be stayed until both the examination and the psychiatric or psychological report are completed. The mental health examiner will receive a copy of this stipulation. In addition, respondent will provide to the examiner and the State Bar like reports of all earlier or later examinations

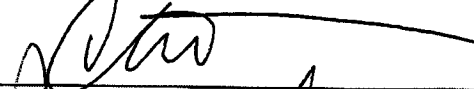
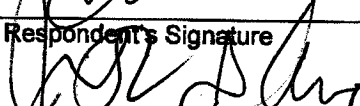
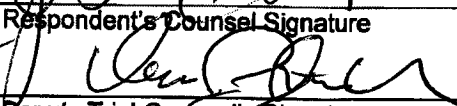
of the same condition. The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests. The State Bar will provide a copy of the report to the respondent, and the report may be admitted into evidence in the standard 1.2(c)(i) proceeding. Respondent waives any privilege he may have concerning testimony about all examinations of the condition.

(Do not write above this line.)

In the Matter of: Christopher Michael Salaysay	Case number(s): 12-C-18195
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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.

<u>9/2/2015</u> Date	 Respondent's Signature	<u>Christopher Michael Salaysay</u> Print Name
<u>September 4, 2015</u> Date	 Respondent's Counsel Signature	<u>Jonathan I. Arons</u> Print Name
<u>September 8, 2015</u> Date	 Deputy Trial Counsel's Signature	<u>Donald R. Steedman</u> Print Name

(Do not write above this line.)

In the Matter of:
CHRISTOPHER MICHAEL SALAYSAY

Case Number(s):
12-C-18195-LMA

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

Sept 15, 2015


LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on September 15, 2015, I deposited a true copy of the following document(s):

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

in a sealed envelope for collection and mailing on that date as follows:

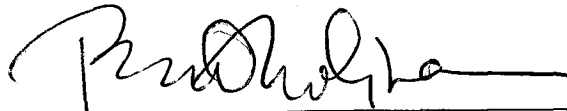
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
100 BUSH ST STE 918
SAN FRANCISCO, CA 94104

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

DONALD STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 15, 2015.



Bernadette C.O. Molina
Case Administrator
State Bar Court