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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Alan B. Gordon Assistant Chief Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 Tel: (213) 765-1159 Bar # 125642	Case Number(s): 13-0-10399 13-0-10906 13-0-12214	For Court use only PUBLIC MATTER FILED  JAN - 8 2014 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Rayda Cabanillas-Alas 928 N. San Fernando Blvd., Ste. 260 Burbank, CA 91504 Tel. (818) 209-0928 Bar # 140394	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: RAYDA CABANILLAS-ALAS Bar # 140394 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 June 6, 1989.
- (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 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: three billing cycles following the effective date of the Supreme Court order. (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.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. (See attachment, p. 11.)
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. (See attachment, p. 12.)
- (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:

No Prior Discipline: (See attachment, p. 12.)

Remedial Measures: (See attachment, p. 12.)

Prefiling Stipulation: (See attachment, p. 12.)

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of two years.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of 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:

E. Additional Conditions of Probation:

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- (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:

<input type="checkbox"/> Substance Abuse Conditions	<input type="checkbox"/> Law Office Management Conditions
<input type="checkbox"/> Medical Conditions	<input checked="" type="checkbox"/> Financial Conditions

F. Other Conditions Negotiated by the Parties:

(Effective January 1, 2011)

- (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:**

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In the Matter of: RAYDA CABANILLAS-ALAS	Case Number(s): 13-O-10399, 13-O-10906, 13-O-12214.
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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
Carlos Rivera	\$830.00	March 16, 2012
Elisa Salgado	\$1,294.00	June 11, 2011

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **30 days following the effective date of the Supreme Court order.**

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

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: RAYDA CABANILLAS-ALAS

CASE NUMBERS: 13-O-10399, 13-O-10906, 13-O-12214

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and Rules of Professional Conduct.

Case Nos.

13-O-10399 (Complainant: Carlos Rivera);

13-O-10906 (Complainants: Rafael and Maria Acosta);

13-O-12214 (Complainant: Elisa Salgado).

FACTS:

1. In July 2010, Respondent formed a partnership with La Firma, Inc. ("La Firma"), an existing California corporation owned and operated by a non-attorney (hereinafter, "the partnership"). At all times relevant to the facts herein, Respondent was the only attorney partnered with, or employed by, La Firma. Pursuant to the partnership agreement, Respondent was to provide legal services in the areas of bankruptcy and immigration law to La Firma's clients. In return, La Firma's employees would provide Respondent with administrative support such as accounting and payroll, collecting legal fees from clients, and processing fee agreements. Respondent and La Firma agreed to equally divide legal fees received from clients, after costs were subtracted. In addition, Respondent was to be paid a salary of \$500 per week.

2. Between July 2010 and April 2013, and while doing business under the name "La Firma", Respondent performed legal services in accordance with the partnership agreement as set forth in paragraph 1.

3. During the partnership, non-attorney employees were used to prepare and file immigration and bankruptcy petitions on behalf of clients. In preparing the petitions, the non-attorney employees would give legal advice to clients and make strategic legal decisions on their behalf. The non-attorney employees reported directly to the owner of La Firma, not to Respondent.

4. The partnership clients identified in this paragraph paid the advanced legal fees and advanced costs indicated in this paragraph to the partnership for the preparation and filing of Chapter 7 bankruptcy petitions:

<u>Case No.</u>	<u>Complainant</u>	<u>Date of Hire</u>	<u>Fees & Costs</u>
13-O-10399	Carlos Rivera	March 16, 2012	\$1,136
13-O-10906	Rafael and Maria Acosta	April 23, 2012	\$1,151
13-O-12214	Elisa Salgado	June 11, 2011	\$1,294

5. Of the total fees and costs paid by each of the clients referenced in paragraph 4, \$386 was to be apportioned to costs such as the costs for filing the client's petition, obtaining a copy of the client's credit report, and the cost for the client's mandatory financial counselling class. The fees and costs paid by each of the clients were deposited into La Firma's general operating account. Respondent failed to segregate the advanced costs from the total fees and costs paid by the clients and failed to deposit those advanced costs portions into a client trust account for safekeeping.

6. The fees paid by the clients referenced in paragraph 4 were divided between Respondent and La Firma pursuant to the partnership agreement.

7. In case numbers 13-O-10399 and 13-O-12214, the partnership's non-attorney employees prepared the clients' bankruptcy petitions. However, at no time, were the petitions filed with the bankruptcy court. Several months after the petitions had been prepared, but not filed, the clients left multiple telephone messages with the partnership's staff requesting an update on the status of their cases. Respondent received the telephone messages but did not respond to them. After not receiving a response to their inquiries within a reasonable time, the clients demanded a refund of the fees they had paid. Respondent received the demands for refunds but did not respond to them. Thereafter, the clients made complaints against Respondent to the State Bar of California.

