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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar R. Kevin Bucher Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1630 Bar # 132003	Case Number(s): 13-O-12363-YDR 13-O-12538 13-O-14098	For Court use only FILED MAR 18 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Paul T. O'Brien 969 S Village Oaks Dr Ste 210 Covina, CA 91724 (626) 967-7744 Bar # 171252	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: VICTOR SALDANA Bar # 256119 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 3, 2008**.
- (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 **16** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **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. **See attachment, page 11**
- (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. **See attachment, page 11**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not 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.
- (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. **See attachment, page 12.**

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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:

Family Problems/Emotional Difficulties - See attachment, page 11
Pre-trial Stipulation -See attachment, page 12

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 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **one year**, 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 **60 days**.
- 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:

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 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

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- (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:

- (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**

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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, see attachment, page 14.**

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In the Matter of: VICTOR SALDANA	Case Number(s): 13-O-12363-YDR; 13-O-12538; 13-O-14098
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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
FELIPE SANCHEZ	\$5,000	April 28, 2011

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **90 days of the effective date of discipline**.

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.

7. By failing to respond to reasonable status inquiries from his client Respondent to respond to reasonable status inquiries, in willful violation of Business and Professions Code, section 6068(m).

8. By vacating his office and not maintaining his current mailing address on the official membership records of the State Bar, Respondent failed to comply with Business and Professions Code section 6002.1, in willful violation of Business and Professions Code section 6068(j).

Case No. 13-O-12538 (Complainant: Lumar Timbol)

FACTS:

9. On June 14, 2013 and on July 3, 2013, a State Bar investigator sent investigative letters to Respondent at his then current membership address seeking his response to allegations made by Lumar Timbol regarding Respondent's performance in a debt collection matter. The correspondence was followed by an email enclosing the investigative letter. However, the investigative letters were not received as Respondent had vacated his office and failed to maintain his current office address and email address on the official membership records of the State Bar.

CONCLUSION OF LAW:

10. By vacating his office and not maintaining his current mailing address on the official membership records of the State Bar, Respondent failed to comply with Business and Professions Code section 6002.1, in willful violation of Business and Professions Code section 6068(j).

Case No. 13-O-14098 (Complainant: Felipe Sanchez)

11. On April 28, 2011, Felipe Sanchez, employed Respondent to perform legal services, namely to represent him in a civil lawsuit. Between April 28, 2011 and December 23, 2011, Sanchez paid Respondent \$5,000 in advanced fees.

12. Respondent filed a civil complaint on Sanchez' behalf on May 28, 2011 in Los Angeles Superior Court, *Sanchez v. Arteaga*, case no. KC061282. Thereafter, Respondent failed to appear in court on March 28, 2012 at a duly-noticed pre-trial status conference, appeared in court on April 10, 2012 on the duly noticed date for trial but was not prepared to proceed to trial, and, after the trial date was continued, failed to appear in court on May 8, 2012, on the duly noticed continued date for trial.

13. Due to Respondent's failure to appear at trial on May 8, 2012, the court dismissed Sanchez' case with prejudice and entered judgment in favor of the defendant.

14. After the case was dismissed, Sanchez requested that Respondent return the \$5,000 in advanced fees paid to Respondent. Following the dismissal of his case, Sanchez requested Respondent return all fees that he paid to Respondent. Respondent did not refund any of the advanced fees to Sanchez.

15. Between May 8, 2012 and September 20, 2013, Sanchez made repeated attempts to contact Respondent to discuss the status of his case. Respondent did not respond to numerous inquiries from his client, and failed to keep him apprised of important developments, before and after the matter was dismissed by the court.

16. Sanchez ultimately complained about Respondent's conduct to the State Bar. On September 12, 2013, a State Bar investigator an investigative letter was sent to Respondent at his then current official membership records address seeking his response to the allegations made by Sanchez. . However, the investigative letters were not received as Respondent had vacated his office and failed to maintain his current office address and email address on the official membership records of the State Bar.

