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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Sue Hong</b> <b>Deputy Trial Counsel</b> <b>Office of Chief Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1161</b>  <b>Bar # 285852</b>	<b>Case Number(s):</b> <b>13-O-17221;</b> <b>14-O-00536</b>	<b>For Court use only</b>  <b>FILED</b>  <b>APR 08 2015</b>  <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>In Pro Per Respondent</b>  <b>Neil N. X. Nguyen</b> <b>Law Offices of Neil Nguyen &amp; Associates</b> <b>14550 Magnolia St Ste 201-202</b> <b>Westminster, CA 92683</b> <b>(714) 892-2628</b>  <b>Bar # 181143</b>	<b>PUBLIC MATTER</b>	
<b>In the Matter of:</b> <b>NEIL NGHIA XUAN NGUYEN</b>  <b>Bar # 181143</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	

**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 13, 1995**.
- (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."

- (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 : **11-O-12857**
  - (b) ☒ Date prior discipline effective : **June 20, 2012**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **RPC 3-110(A)[Failure to Perform Competently]; RPC 4-100(B)(4)[Failure to Promptly Pay Client Funds in Possession of Member]; B&P Code sections 6125 and 6126[Unauthorized Practice of Law]; B&P Code section 6068(a)[Failure to Support Constitution and Laws of U.S. and of this State].**
  - (d) ☒ Degree of prior discipline : **one year of stayed suspension and two years of probation.**
  - (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.

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- (5) ☒ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See attachment at page 9.**
- (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.
- (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 at page 9.**
- (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:** See attachment at page 9.  
**Community Service:** See attachment at page 9.

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) 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 (2) 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 **sixty (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:**

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- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(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: .
- (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:**

(Effective January 1, 2014)

Actual Suspension

- (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: **In Case No. 11-O-12857, respondent was previously ordered to complete and provide proof of passage of the MPRE, with which respondent complied by May 15, 2014.**
- (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:                      Niel Nghia Xuan Nguyen

CASE NUMBERS:                        13-O-17221; 14-O-00536

**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-17221 (Complainant: Hung Nguyen)

**FACTS:**

1. On May 21, 2012, in Case No. S199347 (State Bar Case No. 11-O-12857), the Supreme Court of California filed an order imposing discipline as to respondent consisting of a one year stayed suspension, and two years' probation. Respondent was required to complete the Multistate Professional Responsibility Examination ("MPRE") within one year of the effective date of the discipline.

2. The discipline became effective on June 20, 2012.

3. On July 5, 2013, respondent filed a request for extension of time to take and pass the MPRE with the State Bar Court.

4. On July 23, 2013, the State Bar Court issued an order in Case No. 11-O-12857, denying respondent's motion for extension to take and pass the MPRE, and suspended respondent from the practice of law effective August 12, 2013, pending proof of passage of the MPRE.

5. On November 1, 2013, respondent appeared on a Little Saigon radio talk show in Orange County, California. During his appearance on the radio talk show, respondent gave legal advice to callers with questions.

6. On May 15, 2014, the State Bar Court issued an order terminating respondent's suspension from the practice of law after respondent presented proof that he had passed the MPRE.

**CONCLUSIONS OF LAW:**

7. By holding himself out as entitled to practice law and actually practicing law when he was not an active member of the State Bar by providing legal advice to callers on the Little Saigon radio show on November 1, 2013, respondent was in violation of Business and Professions Code sections 6125 and 6126, and thereby willfully violated Business and Professions Code section 6068(a).

8. By holding himself out as entitled to practice law and actually practicing law when respondent knew he was not an active member of the State Bar by providing legal advice to callers on the Little

Saigon radio show on November 1, 2013, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

Case No. 14-O-00536 (Complainant: Paul Datko)

FACTS:

9. On May 21, 2012, in Case No. S199347 (State Bar Case No. 11-O-12857), the Supreme Court of California filed an order imposing discipline as to respondent consisting of a one year stayed suspension, and two years' probation. Respondent was required to complete the Multistate Professional Responsibility Examination ("MPRE") within one year of the effective date of the discipline.

10. The discipline became effective on June 20, 2012.

11. On July 5, 2013, respondent filed a request for extension of time to take and pass the MPRE.

12. On July 23, 2013 the State Bar Court issued an order in Case No. 11-O-12857, denying respondent's motion for extension to take and pass the MPRE, and suspended respondent from the practice of law effective August 12, 2013, pending proof of passage of the Multistate Professional Responsibility Examination ("MPRE").

