

ORIGINAL

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Adriana M. Burger Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA (213) 765-1229 Bar # 92534	Case Number(s): 14-O-02079-PEM 14-O-02765 14-O-03197 14-O-04285	For Court use only PUBLIC MATTER FILED JUN 03 2015 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Edward O. Lear 5200 West Century Boulevard, Suite 345 Los Angeles, CA 90045 (310) 642-6900 Bar # 132699	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: ELISA ANN CASTRO Bar # 171814 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **September 7, 1994**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **15** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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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 **02-O-10522, 02-O-10531, 02-O-10867, 02-O-10526, including State Bar investigation matters: 03-O-02444, 03-O-02814, 02-O-10521, 02-O-14603, 03-O-00414, 03-O-00644, 03-O-01815 (Supreme Court Case No. S164141).**
- (b) ☒ Date prior discipline effective :**September 7, 2008.**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-110(A), 3-700(A)(2), 3-700(D)(2), 4-100(B)(3), and Business and Professions Code section 6068(i).**
- (d) ☒ Degree of prior discipline **One (1) year stayed suspension and five years probation. See Attachment to Stipulation, at page 12.**
- (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.
- (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. **Please see Attachment to Stipulation, at 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.

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- (11) ☒ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **Please see Attachment to Stipulation, at page 11.**
- (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: Please see Attachment to Stipulation, at page 11.

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 **ninety (90) 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.

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- (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:
 - ☐ Substance Abuse Conditions ☐ Law Office Management Conditions
 - ☐ Medical Conditions ☐ 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

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Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

☐ No MPRE recommended. Reason: .

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .
- (5) ☐ **Other Conditions:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

ELISA ANN CASTRO

CASE NUMBERS:

14-O-02079; 14-O-02765; 14-O-03197; 14-O-04285

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-O-02079 (Complainant: Maria Mejia)

FACTS:

1. On April 23, 2013, Maria Mejia employed Respondent to represent her in a marital dissolution entitled *Vidal Mejia vs. Maria Mejia*, case no. SWD1300941 in the Riverside County Superior Court. Maria Mejia agreed to pay Respondent \$4,500.
2. From April 23, 2013 to January 10, 2014, Maria Mejia paid Respondent partial payments totaling \$3,500.
3. On May 9, 2013, Respondent filed Maria Mejia's Response to Petitioner Vidal Mejia's Petition for marital dissolution.
4. On December 23, 2013, a status conference was scheduled but continued by the parties to April 28, 2014.
5. On January 30, 2014, the court referred the parties to marital counseling.
6. On, January 30, 2014, Respondent, on behalf of Maria Mejia, filed a request for an order re child custody, visitation, child support and spousal support.
7. On February 2, 2014, Maria Mejia delivered a letter to Respondent dated January 22, 2014. In the letter, Mejia terminated Respondent and requested Respondent refund all of the \$3,500 paid to Respondent. Respondent received the letter.
8. Respondent never provided any accounting of fees to Maria Mejia.
9. On March 17, 2014, Maria Mejia filed a complaint with the State Bar and an investigation was opened.
10. The State Bar investigator sent Respondent letters dated April 21, 2014, and May 8, 2014, addressed to Respondent's official membership address, requesting Respondent's response to the allegations of misconduct being investigated in case number 14-O-02079. Respondent received the letters.

11. Respondent failed to provide any substantive response to the State Bar investigator's letters dated April 21, 2014, and May 8, 2014.

CONCLUSIONS OF LAW

12. By failing to promptly render an accounting to the client regarding all the advanced fees paid to Respondent, within a reasonable time after being terminated by the client, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

13. By failing to cooperate and participate in a disciplinary investigation pending against Respondent and by failing to provide a substantive response to the State Bar's letters of April 21, 2014 and May 8, 2014, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-02079, Respondent willfully violated Business and Professions Code, section 6068(i).

