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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1496 Bar # 146643	Case Number(s): 13-O-15018-LMA	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED  JUL 20 2015 </div> <div style="text-align: center;"> STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO </div>
In Pro Per Respondent Jerry A. La Cues 14726 Ramona Avenue 4th Floor, #S7 Chino, CA 91710 (909) 627-3535 Bar # 77088	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: JERRY A. LA CUES Bar # 77088 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 **December 21, 1977**.
- (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 13 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)



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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: (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 **12-O-10271 (See Attachment to Stipulation at pp. 8-9.)**
- (b) ☒ Date prior discipline effective **December 6, 2012**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 4-100(B)(4)**
- (d) ☒ Degree of prior discipline **a two-year stayed suspension, a three-year probation, and a 30-day actual suspension**
- (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.
- (a) State Bar Court case # of prior case: **11-O-10016 and 11-O-14021**
- (b) Date prior discipline effective: **July 4, 2012**
- (c) Rules of Professional Conduct/State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A) and 4-100(A)**
- (d) Degree of prior discipline: **a two-year stayed suspension, a two-year probation, and a 30-day actual suspension**
- (a) State Bar Court case # of prior case: **02-O-14730**
- (b) Date prior discipline effective: **August 10, 2004**
- (c) Rules of Professional Conduct/State Bar Act violations: **Rules of Professional Conduct, rule 3-110(A)**

(d) Degree of prior discipline: private reproof

- (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.
- (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 to Stipulation at p. 9.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Misconduct while on probation. (See Attachment to Stipulation at p. 9.)

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.
- (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:

Pretrial stipulation and atonement. (See Attachment to Stipulation at p. 9.)

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 1.2(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 **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 **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:

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.
- (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: **On June 13, 2013, respondent completed the course in connection with his prior discipline in case nos. 11-O-10016 and 11-O-14021.**

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- (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 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 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: **On August 17, 2013, respondent passed the course in connection with his prior discipline in case nos. 11-O-10016 and 11-O-14021.**
- (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:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JERRY A. LA CUES

CASE NUMBER: 13-O-15018-LMA

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 13-O-15018-LMA (Complainant: Kelly Mills)

FACTS:

1. Beginning in January 1999 approximately, respondent represented Cochran Investment Company, Inc. ("Cochran") to recover \$50,000 that was loaned to Ronald Henry Minkin ("Minkin"). Cochran is owned by John Cochran ("John").

2. On May 18, 2000, respondent filed a lawsuit against Minkin and Bank of America ("BOA"), where Minkin had deposited funds claimed by Cochran. Before filing the lawsuit, on October 19 and 29, 1999, respondent obtained an order temporarily restraining Minkin from withdrawing funds deposited with BOA.

3. As for Bank of America, on October 12, 2001, the court granted BOA's motion for summary judgment, but this ruling was reversed on appeal on August 19, 2002. On September 19, 2002, the Court of Appeal granted BOA's petition for rehearing and republished the decision reversing the summary judgment. On December 19, 2002, the Court of Appeal affirmed the summary judgment in favor of BOA.

4. As for Minkin, on March 20, 2002, respondent obtained a default judgment against Minkin in the action, and subsequently took action to enforce the judgment. On August 7, 2002, respondent sent a writ of execution to the Sheriff's Department for garnishment of accounts at BOA in Minkin's name or in his capacity as the executor of the estate.

5. Between in or about June 2007 and December 2010 approximately, respondent misrepresented the status of John's claims against BOA to John. Particularly, respondent repeatedly misled John to believe that his claim against BOA was pending and misrepresented that he was pursuing Cochran's claims against BOA, including that he had served a summons and complaint on BOA in or about February 2010, and that he had reached a settlement of Cochran's claims with BOA in or about December 2010, when respondent knew that these statements were false.

6. In or about January 2012, John discovered from BOA's counsel that the Court of Appeal had affirmed the summary judgment in favor of BOA. After this discovery, John and his daughter, Kelly Mills ("Mills"), confronted respondent on or about January 20, 2012, and respondent acknowledged that he had lied and misled John about the status of his case.

7. On or about November 12, 2013 and March 17, 2014, an investigator from the State Bar of California ("State Bar") sent letters to respondent requesting that he provide a written response to a complaint submitted against him by Mills on behalf of Cochran and John and identified as case no. 13-O-15018. Respondent received the letters, but respondent did not cooperate and participate in the State Bar's investigation of this matter. While respondent informed the State Bar's investigator in a letter dated March 31, 2014 that he would provide a written response to the State Bar complaint against him by April 7, 2014 and then told the investigator on April 7, 2014 that his response would be delivered on April 9, 2014, respondent never provided the State Bar with his written or substantive response to the complaint.

CONCLUSIONS OF LAW:

8. By representing to his client that he was pursuing the client's claims against BOA between June 2007 and December 2010 approximately, including that he had served a summons and complaint on BOA in or about February 2010, and that he had reached a settlement of the client's claims with BOA in or about December 2010, when he knew the representations were false, respondent committed acts involving moral turpitude and dishonesty in willful violation of Business and Professions Code section 6106.