13. On September 18, 2013, respondent signed an authorization letter as attorney of record, on his professional letter head of Neil X. N. Nguyen, Esq. & Associates, and submitted the letter to Mercury Insurance to obtain all accident records pertaining to his client.

14. On May 15, 2014, the State Bar Court issued an order terminating respondent's suspension from the practice of law after respondent presented proof that he had passed the MPRE.

CONCLUSIONS OF LAW:

15. By holding himself out as entitled to practice law and actually practicing law by submitting a letter to Mercury Insurance company on behalf of his client, as attorney of record on his professional letter head on September 18, 2013, when he was not an active member of the State Bar, respondent was in violation of Business and Professions Code sections 6125 and 6126, and thereby willfully violated Business and Professions Code section 6068(a).

16. By holding himself out as entitled to practice law and actually practicing law when respondent knew he was not an active member of the State Bar by submitting a letter to Mercury Insurance company on behalf of his client, as attorney of record on his professional letter head on September 18, 2013, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.



## **AGGRAVATING CIRCUMSTANCES.**

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

In Case No. 11-O-12857, respondent stipulated to three counts of misconduct in two personal injury matters. Respondent was disciplined to one year of stayed suspension and two years of probation, which became effective on June 20, 2012.

In Case No. 11-O-12857 (11-O-15771), effective July 1, 2011, respondent was placed on Not Entitled Status for failing to comply with his Minimum Continuing Legal Education ("MCLE") requirements. Respondent remained enrolled in Not Entitled Status until September 2, 2011, when he complied with MCLE requirements.

Respondent allowed a non-attorney employee to send two letters on his letterhead on July 12, 2011, and July 25, 2011, while respondent was not entitled to practice law. Respondent stipulated that by failing to adequately supervise his staff, he failed to perform legal services competently.

In a second personal injury case, respondent prepared and sent letters on his letterhead on July 19, 2011, July 27, 2011, and August 9, 2011, while respondent was not entitled to practice law. In addition, respondent failed to pay out client funds when the medical payment disbursements were made on January 26, 2008. Although he was able to negotiate a reduction of his client's medical bill, he did not give his client her share of the savings, nor did he promptly pay the insurance company after the claim settled. Respondent stipulated to failing to promptly pay any funds in respondent's possession which the client is entitled to receive, and practicing law when he was not entitled to practice law.

### **Indifference (Std. 1.5(g)):**

The instant misconduct occurred while respondent was still on probation for the misconduct in case Nos. 11-O-12857 and 11-O-15771. Respondent has demonstrated a lack of remorse, lack of insight, and failure to appreciate the seriousness of misconduct, which is an aggravating circumstance. (See *In the Matter of Primos* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824, 830; *In the Matter of Wolff* (Review Dept. 2005) 5 Cal. State Bar Ct. Rptr. 1, 14.)

## **MITIGATING CIRCUMSTANCES.**

**Good Character (Standard 1.6(f)):** Respondent has provided 11 good character letters from persons in the legal and general communities, who are aware of respondent's misconduct, and attest to respondent's good character.

**Pro Bono Work and Community Service:** Respondent has provided legal services on a pro bono basis to the League of Armed Forces of the Republic of South Vietnam of Southern California from 1998 to present, the United Latin Soccer League from 2002 to present, the Rainbow Music Production from 2006-2008, Goi Dan Magazine from 2009-2012, Pearl In The Heart Organization from 2010 to present, Former Special Forces of the Republic of South Vietnam Armed Forces from 2010 to present. In addition, respondent has been providing pro bono legal work to low-income clients since he was admitted to practice law in 1995. Respondent received a certificate of appreciation from the Asian Pacific American Legal Center on February 6, 1991 in recognition of the free legal services provided to low income Asian community in Los Angeles. August 27, 1994, received a Certificate of Appreciation

from APALC for his services provided for the IMPACT Project. August 9, 1996, received a Certificate of Appreciation from the Vietnamese American Bar Association for his contribution to the Community Activities Organized by the Vietnamese Bar Association. On October 15, 2004, respondent received a Certificate of Special Congressional Recognition for his services to the Vietnamese Community. Respondent has been volunteering at the Asian Pacific American Legal Center from 1990 to the present. On October 24, 2012, respondent received a Community Pillar Award for his contribution to the community of Santa Ana, California. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [civic service and charitable work can be mitigation as evidence of good character.]; *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono work and community service may mitigate an attorney's misconduct]; *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigation assigned for demonstrated legal abilities and zeal in undertaking pro bono work.]).

**Pretrial Stipulation:** Respondent is entitled to mitigation by entering into a stipulation of facts and conclusions of law prior to trial, thereby preserving State Bar Court 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).)

