State Bar Court of California **Hearing Department** Los Angeles STAYED SUSPENSION Counsel For The State Bar Case Number(s): For Court use only 13-O-10553 RAP Michael J. Glass **Senior Trial Counsel** FILED 845 S. Figueroa Street Los Angeles, CA 90017-2515 MAY 19 2014 (213) 765-1254 STATE BAR COURT CLERK'S OFFICE LOS ANGELES Bar # 102700 In Pro Per Respondent PUBLIC MATTER Anthony E. Contreras 6745 Washington Ave., Suite 203 Whittier, CA 90601 (909) 746-8672 Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND Bar # 171699 **DISPOSITION AND ORDER APPROVING** In the Matter of: **ANTHONY E. CONTRERAS** STAYED SUSPENSION; NO ACTUAL SUSPENSION ☐ PREVIOUS STIPULATION REJECTED Bar # 171699 A Member of the State Bar of California (Respondent)

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted September 28, 1994.
- (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 12 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, 2014)

(Do 1	not wri	te above this line.)					
(5)	Co	nclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of w".					
(6)	The	The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."					
(7)		more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any nding 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 are added to membership fee for calendar year following effective date of discipline. Costs are to be paid in equal amounts prior to February 1 for the following membership years: two bill cycles immediately following the effective date of the Supreme Court's 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.						
Mis		ravating Circumstances [Standards for Attorney Sanctions for Professional duct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are d.					
(1)		Prior record of discipline					
	(a)	☐ State Bar Court case # of prior case					
	(b)	☐ Date prior discipline effective					
	(c)	Rules of Professional Conduct/ State Bar Act violations:					
	(d)	☐ Degree of prior discipline					
	(e)	If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline.					
(2)		Dishonesty: Respondent's misconduct was intentional, 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.					

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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)	\boxtimes	Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment, page 9.				
(8)		Restitution: Respondent failed to make restitution.				
(9)		No aggravating circumstances are involved.				
Add	ition	al aggravating circumstances				
		ating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating stances 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, the public, or the administration of justice.				
(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 with a good faith belief that was honestly held and reasonable.				
(8)		Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.				
(9)		Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.				
(10)		Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.				

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(11)		Good Character: Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
(12)		Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
(13)		No mitigating circumstances are involved.
Addi	tiona	al mitigating circumstances
		Prior Record of Discipline. See Attachment, page 9.

D.	Dis	cip	lin	e:
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(1)	\boxtimes	Stay	Stayed Suspension:				
	(a)	(a) Respondent must be suspended from the practice of law for a period of one (1) year .					
	 i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct. 						
		ii.		and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.			
		iii.		and until Respondent does the following:			
	The	abov	e-refe	renced suspension is stayed.			
(2)	\boxtimes	Prob	ation:				
				placed on probation for a period of two (2) years , which will commence upon the effective date Court order in this matter. (See rule 9.18 California Rules of Court.)			
E. A	ddi	tiona	l Cor	nditions of Probation:			
(1)	\boxtimes	During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.					
(2)	\boxtimes	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.					
(3)		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.					
(4)		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.					
				to all quarterly reports, a final report, containing the same information, is due no earlier than days before the last day of the period of probation and no later than the last day of probation.			
5)		condi Durin in add	tions o g the p dition t	t must be assigned a probation monitor. Respondent must promptly review the terms and of probation with the probation monitor to establish a manner and schedule of compliance period of probation, Respondent must furnish to the monitor such reports as may be requested, o the quarterly reports required to be submitted to the Office of Probation. Respondent must ally with the probation monitor.			

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(6)		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.							
(7)	\boxtimes	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 State Bar Ethics School, and passage of the test given at the end of that session.							
			□ No Ethics School recommended. Reason: .						
(8)		must			ion imposed in the underlying criminal matter and n with any quarterly report to be filed with the Office				
(9)		The	following conditions are attached hereto a	nd inco	rporated:				
			Substance Abuse Conditions		Law Office Management Conditions				
			Medical Conditions		Financial Conditions				
F. O	ther	Cor	nditions Negotiated by the Partie	s:					
(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 within one year. 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)		Other Conditions:							

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

ANTHONY E. CONTRERAS

CASE NUMBER:

13-0-10553

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 13-O-10553 (Complainant: Adela Blancarte)

FACTS:

- 1. On July 13, 2010, Adela Blancarte ("Blancarte") hired Respondent to represent her in a pending medical malpractice matter, *Blancarte v. Eisenhower Medical Tower*, et al, Riverside County Superior Court, Case No. INC 079251, in which she was suing her past medical providers. On that same day, Blancarte's son, Jose Blancarte, Jr., directly paid Respondent \$3,000 in advanced fees on behalf of Blancarte. Respondent did not obtain Blancarte's informed written consent to accept attorney fees from her son.
- 2. At the time Respondent agreed to represent Blancarte, the defendants' Request for Dismissal was pending and the court had issued an Order to Show Cause Re: Dismissal for Lack of Prosecution ("OSC"), which was scheduled to be heard on August 13, 2010. Respondent was aware of these facts.
- 3. After accepting representation, Respondent failed to file a substitution of attorney substituting into the case as counsel of record for Blancarte, failed to oppose the Request for Dismissal and failed to file an opposition to the OSC.
- 4. Respondent and Blancarte appeared at the August 13, 2010, OSC hearing. However, the court refused to allow Respondent to enter an appearance since Respondent had failed to properly substitute into the matter. The court then placed Blancarte's case on the second calendar call and instructed Respondent to file a substitution of attorney with the court clerk. When the court recalled Blancarte's matter, Respondent had not yet returned with the filed substitution of attorney. Consequently, the court dismissed Blancarte's case.
- 5. When Respondent eventually returned to the courtroom, Blancarte informed Respondent that the court had dismissed her matter. Respondent offered to file an appeal to reinstate Blancarte's case and requested and received an additional \$2,000 in fees to file the appeal. Jose Blancarte Jr., directly paid Respondent \$2,000 as advanced fees for Blancarte. Respondent did not obtain Blancarte's informed written consent to accept attorney fees from her son.

- 6. Respondent filed the substitution of attorney on September 2, 2010. On September 17, 2010, defendants' counsel filed a Notice of Entry of Judgment and a Memorandum of Costs for \$14,052. Respondent received the documents, but did not file an opposition. On November 3, 2011, the court entered the Judgment on Costs. Respondent received the Judgment on Costs.
- 7. On January 3, 2011, Respondent filed a notice of appeal indicating that Blancarte was appealing the Judgment of Dismissal and the Judgment on Costs. On January 7, 2011, the Court of Appeal directed Respondent to file within 10 days a correctly-completed civil information statement, including a copy of the order or judgment appealed from. Respondent received the Order. It was not until January 31, 2011, that Respondent filed a civil case information statement. Respondent failed to attach the judgment of dismissal.
- 8. On February 8, 2011, the Court of Appeal ordered Respondent to file and serve a copy of the judgment of dismissal within 15 days and indicated that failure to do so would result in dismissal of the appeal as to the judgment of dismissal. Respondent received the order. Thereafter, Respondent failed to file and serve a copy of the judgment of dismissal. As a result, on March 1, 2011, the court dismissed the appeal as to the judgment of dismissal without prejudice, and ordered that the appeal proceed only as to the judgment on costs. Respondent received the order.
- 9. On April 19, 2011, the Court of Appeal ordered Respondent to file an opening brief within 45 days. Respondent received the order, but failed to file the opening brief. On June 6, 2011, the Court of Appeal issued an order requiring Respondent to file an opening brief within 15 days and indicating that Respondent's failure to do so would result in dismissal of the appeal. Respondent received the order.
- 10. On June 24, 2011, Respondent filed a request for an extension of time, which the court granted. The court ordered Respondent to file the opening brief by July 25, 2011. Respondent received the order. Thereafter, Respondent failed to prepare and file an opening brief. On July 20, 2011, Blancarte terminated Respondent and employed another attorney to represent her in her pending matter. On July 25, 2011, the new attorney substituted into the case and obtained a further extension to file an opening brief.
- 11. Respondent did not perform any services of value for Blancarte and did not earn any of the \$5,000 he received as advanced fees. On December 19, 2012, Jose Blancarte, Jr., on behalf of Blancarte, demanded that Respondent refund the \$5,000 he had paid in advanced fees on his mother's behalf. It was not until December 12, 2013, after the State Bar became involved in the matter, that Respondent refunded the \$5,000.

CONCLUSIONS OF LAW:

12. By failing to perform any services of value on behalf of Blancarte, including failing to file a substitution of attorney to substitute into the case as counsel of record, failing to oppose defendants' Request for Dismissal, failing to file a response to the May 14, 2010 OSC Re: Dismissal for Lack of Prosecution, failing to enter an appearance at the OSC re: Dismissal for Lack of Prosecution held on August 13, 2010, failing to serve and file a signed, file-stamped copy of the judgment of dismissal as required by the February 8, 2011, Court of Appeal Order, and failing to prepare an opening brief,

Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

- 13. By failing to refund \$5,000 in unearned fees to Blancarte from July 2011, through December 2013, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).
- 14. By accepting \$5,000 in advanced fees from Jose Blancarte, Jr., who was not Respondent's client, on behalf of Respondent's client, Blancarte, without Blancarte's informed written consent, Respondent accepted compensation for representing his client without the client's informed written consent to receive such compensation, in willful violation of the Rules of Professional Conduct, rule 3-310(F).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's repeated failure to perform on behalf of Blancarte, failure to return unearned fees and failure to obtain his client's informed written consent represent multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

No Prior Record of Discipline: Although Respondent's misconduct is serious, he is entitled to significant mitigation for having practiced law for approximately 19 years without discipline. (In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pretrial Stipulation: Respondent has now acknowledged his misconduct and stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible, thereby avoiding the necessity of a trial and saving State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079 [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.)

