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**State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Kim Kasreliovich 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1378</p> <p>Bar # 261766</p>	<p>Case Number(s): 12-N-13317 - DFM</p>	<p>For Court use only</p> <p>FILED SEP 27 2012 <i>Mc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Clarence Michael Balingit PO Box 2943 Florence, AZ 85132</p> <p>Bar # 194890</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p>	
<p>In the Matter of: Clarence Michael Balingit</p> <p>Bar # 194890</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 18, 1998.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (9) 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."

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(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):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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**
- (a) State Bar Court case # of prior case 09-O-13007
 - (b) Date prior discipline effective January 12, 2012
 - (c) Rules of Professional Conduct/ State Bar Act violations: three violations of 3-110(A), four violations of 6068(m), three violations of 3-700(D)(1), two violations of 6080(i), two violations of 6106, 3-700(D)(2), 4-100(A), and 4-100(B)(4)
 - (d) Degree of prior discipline Respondent was suspended for three years, stayed, placed on three years of probation with an actual two-year suspension and until he makes restitution and provides proof to the court of his rehabilitation, fitness to practice law and present learning and ability in the law.
 - (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.

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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.
- (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:

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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	CLARENCE MICHAEL BALINGIT
CASE NUMBER(S):	12-N-13317

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. 12-N-13317

FACTS:

1. On August 23, 2011, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in case nos. 09-O-13007, 09-O-19168, 10-O-04495 and 11-O-11743.
2. On August 31, 2011, the Hearing Department of the State Bar Court filed an Order Approving the Stipulation and recommending to the California Supreme Court the discipline set forth in the Stipulation.
3. On December 13, 2011, the California Supreme Court filed an Order in Case No. S197016 (State Bar Court case nos. 09-O-13007, 09-O-19168, 10-O-04495 and 11-O-11743) approving the discipline set forth in the Stipulation. The discipline included provisions that Respondent be suspended from the practice of law for three (3) years, that execution of the suspension be stayed, and that Respondent be placed on probation for three (3) years, including the condition that the Respondent be actually suspended for two (2) years and until Respondent completes restitution and shows proof of rehabilitation, present fitness to practice law and present learning and ability and ability in the law. ("Disciplinary Order").
4. The Disciplinary Order included a requirement that Respondent comply with Rule 9.20, California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the Disciplinary Order.
5. On December 13, 2011, the Clerk of the California Supreme Court properly served upon Respondent a copy of the Disciplinary Order. Respondent received the Disciplinary Order.
6. The Disciplinary Order became effective on January 12, 2012. Thus Respondent was ordered to comply with subdivision (a) and/or (b) of rule 9.20 of the California Rules of Court no later than February 11, 2012, and was ordered to comply with subdivision (c) of Rule 9.20 no later than February 21, 2012.

7. On January 9, 2012, a Probation Deputy of the Office of Probation ("Probation") of the State Bar of California sent a letter to Respondent. In the letter, the Probation Deputy reminded Respondent of the terms and conditions of his probation imposed pursuant to the Disciplinary Order. In the January 9, 2012 letter, the Probation Deputy specifically reminded Respondent regarding his obligations to return the original file to Mr. Castillo's, contact Probation to schedule a meeting and file his 9.20 affidavit no later than February 21, 2012. Enclosed with the January 9, 2012 letter were, among other things, copies of the Disciplinary Order and the relevant portion of the Stipulation setting forth the conditions of Respondent's probation. Respondent received the letter.

8. On March 22, 2012, a Probation Deputy sent a second letter to Respondent. In the letter, the Probation Deputy informed Respondent that his rule 9.20 affidavit had not been received and he was in violation of Supreme Court Order No. S197016.

9. On March 27, 2012 a Probation Deputy telephoned Respondent and reminded him about his probation obligations, including contacting Probation to schedule a meeting and filing a rule 9.20 affidavit.