CONCLUSIONS OF LAW:

17. By failing to appear at a regularly scheduled pre-trial conference, appearing at the first trial date not prepared to proceed to trial, and failing to appear at the continued trial date, Respondent 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 reasonable status inquiries made by Sanchez during the course of his representation, Respondent failed to respond to reasonable status inquiries made by his client in willful violation of Business and Professions Code, section 6068(m).

19. By failing at the termination of his employment to refund unearned advanced fees, Respondent failed to promptly refund any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

20. By vacating his office and not maintaining his current mailing address on the official membership records of the State Bar, Respondent failed to comply with Business and Professions Code section 6002.1, in willful violation of Business and Professions Code section 6068(j).

AGGRAVATING CIRCUMSTANCES.

Harm to Client (Std. 1.5(f)) – Respondent's abandonment of his client matters and his failure to return unearned fees, seriously harmed his clients. In the Aparicio matter his failure to perform resulted in the dismissal of his clients' bankruptcy case. His failure to appear in the Sanchez matter, caused the case to be dismissed with prejudice and the client losing his opportunity to recover damages.

Multiple Acts of Wrongdoing (Std. 1.5(b)) – Respondent's multiple acts of misconduct in three different client matters, including failures to perform, failures to communicate, failure to refund unearned fees, and failure to cooperate with State Bar investigations, evidences multiple acts of wrongdoing.

MITIGATING CIRCUMSTANCES.

Family Problems/ Emotional Difficulties – Respondent suffered extreme marital and emotional problems at and around the time of his misconduct, resulting in the loss of his wife, his home, his bank account, and his office. His emotional difficulties and family problems were directly related to his misconduct, leading him to neglect his professional responsibilities and ultimately leading to the loss of his legal business. (See *In the Matter of Spaith* (1990) 3 Cal. State Bar Ct. Rptr. 511 [marital problems and similar difficulties can be mitigating if they are extreme and are directly responsible for the misconduct].) His difficulties are attested to by his clergy, with whom he sought counsel, and who has provided information to the State Bar at Respondent's request.

Good Character (Std. 1.6(f)) – Respondent has provided attestations from seven members of the legal and general community, including his clergy and one judge, who express confidence in his good character despite his misconduct.

Pretrial Stipulation – Even though the misconduct here is serious, Respondent is entitled to mitigation for entering into the present stipulation prior to trial, saving valuable State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, Respondent has committed multiple acts of misconduct in three client matters. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.5(b), which applies to Respondent’s violation of Rules of Professional Conduct, rule 3-110(a) and Business and Professions Code section 6068(m). Under standard 2.5(b) actual suspension is appropriate for failing to perform legal services or properly communicate in multiple client matters, not demonstrating a pattern of misconduct. There is no evidence of a pattern of misconduct in the present matter. While it is clear Respondent committed misconduct with regard to his representation of his clients, he did perform work before constructively abandoning their cases. Respondent is entitled to mitigation for his emotional

difficulties, good character and willingness to enter into this pre-trial stipulation. Actual Suspension on the lower end of that provided by Standard 2.5(b) is appropriate to effectuate the purpose of discipline.

The Supreme Court has generally considered actual suspension an appropriate discipline where multiple instances of misconduct involving client inattention have occurred. (*Lester v. State Bar* (1976) 17 Cal.3d 547.) In *Gadda v. State Bar* (1990) 50 Cal.3d 344, the attorney had been found culpable of client neglect in three immigration matters aggravated by deceit in two of the matters and the publication of a misleading advertisement. The Court considered as aggravation the attorney's failure to recognize the seriousness of his misconduct but noted in mitigation his very active and generous pro bono immigration legal work. The Supreme Court ordered a two year suspension, stayed, on conditions including a six month actual suspension and until restitution was made. While the present case involves two client matters, there was no deceit or moral turpitude as in *Gadda*.