9. By not providing the State Bar with a written or substantive response to the complaint submitted by Mills, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)):

Case No. 12-O-10271

Effective December 6, 2012, respondent was suspended for two years, stayed, and placed on three years of probation with an actual 30-day suspension. Respondent stipulated that he failed to promptly pay out settlement funds as requested by his client. While representing a married couple, he settled a construction defect matter for \$15,000 in December 2010. During the course of the case, his clients separated but each agreed to accept \$5,000 with the remainder to go to respondent for attorney fees. Although respondent paid \$5,000 to the wife, a dispute later arose between the couple, resulting in a delay of the final payout for several months. When the couple finally agreed that \$5,000 should go to the husband, respondent did not distribute the money due to the press of business in his office. He ultimately gave the husband \$10,000, forgoing his fee to make up for the delay.

In mitigation, respondent cooperated with the State Bar's investigation and gave up his fee. Respondent's prior record of discipline was an aggravating factor, but was given less weight because the misconduct was contemporaneous to, and less serious than, his misconduct related to his second discipline.

Case Nos. 11-O-10016 and 11-O-14021

Effective July 4, 2012, respondent was suspended for two years, stayed, placed on two years of probation with a 30-day actual suspension and he was ordered to take the MPRE. Respondent stipulated to two counts of misconduct in two matters. In the first, he received \$120,000 from a bankruptcy trustee

on behalf of a client in June 2009, but allowed the balance in his client trust account to fall below the required amount beginning on or about July 10, 2009. On August 31, 2009, he gave the client \$80,000 but only an additional \$8,200 of the \$20,000 he still owed. His client trust account balance fell to \$67.06 on November 19, 2010. He eventually paid the client \$16,300 but stipulated that he did not maintain a proper balance in his trust account.

In a malpractice case, respondent repeatedly told his client between in or about February 2004 and in or about November 2011 that he was working on the matter when he was not. Although he filed a lawsuit on November 17, 2004, he then dismissed it pursuant to an arbitration clause on or about March 29, 2005. The client repeatedly contacted respondent for more than six years, but he failed to schedule an arbitration hearing or contact opposing counsel. Respondent stipulated that he failed to perform legal services competently.

Respondent's prior private reproof in 2004 was an aggravating factor.

Case No. 02-O-14730

Effective August 10, 2004, respondent was privately reproofed for failing to perform legal services competently in personal injury matter by failing to maintain his client trust account properly and failing to adequately supervise his staff in maintaining his client trust account properly in 2002.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent made misrepresentations to his client, including that he had filed an action against BOA for the client in February 2010 and that he had settled the client's claims with BOA in December 2010, and respondent failed to cooperate in a State Bar investigation.

Additional aggravating circumstance: Respondent's violation of Business and Professions Code section 6068(i) occurred while he was serving disciplinary probation in case nos. 12-O-10271, 11-O-10016 and 11-O-14021, and while he was reporting to the Office of Probation that he had complied with the State Bar Act.

MITIGATING CIRCUMSTANCES.

Additional mitigating circumstances:

Pretrial Stipulation: Respondent has stipulated to facts and culpability prior to the commencement of trial, and thereby saved State Bar resources and time. [Insert supporting facts] (*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].)

Atonement: On or about March 12, 2012, respondent acknowledged his wrongdoing to the client, and to atone for his misconduct, paid the client a total of \$13,000 between July 25 and November 15, 2012 approximately.

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 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.) 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).)

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."

Standard 2.7 provides disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law.

Standard 1.8(b) provides that if a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

Respondent's prior discipline includes two actual suspensions of 30 days. As for the timing of respondent's present misconduct, some of his misconduct was contemporaneous to his misconduct in his second and third discipline matters (which occurred from in or about February 2004 to November 2011) and some of the prior misconduct occurred after his present misconduct. Respondent had not been disciplined in his second and third discipline matters before his misconduct occurred in the present matter. Thus, respondent was not provided the "opportunity to 'heed the import of that discipline.' [Citation.]" (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171.) Usually, all of the misconduct that occurred during the same time period should be considered to determine what

discipline would have been recommended had all of the charges been brought at the same time. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619 [aggravating factor of prior discipline generally diminished if misconduct occurred during same period].) However, in this case, not all of respondent's present misconduct occurred at the same time of his misconduct in his second and third discipline matters. Respondent's failure to cooperate in the State Bar's investigation of this matter occurred in late 2013 and in 2014, long after he was disciplined in his last matter and occurred while he was serving his disciplinary probation and representing that he was in compliance with the State Bar Act.