8. In case number 13-O-10399, after the State Bar had intervened, Respondent contacted complainant Carlos Rivera and agreed to provide him a full refund. However, to date, Respondent has only refunded \$306 of the \$1,136 in advanced fees and costs that the partnership collected from Rivera.

9. In case number 13-O-10906, the partnership's non-attorney employees prepared the clients' joint bankruptcy petition. However, the petition was not immediately filed with the bankruptcy court. Several months after the petition had been prepared, but not yet filed, the clients left multiple telephone messages with the partnership's staff requesting an update on the status of their case. Respondent received the telephone messages but did not respond to them. After not receiving a response to their inquiries, the clients made a complaint against Respondent to the State Bar of California. Following intervention by the State Bar, Respondent belatedly caused to be filed the clients' joint bankruptcy petition. The petition was subsequently granted.

10. In November 2012, Respondent took a leave of absence from her work at La Firma to undergo a medical procedure. Later, in December 2012, while still off work and recovering from surgery, Respondent discovered that approximately three bankruptcy petitions for La Firma's clients had not been timely filed. Respondent immediately took steps to file the petitions, albeit belatedly.

11. In February 2013, prior to returning to her work at La Firma, Respondent sustained major injuries in an automobile collision which necessitated another leave of absence from work. Later, in March 2013, the non-attorney principal of La Firma notified Respondent that there were additional bankruptcy petitions that had not been filed. Respondent requested that the files on those client matters be sent to her at her home for her review. When Respondent received the files, she discovered that 40 bankruptcy petitions that should have been filed had not been filed. In many cases, the cases were so old that the credit report information and the financial counseling certificates for the clients had expired. Additionally, Respondent discovered that the principal for La Firma had converted the advanced legal fees and costs paid by the clients to his own use and, thus, there were insufficient funds in the partnership's bank accounts to pay the filing fees for the petitions or refund the unearned portions of the advanced legal fees and costs paid by the clients.

12. In April 2013, Respondent terminated her partnership with La Firma and reported the theft of partnership funds by La Firma's principal to the police.

CONCLUSIONS OF LAW:

13. Respondent allowed the partnership's non-attorney employees to engage in the unauthorized practice of law by preparing and filing immigration and bankruptcy petitions and by making strategic legal decisions for, and furnishing legal advice to, clients, and thereby Respondent aided an entity, La Firma, in the unauthorized practice of law in willful violation of Rules of Professional Conduct, rule 1-300(A).

14. By partnering with La Firma, a corporation owned and operated by a non-attorney, for the purpose of providing legal services to clients in immigration and bankruptcy matters, Respondent formed a partnership with a person who is not a lawyer where at least one of the activities of that partnership consisted of the practice of law in willful violation of Rules of Professional Conduct, rule 1-310.

15. By dividing with La Firma, a corporation owned and operated by a non-attorney, the fees collected for legal services performed on behalf of clients, Respondent shared legal fees with a person who is not a lawyer in willful violation of Rules of Professional Conduct, rule 1-320(A).

16. By failing to segregate the advanced costs from the total fees and costs paid by Rivera, the Acostas, and Salgado, and by failing to deposit those advanced costs 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 Rules of Professional Conduct, rule 4-100(A).

17. By failing to ensure that bankruptcy petitions for Rivera, the Acostas, and Salgado were timely filed with the bankruptcy court, Respondent failed to supervise the partnership's employees, thereby intentionally recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

18. By failing to respond to Rivera's, the Acostas', and Salgado's requests for updates as to the status of their bankruptcy cases, Respondent failed to respond to clients' reasonable status inquiries in willful violation of Business and Professions Code section 6068(m).

19. By failing to refund to Rivera and Salgado any portion of the fees which she had not earned, Respondent failed to refund promptly to a client any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent formed a partnership and divided fees with a non-attorney and aided the partnership's non-attorney employees in the unauthorized practice of law. In addition, in three client matters, Respondent failed to supervise non-attorneys adequately, failed to communicate with, and return unearned fees to, her clients. Further, Respondent admits that, with respect to 29 other clients, she failed to file bankruptcy petitions on their behalf or refund any portion of the unearned fees that the 29 clients paid.

MITIGATING CIRCUMSTANCES.

Candor/Cooperation (Std. 1.2(e)(v)): Respondent demonstrated candor with State Bar investigators by spontaneously admitting to misconduct outside the scope of the investigation. Specifically, Respondent admitted that she failed to file bankruptcy petitions for 29 other clients, none of whom had made complaints to the State Bar. Respondent also spontaneously admitted to her improper partnership and division of legal fees with La Firma. Respondent's candor with State Bar investigators deserves significant weight because without her admissions, it is unlikely these unreported acts of misconduct would have been identified.

No Prior Discipline: Respondent was admitted to the practice of law in 1989. At the time of the misconduct, Respondent had 21 years of practice without a prior instance of professional discipline. Respondent's 21-year discipline-free practice is a mitigating circumstance. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 [where mitigative credit was given for 17-year period of discipline-free practice despite serious misconduct].)