Calvert v. State Bar (1990) 50 Cal.3d 344, is a matter involving similar misconduct as in the present case. In *Calvert* the attorney was found culpable of unreasonable client neglect in a single client matter, including failure to perform, continued representation of her client though she knew she could not perform competently, and withdrew from employment without taking reasonable steps to avoid prejudice to the client. The Supreme Court found the attorney's breach of her duty to her client was significant, but did not agree with the review departments order of a six month actual suspension, lowering the actual suspension to 60 days.

A one year stayed suspension, with one year of probation, with conditions including a 60 day actual suspension is appropriate and will serve the purpose of protecting the public, the courts and the legal profession. It is also consistent with the decision of the Review Department in *Calvert*.

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>
13-O-12363	Three	Rules of Professional Conduct, section 4-100(B)(3)
13-O-12363	Four	Business and Professions Code, section 6068(i)
13-O-12538	Five	Rules of Professional Conduct, rule 3-110(A)
13-O-12538	Six	Business and Professions Code, section 6068(m)
13-O-12538	Seven	Rules of Professional Conduct, rule 3-700(D)(2)
13-O-12538	Eight	Business and Professions Code, section 6068(i)
13-O-14098	Three	Business and Professions Code, section 6068(i)

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notices of Disciplinary Charges filed on October 4, 2013 and October 28, 2013 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

FEE ARBITRATION CONDITIONS OF PROBATION:

A. Respondent's Duty to Initiate and Participate in Fee Arbitration

Respondent must initiate fee arbitration with the State Bar of California's Mandatory Fee Arbitration Program within thirty (30) days from the effective date of this matter, including making any payment(s) and filing fees required to start the process. The fee arbitration will be for the \$3,000 in fees and costs that Loretta and Kenneth Aparicio paid Respondent on August 17, 2012. Respondent must not request more fees than have already been paid by, or on behalf of, the Aparicios.

At the time respondent initiates fee arbitration, he must provide to the Aparicios a full accounting of all fees and costs paid to respondent by the Aparicios, including complete records of all funds of the Aparicios coming into respondent's possession, and how those funds were allegedly earned, if at all.

Respondent must provide the Office of Probation with a copy of the conformed filing within forty-five (45) days from the effective date of this matter. Respondent must immediately provide the Office of Probation with any information requested regarding the fee arbitration to verify respondent's compliance.

Respondent must fully and promptly participate in the fee arbitration as directed by the State Bar Mandatory Fee Arbitration Program. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration. Respondent understands and agrees that the Office of Probation may contact the Mandatory Fee Arbitration Program for information.

Respondent must accept binding arbitration on the arbitration request form. If the arbitration proceeds as non-binding, however, respondent must abide by the arbitration award and forego the right to file an action seeking a trial de novo in court to vacate the award.

B. Disputed Funds Must be Held in Trust by Respondent

Respondent must keep the disputed funds in a separate interest-bearing trust account (not an IOLTA). If Respondent has removed the disputed funds from trust, respondent must open a separate interest-bearing trust account and deposit the disputed funds into such account within fifteen (15) days from the effective date of discipline. Respondent must provide evidence, e.g. a copy of respondent's bank statement showing that the disputed funds have been placed in trust within thirty (30) days from the effective date of this matter, and a statement under penalty of perjury that the funds have remained in trust with each of respondent's quarterly and final reports.

C. Respondent's Duty to Comply with the Arbitration Award

Within fifteen (15) days after issuance of any arbitration award or judgment or agreement reflected in a stipulated award issued pursuant to a fee arbitration matter, respondent must provide a copy of said award, judgment or stipulated award to the Office of Probation.

Respondent must 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. respondent must provide proof thereof to the Office of Probation within thirty (30) days after payment.

To the extent that respondent has paid any fee arbitration award, judgment or stipulated award prior to the effective date of this matter, respondent will be given credit for such payment(s) provided satisfactory proof of such payment(s) is or has been provided to the Office of Probation.