Here, Respondent committed three acts of professional misconduct. Standard 1.7 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 most severe sanction must be imposed. The most severe sanction is found in standard 2.15, which applies to Respondent's failure to return unearned fees. Standard 2.15 calls for suspension not to exceed three years or reproval. While Respondent's misconduct is serious, it did not result in significant harm to his client. Therefore, discipline at the lower-range of the standard is appropriate.

Respondent's misconduct is aggravated by multiple acts of misconduct. In mitigation, Respondent has 19 years of practice with no discipline, and has entered into a stipulation with the State Bar. A one-year stayed suspension with a two-year probationary period is appropriate.

Bach v. State Bar (1991) 52 Cal.3d 1201, also supports a one-year stayed suspension. In Bach, the California Supreme Court ordered the attorney actually suspended from the practice of law for 30 days for failing to perform legal services competently for a single client, failing to communicate with his client, withdrawing from representation without client consent or court approval, failing to refund unearned fees, and failing to cooperate in the State Bar's investigation. (Id. at p. 1205.) The Court noted that the attorney had 26 years of prior practice with no discipline. (Id. at pp. 1204, 1208.) The Court also found the attorney's refusal to accept any responsibility for the harm caused to his client was an aggravating factor. (Id. at p. 1209.)

Here, Respondent's misconduct is similar to, yet less egregious than, the misconduct at issue in *Bach*. Respondent, unlike in *Bach*, eventually returned the unearned fees and cooperated with the State Bar by entering into a pretrial stipulation. Balancing all of the appropriate factors, a one-year stayed suspension is consistent with the standards and *Bach*, and achieves the purposes of discipline as expressed in Standard 1.1.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 1, 2014, the prosecution costs in this matter are approximately \$3,497. 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 <u>not</u> receive MCLE credit for completion of Ethics School (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)				
in the Matter of: ANTHONY E. CON				
By their signatures below recitations and each of the	w, the parties and their c he terms and conditions	ounsel, as applicable, a of this Stigulation Re F	agnay mer agreer acts, Conclusions	ent with each of the of Law, and Disposition.
May (), 2014 Date	Respondent's Signat	(O in ?	Anthony E. Print Name	Contreras
Date	Respondent's Couns	/ ^ ·	Print Name	
May / 2, 2014	Deputy Trial Counsel	Itass	Michael J. (Print Name	lass
Date				

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In the Matte	er of: Y E. CONTRERAS	Case Number(s): 13-O-10553
	STAYED SUSP	ENSION ORDER
Finding the s	stipulation to be fair to the parties and that it ac smissal of counts/charges, if any, is GRANTE	lequately protects the public, IT IS ORDERED that the D without prejudice, and:
	The stipulated facts and disposition are APP Supreme Court.	ROVED and the DISCIPLINE RECOMMENDED to the
	The stipulated facts and disposition are APP DISCIPLINE IS RECOMMENDED to the Supplementary	ROVED AS MODIFIED as set forth below, and the preme Court.
	All Hearing dates are vacated.	
discipline" a 2. On page 3. On page 4. On page counts of pr	and substitute in its stead "16 years withou 9, at the end of the paragraph on "No Prio 9, at the end of the paragraph on "Pretrial	ounts," should read: "Respondent committed three
within 15 day stipulation. (S of the Supre Court.)	ys after service of this order, is granted; or 2) to See rule 5.58(E) & (F), Rules of Procedure.) To seme Court order herein, normally 30 days a RICHA	as: 1) a motion to withdraw or modify the stipulation, filed his court modifies or further modifies the approved he effective date of this disposition is the effective date fter file date (See rule 9.18(a), California Rules of ARD A. HONN 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 May 19, 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 Los Angeles, California, addressed as follows:

ANTHONY E. CONTRERAS LAW OFC ANTHONY CONTRERAS 6745 WASHINGTON AVE # 203 WHITTIER, CA 90601

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

MICHAEL GLASS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 19, 2014.

Angela Capenter
Case Administrator
State Bar Court