As for the magnitude of respondent's present misconduct, the gravamen of respondent's misconduct was his misrepresentations to his client about the status of the client's matter. Yet, respondent did perform substantial services for his client as he pursued remedies against Bank of America and obtained a default judgment against Minkin and the client was not substantially harmed by the misrepresentations made by respondent since the court had granted summary judgment for Bank of America. Respondent did display some recognition of wrongdoing and atonement for his misconduct by paying the client \$13,000, but his failure to cooperate with the State Bar's investigation while he was serving his disciplinary suspension demonstrates a failure to appreciate the seriousness of this matter and a disregard of his probation conditions. Respondent's prior misconduct in case no. 11-O-14021 involved similar misconduct in that respondent repeatedly told his client that he was working on the client's matter when he was not working on the matter. Yet, respondent stipulated in case no. 11-O-14021 that he failed to perform, and there was no conclusion that his misconduct involved moral turpitude. Respondent's other misconduct in his second discipline (case no. 11-O-1016) and his misconduct in his first discipline primarily concerned respondent's handling of his client trust account and did not involve moral turpitude.

Even in the absence of compelling mitigation, the Supreme Court has not always ordered disbarment for recidivism. In *Conroy v. State Bar* (1991) 53 Cal.3d 495, Conroy received a one-year suspension for withdrawing as counsel without cooperating with successor counsel, failing to communicate with the client, making affirmative misrepresentations to the client, and failing to perform competently. Conroy had no mitigation and his conduct was aggravated by no cooperation with the State Bar, a prior private reproof and a prior 60-day suspension for failing to take the Professional Responsibility Examination within a one-year period specified in the probation conditions of his private reproof. The Supreme Court rejected the Review Department's recommendation of six months actual given the prior record of discipline, citing to *Hansen v. State Bar* (1978) 23 Cal.3d 68 and *Carter v. State Bar* (1988) 44 Cal.3d 1091. Hansen failed to prosecute his client's tort and workers' compensation claim and misrepresented that the actions were progressing well. Hansen received a six-month actual suspension but he had no prior record of discipline. Carter also received six-month actual suspension and a two-year probation for willfully neglecting and abandoning a client, failing to communicate, knowingly deceived the client to believe that his case was awaiting a trial date, improperly withdrawing from employment, and failing to return unearned fees and client files. Carter had a prior public reproof for mishandling two client matters, but no habitual neglect was found, and there were no mitigating factors. The Court concluded that the attorney displayed a cavalier disregard of his clients' interests which could easily recur in the future and an "apparent lack of insight into the wrongfulness of his actions." (*Id.* at 1100, citing *Sodikoff v. State Bar* (1975) 14 Cal.3d 422, 432.) The level of discipline was based on factors of "dishonesty, prolonged neglect, prior discipline, failure to appreciate the gravity of misconduct, and lack of mitigating factors." (*Id.* at p. 1101.)

Here, given respondent's prior misconduct and his subsequent failure to participate in a State Bar investigation, substantial discipline is warranted. Thus, a one-year actual suspension and a two-year

stayed suspension and probation is necessary to satisfy the primary purposes of discipline and is consistent with Supreme Court cases involving similar misconduct by an attorney with a prior record of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

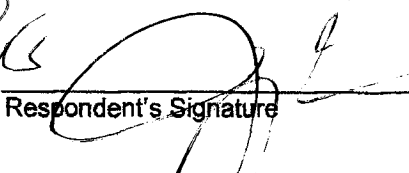
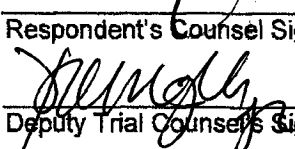
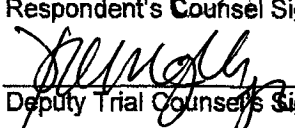
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 22, 2015, the prosecution costs in this matter are \$7,252. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: Jerry A. LaCues	Case number(s): 13-O-15018-LMA
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>6/28/15</u>		Jerry A. LaCues
Date	Respondent's Signature	Print Name
<u>6/28/15</u>		
Date	Respondent's Counsel Signature	Print Name
<u>6/28/15</u>		Diane J. Meyers
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: Jerry A. La Cues	Case Number(s): 13-O-15018-LMA
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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 5 of the stipulation, in paragraph 8. INSERT an "X" in the box next to the paragraph which states, "Within one (1) year of the effective date of discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of Ethics School"

DELETE the "X" from the box in paragraph 8 that appears next to the words "No Ethics School recommend. . . ."

On page 6 of the stipulation, in paragraph F(1), INSERT an "x" in the box next to the number "(1)" that is followed by the language, "Multistate Professional Responsibility Examination: Respondent must provide proof of passage of the Multistate Professional Responsibility Examination"

DELETE THE "X" from the box on page 6 of the stipulation, in paragraph F(1), which appears next to the words, "No MPRE recommended."

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

JUL 20, 2015


LUCY ARMENDARIZ
Judge of the State Bar Court

(Effective July 1, 2015)

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 July 20, 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 San Francisco, California, addressed as follows:

JERRY A. LACUES
LAW OFC JERRY A LACUES
14726 RAMONA AVE
4TH FL # S7
CHINO, CA 91710

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

DIANE J. MEYERS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 20, 2015.



Mazie Yip
Case Administrator
State Bar Court