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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: the two billing cycles immediately following the effective date of the Supreme Court order in this matter.. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property. Please see "Attachment to Stipulation," at 13.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Please see "Attachment to Stipulation," at 13.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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. Please see "Attachment to Stipulation," at 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. Please see "Attachment to Stipulation," at 13.
- (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:**

Please see "Attachment to Stipulation," at 13.

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of one year.

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

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

iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

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

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of six months.

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

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

iii.  and until Respondent does the following: fully complies with the "Fee Arbitration Conditions" described in section F(5), "Other Conditions," page 6.

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

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

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

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - No Ethics School recommended. Reason: .
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
  - Substance Abuse Conditions
  - Law Office Management Conditions
  - Medical Conditions
  - Financial Conditions

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation 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:**

**Fee Arbitration Conditions:**

Within thirty (30) days of the effective date of the discipline in this matter, Respondent agrees to provide the Office of Probation with a copy of the letter offering to initiate and participate in fee arbitration with Rita and Jose Castillo ("Castillos"), along with a copy of the return receipt from the U.S. Postal Service or other proof the letter was mailed to the Castillos. Respondent must also provide proof that either Rita or Jose Castillo signed for the letter upon delivery; no other signatures will be accepted as proof of compliance with this condition. Included with the letter to the Castillos will be an accounting of all fees allegedly earned in the Castillos' matter, and a copy of that accounting will also be provided to the Office of Probation.

Respondent will fund all costs associated with fee arbitration for the Castillos' matter.

Within thirty (30) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, Respondent agrees to provide a copy of said award, judgment or stipulated award to the Office of Probation.

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

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

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In the Matter of: <b>MICHAEL PARRA</b>	Case Number(s): 12-O-13356-RAP, et al.
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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
Constantino Orduna	\$2,500	December 13, 2011
Carol Carey	\$1,306	February 23, 2012

- 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:
  - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
    - i. A written ledger for each client on whose behalf funds are held that sets forth:
      - 1. the name of such client;
      - 2. the date, amount and source of all funds received on behalf of such client;
      - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
      - 4. the current balance for such client.
    - ii. a written journal for each client trust fund account that sets forth:
      - 1. the name of such account;
      - 2. the date, amount and client affected by each debit and credit; and,
      - 3. the current balance in such account.
    - iii. all bank statements and cancelled checks for each client trust account; and,
    - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
  - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
    - i. each item of security and property held;
    - ii. the person on whose behalf the security or property is held;
    - iii. the date of receipt of the security or property;
    - iv. the date of distribution of the security or property; and,
    - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:

MICHAEL PARRA

CASE NUMBER(S):

12-O-13356-RAP, 12-O-13692-RAP, 12-O-14325-RAP,  
12-O-14952-RAP, 12-O-16599 (UNFILED),  
12-O-18175 (UNFILED)

**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-O-13356-RAP (Complainant: Constantino Orduna)

**FACTS:**

1. On December 13, 2011, Constantino Orduna ("Orduna") retained Respondent to file a Chapter 7 bankruptcy petition on Orduna's behalf. The parties executed a retainer agreement on the same day, and Orduna paid Respondent a \$2,500 fee. Consistent with the retainer agreement, \$2,194 of the \$2,500 Orduna paid was an advanced attorney fee, while the remaining \$306 was intended to pay the filing fee for Orduna's bankruptcy petition. However, Respondent never deposited any portion of the \$2,500 into Respondent's client trust account and never filed Orduna's bankruptcy petition.
2. Between February 27, 2012 and March 19, 2012, Orduna made numerous attempts to contact Respondent by telephone, but Respondent failed to respond to those inquiries. On March 19, 2012, Orduna terminated Respondent's representation and requested a refund in a letter sent to Respondent via facsimile. Respondent failed to respond to Orduna's March 19, 2012 facsimile, and failed to refund any portion of the \$2,500 to Orduna.

**CONCLUSIONS OF LAW:**

3. By failing to file the bankruptcy petition in accordance with the agreement reached with Orduna on December 13, 2011, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct rule 3-110(A).
4. By failing to respond to Orduna's contact attempts between February 27, 2012 and March 19, 2012 and failing to respond to Orduna's facsimile message of March 19, 2012, 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).

5. By failing to refund unearned fees to Orduna after Orduna's termination of Respondent's representation and request for a refund, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule of Professional Conduct rule 3-700(D)(2).

6. By failing to deposit the \$306 bankruptcy filing fee received from Orduna into a client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of Rule of Professional Conduct rule 4-100(A).

Case No. 12-O-13692-RAP (Complainants: Rita and Jose Castillo)

FACTS:

7. On February 21, 2012, Rita and Jose Castillo ("the Castillos") retained Respondent to audit and review the Castillos' mortgage documents. The Castillos paid Respondent \$2,500 in accordance with their agreement.

8. On March 13, 2012, the Castillos sent a letter to Respondent via facsimile requesting cancellation of the retainer agreement, a refund of fees paid and an accounting of fees earned. However, Respondent never provided the Castillos with a refund, never provided an accounting, and never provided any details on the audit of the Castillos mortgage documents. Additionally, Respondent provided no other services of value to the Castillos.