10. Respondent failed to timely file with the clerk of the State Bar Court a declaration of compliance with Rule 9.20 (a) and (b), California Rules of Court, as required by Rule 9.20(c) by the due date of February 21, 2012. Respondent filed his declaration of compliance with Rule 9.20(a) and (b) as required by Rule 9.20(c) on April 2, 2012.

CONCLUSIONS OF LAW:

11. By not filing a timely declaration of compliance with Rule 9.20 in conformity with the requirements of Rule 9.20(c), Respondent failed to timely comply with the provisions of Supreme Court Order No. S197016 requiring compliance with Rule 9.20 and willfully violated Rule 9.20 of the California Rules of Court.

AUTHORITIES SUPPORTING DISCIPLINE.

In determining the appropriate level of discipline, the Standards are entitled to great weight. (*In re Silverton* (2005) 36 Cal. 4th 81, 89-94 and *In re Brown* (1995) 12 Cal. 4th 205, 220.) But the Standards are not applied in a talismanic fashion, and the Court tempers its analysis of the proper level of discipline by considerations peculiar to the offense and the offender. (*In the Matter of Van Sicklle* (Review Dept. 2006) 4 Cal State Bar Ct. Rptr. 980, 994.) In the instant case the discipline is within the applicable range based upon the Standards and case law and deviation is not appropriate.

Standard 1.3 states that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Rule 9.20(d) provides that a suspended member's willful failure to comply with the provisions of rule 9.20 of the California Rules of Court is cause for disbarment or suspension and for revocation of any pending probation.

Standard 1.7(a) states that if a member has a prior discipline, the degree of discipline in the current proceeding shall be greater than the discipline imposed in the prior proceeding unless the prior discipline was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

In *Dahlman v. State Bar*, (1990) 50 Cal. 3d 1088, the Petitioner entered into a stipulation as to misconduct and the requirement that he comply with rule 9.20 (previously rule 955). Petitioner failed to comply with rule 9.20 or present the court with any evidence to excuse his failure to comply. The State Bar prosecutor and the State Bar Court had made numerous efforts to remind Petitioner of his obligation but Petitioner never filed the 9.20 affidavit. The court stated that when "...an attorney has evidenced an indifference to the disciplinary system that is designed to protect the public, the courts, and the legal profession, we have not hesitated to impose disbarment." The court found that Petitioner's failure to comply with rule 9.20 and cooperate in the disciplinary proceedings warranted disbarment.

In the present case, Respondent filed his 9.20 affidavit after multiple letters and a reminder call from Probation. Even though Respondent eventually did file his 9.20 affidavit, Respondent's tardiness when considered with the misconduct underlying the 9.20 order evidences a continued disregard for the legal process and Respondent's obligations to the public and the State Bar. In evaluating Respondent's continued failure to meet his obligations along with the applicable standards, disbarment is the appropriate level of discipline.

PENDING PROCEEDINGS.

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

COSTS OF DISCIPLINARY PROCEEDINGS.



Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of August 7, 2012 the costs in this matter are \$2,382. 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.

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In the Matter of: CLARENCE MICHAEL BALINGIT Member # 194890	Case number(s): 12-N-13317 - DFM
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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>9/15/2012</u> Date	2012		CLARENCE M. BALINGIT Print Name
Date	2012	Respondent's Signature	Print Name
<u>9/17/</u> Date	2012		KIM KASRELIOVICH Print Name
Date	2012	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: CLARENCE MICHAEL BALINGIT Member # 194890	Case number(s): 12-N-13317 - DFM
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DISBARMENT 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.)**

Respondent **Clarence Michael Balingit** is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

9/26/12
Date



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 Los Angeles, on September 27, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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:

**CLARENCE M. BALINGIT
PO BOX 2943
FLORENCE, AZ 85132**

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

KIM KASRELIOVICH, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 27, 2012.



Tammy Cleaver
Case Administrator
State Bar Court