Respondent violated Business and Professions Code 6125, 6126, and 6068(a) by engaging in the unauthorized practice of law while respondent was actually suspended from the practice of law. Standard 2.6(a) is applicable to this violation. Respondent violated Business and Professions Code

section 6106 by knowingly engaging in the unauthorized practice of law. Standard 2.7 is applicable to this violation which constitutes as an act of moral turpitude. The range of discipline under Standards 2.6(a) and 2.7 is disbarment or actual suspension.

Under Standard 1.8(a), respondent's discipline in the instant case should be higher than his prior discipline. Therefore, progressive discipline is required in the instant matter and respondent's misconduct warrants at a minimum a period of actual suspension which is an increase from his prior one year stayed suspension.

Here, respondent engaged in the unauthorized practice of law on two different occasions. Considering respondent's indifference toward rectification as shown in his recent prior misconduct, which also involved the unauthorized practice of law, respondent has demonstrated an unwillingness or inability to comply with laws and therefore a lengthier actual suspension is warranted. However, in mitigation respondent should be given credit for good character attested to by a wide range of references in the legal and general communities and for his demonstrated community service. Further, respondent has also recognized his misconduct by entering into this stipulation. Therefore, a 60 day actual suspension is appropriate and serves the purpose of discipline pursuant to the standards.

In *Arm v. State Bar* (1990) 50 Cal.3d 763, an attorney who was to begin a sixty-day actual disciplinary suspension concealed the matter from a judge during discussions about an upcoming court appearance and by affirmatively representing that he might be available to appear on the first day of his suspension. The attorney had also been found culpable of commingling funds. The attorney, who had been disciplined by the State Bar three times before for dissimilar conduct (a public reproof, one year probation and no actual suspension, and a sixty-day actual suspension), received an 18-month actual suspension. The attorney in *Arm* was found to have substantial mitigation. Here, unlike respondent in *Arm*, respondent has one prior record of discipline and respondent's misconduct is less egregious than in *Arm*. Further, respondent in the present matter has mitigation demonstrating good character and community service. Therefore, a 60 day actual suspension is appropriate.

In *Chasteen v. State Bar* (1985) 40 Cal.3d 586, an attorney with one prior record of discipline committed misconduct including a failure to perform services, commingling, misappropriation and the unauthorized practice of law while under suspension by the State Bar for nonpayment of dues. (*Chasteen v. State Bar*, supra, 40 Cal.3d 586 at p. 592.) In mitigation, the attorney presented evidence that he had marital problems, was an alcoholic, and that he was seeking help including participation in alcohol rehabilitation programs. (*Chasteen v. State Bar*, supra, 40 Cal.3d 586 at p. 591.) The Supreme Court ordered the attorney suspended for five years, stayed and placed on a five year probation including a two month actual suspension from the practice of law. The court held that the two-month suspension adequately took into account the seriousness of his misconduct and the evidence presented in mitigation. Here, respondent's misconduct is less egregious, however, considering respondent has a prior disciplinary history with similar misconduct, a 60 day actual suspension is warranted.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 3, 2015, the prosecution costs in this matter are \$6,838. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

## **EXCLUSION FROM MCLE CREDIT**


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

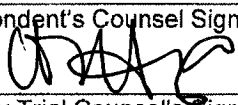
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In the Matter of: NEIL NGHIA XUAN NGUYEN	Case number(s): 13-O-17221; 14-O-00536
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### SIGNATURE OF THE PARTIES

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>03/12/2015</u> Date	<u></u> Respondent's Signature	<u>Neil Nghia Xuan Nguyen</u> Print Name
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<u>3/16/15</u> Date	<u></u> Respondent's Counsel Signature	<u>Print Name</u>
	<u>Deputy Trial Counsel's Signature</u>	<u>Sue Hong</u> Print Name

(Do not write above this line.)

In the Matter of:  
NEIL NGHIA XUAN NGUYEN

Case Number(s):  
13-O-17221; 14-O-00536

### ACTUAL SUSPENSION ORDER

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

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

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

Date

4-7-15

  
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 April 8, 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:

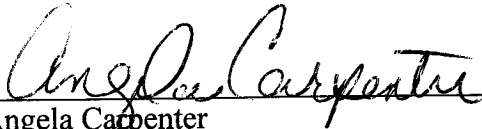
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

NEIL N. NGUYEN  
LAW OFFICES OF NEIL NGUYEN & ASSOCIATES  
14550 MAGNOLIA ST STE 201-202  
WESTMINSTER, CA 92683

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

SUE HONG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 8, 2015.

  
Angela Carpenter  
Case Administrator  
State Bar Court