CONCLUSIONS OF LAW:

9. By failing to refund unearned fees owed to the Castillos, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule of Professional Conduct rule 3-700(D)(2).

10. By failing to provide the Castillos with an accounting of fees received from the Castillos, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rule of Professional Conduct rule 4-100(B)(3).

Case No. 12-O-14325-RAP (Complainant: Michael Bujold, U.S. Trustee's Office)

FACTS:

11. On March 8, 2012, Respondent filed a pleading to substitute in as attorney of record on Rogelio Hernandez's ("Hernandez") pending bankruptcy case within the presiding bankruptcy court. Respondent also filed bankruptcy schedules and a chapter 13 payment plan, all of which included Hernandez's electronic signature.

12. Hernandez never retained Respondent and never agreed to have Respondent substitute in on his case. In fact, Hernandez never met Respondent and neither approved nor agreed to sign the documents Respondent filed on Hernandez's behalf.

**CONCLUSIONS OF LAW:**

13. By substituting into Hernandez's bankruptcy case and filing documents on Hernandez's behalf in the bankruptcy court, both without Hernandez's consent, Respondent corruptly or willfully and without authority appeared as attorney for a party to an action or proceeding in violation of Business and Professions Code section 6104.

Case No. 12-O-16599 (Unfiled matter) (Complainant: Dara Khajavi)

**FACTS:**

14. On September 14, 2010, Sherry Katz ("Katz") retained Respondent to represent her in a medical malpractice action Katz intended to pursue, and the parties entered into a retainer agreement. Respondent accepted the case on a contingent fee basis, and advised Katz that he was prepared to immediately proceed in her matter.

15. Several months passed without any communication from Respondent, so Katz began attempts to contact Respondent by telephone in mid-2011. Though Katz left voicemail messages for Respondent inquiring as to the status of her case, Respondent did not respond to Katz in any way. In fact, Respondent has not responded to any communication attempt by Katz since September 14, 2010, the day Respondent was retained. Additionally, Respondent has not otherwise provided any services of value consistent with the retainer agreement signed on September 14, 2010.

16. In August 2012, Katz hired attorney Dhara Khajavi ("Khajavi") to assume pursuit of Katz's malpractice case. That same month, Khajavi attempted to reach Respondent via facsimile and regular postal mail using the information provided in Respondent's State Bar public membership record. Both the facsimile and postal mail were received at Respondent's office, but Respondent did not respond to Khajavi.

17. On September 13, 2012, Khajavi made a complaint to the State Bar regarding Respondent's conduct, and on October 1, 2012, a State Bar investigator sent a letter to Respondent at Respondent's membership records address requesting a written response by October 15, 2012 to allegations made by Katz and Khajavi. On October 15, 2012, a State Bar investigator sent a second letter to Respondent dated October 15, 2012 at Respondent's membership records address requesting a written response by October 29, 2012 to allegations presented by Katz.

18. On October 18, 2012, the investigator's October 15, 2012 letter was returned to the State Bar marked "RTS" (return to sender). On October 23, 2012, the investigator's October 1, 2012 letter was returned to the State Bar marked "Return to Sender, No Such Address."

CONCLUSIONS OF LAW:

19. By failing to perform any services of value or otherwise advance Katz's medical malpractice action between September 2010 and August 2012, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rule of Professional Conduct rule 3-110(A).

20. By failing to respond to inquiries by Katz or Khajavi throughout 2011 and 2012, 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).

21. By failing to maintain a membership records address at which he could be reached via mail, Respondent failed to maintain on the official membership records of the State Bar a current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes in willful violation of Business and Professions Code section 6068(j).

Case No. 12-O-18175 (Unfiled matter) (Complainants: Thomas and Carol Carey)

FACTS:

22. On February 23, 2012 Carol and Thomas Carey ("Careys") retained Respondent to prepare a bankruptcy petition on their behalf during a meeting in Respondent's Fullerton office. The Careys paid Respondent a total of \$1,306 for the petition, which included an attorney fee of \$1,000 and \$306 as a filing fee.

23. Since March 2012, the Careys have made multiple attempts to reach Respondent, including by telephone, by mail, and in person. None of these attempts have led to any response from Respondent regarding the Careys' matter. Carol Carey later discovered Respondent's Fullerton office had closed, so she attempted to reach Respondent by mail at his Beverly Hills office, but that letter was returned in the mail marked "Return to Sender." The Careys later learned that in addition to his repeated failures to communicate, Respondent never filed their bankruptcy petition.

24. On January 10, 2013, the Careys sent Respondent a certified letter via U.S. Mail to Respondent's Santa Ana office location. The letter terminated Respondent's representation of the Careys.

CONCLUSIONS OF LAW:

25. By failing to file the bankruptcy petition that he was hired to prepare and file, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rule of Professional Conduct rule 3-110(A).

26. By failing to refund unearned fees to the Careys after they terminated his representation, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rule of Professional Conduct rule 3-700(D)(2).

27. By failing to respond to the Careys' phone calls or termination letter, 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).