D. Fee Arbitration Conditions can be Satisfied by Respondent's Full Payment to Loretta and Kenneth Aparicio

The Fee Arbitration Conditions can also be satisfied by respondent's full payment of \$3,000 in fees and costs that the Aparicios paid respondent on August 17, 2012 plus interest of 10% per annum from August 17, 2012 within thirty (30) days from the effective date of this matter. Satisfactory proof of payment must be received by the Office of Probation within forty-five (45) days from the effective date of this matter.

If the Client Security Fund ("CSF") has reimbursed the Aparicios for all or any portion of the principal amount(s), respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. To the extent the CSF has paid only principal amounts, respondent will still be liable for interest payments to the Aparicios. Any restitution to the CSF is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Respondent must pay all restitution to the Aparicios before making payment to CSF. Satisfactory proof of payment(s) to CSF must be received by the Office of Probation within thirty (30) days of any payment.

E. Effect of Respondent's Failure to Comply with Fee Arbitration Conditions

Respondent understands that failure to strictly comply with these conditions regarding fee arbitration may result in this Court imposing additional discipline (with attendant costs) and conditions upon respondent, including ordering respondent to pay back the full amount of \$3,000 paid to respondent by the Aparicios plus 10% interest from August 17, 2012.

EXCLUSION FROM MCLE CREDIT


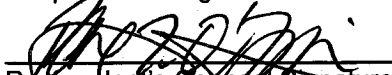

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of VICTOR SALDANA	Case number(s): 13-O-12363; 13-O-12538; 13-O-14098
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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 Fact, Conclusions of Law and Disposition.

<u>2/17/15</u> Date	 Respondent's Signature	<u>VICTOR SALDANA</u> Print Name
<u>2/17/15</u> Date	 Respondent's Counsel Signature	<u>PAUL T. O'BRIEN</u> Print Name
<u>2.26.15</u> Date	 Deputy Trial Counsel's Signature	<u>R. KEVIN BUCHER</u> Print Name

(Do not write above this line.)

In the Matter of: VICTOR SALDANA	Case Number(s): 13-O-12363 et.seq.
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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 four of the Stipulation, in Section "D. Discipline " subparagraph (3)(a), insert an "X" in the box that immediately precedes the sentence that begins, "Respondent must be actually suspended from the practice of law. . . ."

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date 3-18-15 _____
GEORGE E. SCOTT, JUDGE PRO TEM
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 18, 2015, I deposited a true copy of the following document(s):

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

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

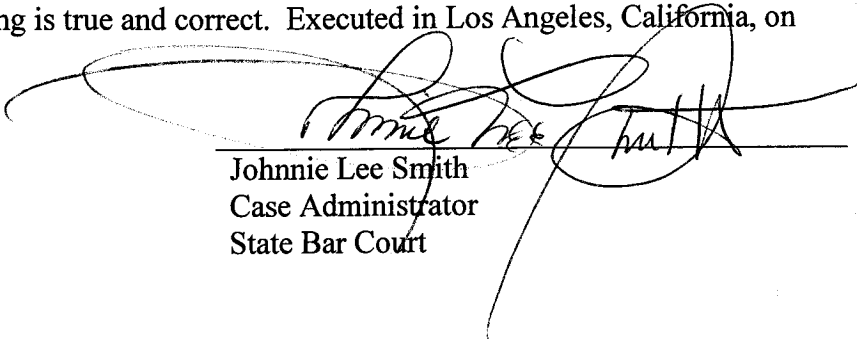
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**PAUL T. O'BRIEN
LAW OFFICE OF PAUL O'BRIEN
969 S VILLAGE OAKS DR
STE 210
COVINA, CA 91724**

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

RONALD BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 18, 2015.



Johnnie Lee Smith
Case Administrator
State Bar Court