Remedial Measures: In February 2013, Respondent discovered that 40 bankruptcy petitions had not been filed due to the fact the principal of La Firma had converted to his own personal use the funds earmarked to pay the filing fees. Further, by the time Respondent discovered the 40 unfiled petitions, most of the information in the petitions had gone stale. Thus, the petitions needed to be redrafted. Respondent hired a paralegal to assist her in preparing and causing to be filed the 40 unfiled petitions. To date, Respondent has caused to be filed 11 of the 40 bankruptcy petitions using her personal funds to pay for the filing fees. With respect to the remaining 29 clients, Respondent has contacted them, advised them of the circumstances surrounding her failure to ensure that their petitions were timely filed, and offered to return their files. Additionally, in April 2013, Respondent terminated her partnership with La Firma and reported the theft of partnership funds by La Firma's principal to the police. (See generally *In the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907, 926 [where mitigative credit was given for substantial efforts made to correct the problems surrounding the misconduct].)

Prefiling Stipulation: Respondent has voluntarily entered into this stipulation and is entitled to receive mitigative credit for her early admission of culpability and consent to the imposition of discipline. (See *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].)

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.

Respondent's professional misconduct falls within the scope of standards 2.2(a), 2.4(b) and 2.6 and 2.10. 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(a), which applies to Respondent's violation of Rules of Professional Conduct, rule 4-100(A).

Standard 2.2(a) provides that culpability of an attorney of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

Here, during the course of Respondent's improper partnership with La Firma, the principal of La Firma converted to his own use, funds collected from clients as advanced fees and costs to prepare and file their bankruptcy petitions. Although harm is implicit where client funds are misappropriated, the total amount of entrusted funds misappropriated was limited to \$386 for each of the three clients who complained to the State Bar. Further, Respondent demonstrated spontaneous candor and cooperation by admitting that her misconduct was not limited to the three complainants in this matter and that she committed similar misconduct in connection with 40 other clients who employed her, none of whom made complaints to the State Bar. As a result, there were no funds left in the partnership's bank accounts to pay for the filing fees of 40 unfiled bankruptcy petitions. However, Respondent also took remedial steps by causing to be filed 11 of the 40 bankruptcy petitions at her own expense and by explaining to the remaining 29 clients whose bankruptcy petitions were not filed, the reasons why their petitions were not filed. Additionally, Respondent terminated her partnership with La Firma and reported the theft of partnership funds and advanced costs by La Firma's principal to the police. Respondent has also accepted responsibility for her misconduct by voluntarily entering into this stipulation and consenting to the imposition of discipline herein. More importantly, she has no record of discipline in 21 years of practice.

The minimum one-year actual suspension prescribed by standard 2.2(a) is not necessary to meet the disciplinary objectives stated in standard 1.3 in this matter. Although the standards are entitled to "great weight" (*In re Silverton, supra*, 36 Cal.4th at p. 92), we must nevertheless "temper the letter of the law with considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.)

Respondent's misconduct was serious but it did not involve deceit or an intentional misappropriation by her of client funds. Given the extremely strong mitigation evidence in this case, standard 1.2(e) is particularly instructive because it provides that mitigating circumstances are those which demonstrate "that the public, courts and legal profession would be adequately protected by a more lenient degree of sanction than set forth in these standards for the particular act of professional misconduct found or acknowledged."

In consideration of the foregoing, a two-year suspension (stayed) and two years of probation, subject to the conditions herein, including a six-month actual suspension, is appropriate under the standards and will serve the purpose of attorney discipline as set forth in standard 1.3.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 9, 2013, the prosecution costs in this matter are \$8,775. 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. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: RAYDA CABANILLAS-ALAS	Case Number(s): 13-O-10399; 13-O-10906; 13-O-12214
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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.

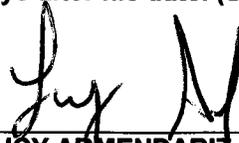
On page 4 of the Stipulation, under the heading "Discipline," place an "X" in the box next to D.(1)(a).

On page 11 of the Stipulation, numbered paragraph 18, delete the word "Coe" and in its place insert "Code."

The Court finds that standard 2.2(a) is not controlling. The facts do not support a finding of misappropriation by respondent. However, the facts support a finding that respondent was in violation of Rules of Professional Conduct, rule 4-100(A) for failure to deposit client funds in a bank account labeled "Trust Account," "Client Funds Account" or words of similar import. Therefore, the Court finds that the applicable standard is standard 2.2(b).

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.)**

Jan 8, 2014
Date


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 January 8, 2014, 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:

RAYDA CABANILLAS-ALAS
RAYDA C. CABANILLAS
928 N SAN FERNANDO BLVD, STE 260
BURBANK, CA 91504

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

ALAN B. GORDON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 8, 2014.



Mazie Yip
Case Administrator
State Bar Court