#### **ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.**

**Multiple/Pattern of Misconduct:** Respondent committed multiple acts of misconduct, specifically violations of the Rules of Professional Conduct and Business and Professions Code. The presence of multiple acts of misconduct is considered an aggravating circumstance. (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93.) However, the instant case does not evidence a pattern of misconduct as the conduct did not extend over a prolonged period of time. (*Young v. State Bar* (1990) 50 Cal.3d 1204.)

**Harm:** Respondent's failures in the Orduna and Carey cases have denied those clients the use of their funds, and his failures to perform have delayed their legal matters and forced them to seek aid elsewhere. Additionally, Respondent's unauthorized action in the Hernandez matter caused harm to the administration of justice. (*In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.)

**Trust Violations:** Respondent's misconduct in the Orduna matter involved advanced costs required to be placed in trust, and Respondent has thus far refused or been unable to account to Orduna for the trust fund-related misconduct. (*In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404.)

#### **ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

**Candor/Cooperation:** Respondent cooperated in the completion of this stipulation, and his cooperation extended to facts not easily proven. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.)

**No Prior Discipline:** Though Respondent has no prior discipline in nine years of practice, the serious nature of his current misconduct limits the weight of this fact in mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.)

**Additional Mitigating Circumstances:** Respondent's community involvement, including several years spent both volunteering and fundraising for both the Challenged Athletes Foundation and the Leukemia and Lymphoma Society, is entitled to some weight in mitigation. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335.)

## **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 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.) 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 multiple 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 violations of Rules of Professional Conduct rule 4-100. Standard 2.2(b) provides that 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 willful 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.

On four occasions, this Respondent accepted a client’s matter and failed to meet his responsibilities in some way, generally through a combination of misconduct that included failures to perform competently, failures to communicate and failures to return unearned fees. Respondent’s misconduct also included a failure to deposit client funds in a client trust account and a failure to account to a client for fees earned. Respondent also admits to appearing on a client’s behalf in a fifth matter without the client’s authority, and to failing to maintain his membership records address.

The Standards state that suspension or disbarment should be imposed depending upon the extent of harm, the gravity of the offense and consideration of the purposes of imposing discipline. (Stds. 1.3, 2.2(b).) In this instance, there is both serious misconduct and client harm. In light of these facts, public protection demands a six month actual suspension that will continue until restitution is paid. This

discipline is sufficient under these circumstances in light of the fact that this Respondent lacks any prior discipline, has admitted his misconduct and agreed to enter this stipulation, and has a history of involvement in charitable organizations including the Challenged Athletes Foundation, where he has volunteered for several years, as well as the Leukemia and Lymphoma Society.

The stipulated level of discipline is appropriate under the Standards. Further, the stipulated level of discipline is consistent with reported cases involving similar misconduct. (See *Matthew v. State Bar* (1989) 49 Cal.3d 784 [sixty days actual suspension]; *Baker v. State Bar* (1989) 50 Cal.3d 30A [one year actual suspension]; *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 [one year actual suspension].

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was February 7, 2013.

#### **DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-14952-RAP	Eight	Rules of Professional Conduct rule 3-700(D)(2)
12-O-14952-RAP	Nine	Rules of Professional Conduct rule 4-100(B)(3)
12-O-14952-RAP	Ten	Business and Professions Code section 6068(j)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 7, 2013, the prosecution costs in this matter are \$6,944. 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.

#### **EXCLUSION FROM MCLE CREDIT**



Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: MICHAEL PARRA	Case number(s): 12-O-13356, RAP, et al..
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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>2/1/2013</u> Date	 Respondent's Signature	<u>Michael Parra</u> Print Name
<u>2-7-13</u> Date	 Respondent's Counsel Signature	<u>Michael G. Gerner</u> Print Name
<u>2-7-13</u> Date	 Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name



(Do not write above this line.)

In the Matter of: MICHAEL PARRA	Case Number(s): 12-O-13356-RAP, et al.
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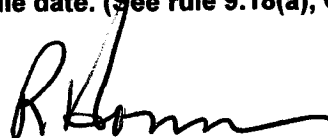
### ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

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.)**

2-20-13  
Date

  
RICHARD A. HONN  
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 March 1, 2013, 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:

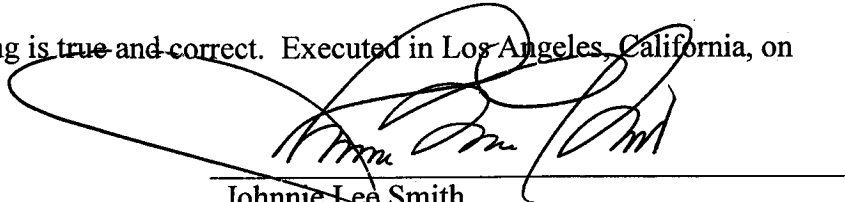
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL GALEN GERNER  
MICHAEL G GERNER, A PROF LAW CORP  
425 S BEVERLY DR STE 210  
BEVERLY HILLS, CA 90212

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

William S. Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 1, 2013.



Johnnie Lee Smith  
Case Administrator  
State Bar Court