Case No. 14-O-02765 (Complainant: Delmy Orellana)

FACTS:

14. On February 4, 2014, Delmy Orellana Garcia ("Orellana") employed Respondent to represent her in a family law matter, filed by Orellana in Pro Per, entitled *Delmy Garcia v. Omar Garcia*, case no. FAMSS1102556, San Bernardino County Superior Court. This matter had been filed by Orellana, in Pro Per, regarding modification of child visitation and support payments.

15. On February 5, 2014, Orellana paid Respondent \$1,000.

16. On February 4, 2015, Orellana told Respondent that Orellana was required to respond to Omar Garcia's proposed settlement agreement no later than February 14, 2014. Orellana provided Respondent with a copy of the proposed settlement agreement.

17. On February 4, 2015, Orellana told Respondent that there was a hearing scheduled on March 24, 2014, requiring Orellana and Respondent to attend.

18. On March 7, 2014, Omar Garcia's attorney sent Orellana a letter which stated that Omar Garcia's attorney had not received a response to the proposed settlement agreement.

19. On March 7, 2014, Orellana called Respondent and advised Respondent that Orellana had received a letter from Omar Garcia's attorney. Orellana told Respondent that Omar Garcia's attorney, had not received a response to the proposed settlement agreement. Orellana was assured by Respondent that everything was fine.

20. Thereafter, with the assistance of another attorney, Orellana looked up the court records of her case and learned that Respondent had never substituted into Orellana's matter.

21. Respondent never advised Orellana that Respondent had never substituted into Orellana's matter.

22. On March 12, 2014, Orellana delivered a termination letter to Respondent's office and requested a refund of all the advanced fees. Respondent received the letter.

23. After being terminated, Respondent never responded to Orellana's request to refund Orellana's advanced fees and never provided Orellana with any accounting of Orellana's advanced fees.

24. On April 29, 2014, Orellana filed a complaint with the State Bar and an investigation was opened.

25. On May 23, 2014 and June 12, 2014, the State Bar investigator sent Respondent letters addressed to Respondent's official membership address, requesting Respondent's response to the allegations of misconduct being investigated in case number 14-O-02765. Respondent received the letters.

26. Respondent failed to provide any substantive response to the State Bar investigator's letters dated May 23, 2014, and June 12, 2014.

27. On May 2, 2015, after the initiation of the State Bar proceedings, Respondent refunded the advanced fee of \$1,000 to Orellana.

CONCLUSIONS OF LAW:

28. By failing to substitute into Orellana's matter and failing to file a response to the proposed settlement, Respondent willfully violated Rules of Professional Conduct, rule 3-110(A)

29. By failing to advise Orellana that Respondent had not substituted into Orellana's matter, Respondent failed to keep Respondent's client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

30. By failing to promptly render an accounting to the client regarding the advanced fees paid to Respondent, within a reasonable time after being terminated by the client, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

31. By failing to substitute into Orellana's matter after the hiring date of February 4, 2014, or perform any legal services for the client, Respondent earned none of the advanced fees paid and willfully failed to refund promptly, upon Respondent's termination of employment on March 12, 2014, any part of the \$1,000 fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

32. By failing to provide a substantive response to the State Bar's letters of May 23, 2014 and June 12, 2014, that requested Respondent's response to the allegations of misconduct being investigated in case no. 14-O-02765, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent and willfully violated Business and Professions Code, section 6068(i).

Case No. 14-O-03197 (Complainant: Sofia Quezada)

FACTS:

33. October 31, 2013, Sofia Quezada ("Quezada") employed Respondent to represent Quezada in a family law matter entitled: *Sofia Contreras vs. Robert Thomas Contreras*, case no. GD043417, in the Los Angeles County Superior Court.

34. On May 21, 2014, Quezada filed a complaint with the State Bar. Based upon the allegations in her complaint, the State Bar opened an investigation.

35. The State Bar investigator sent Respondent letters dated June 13, 2014 and August 29, 2014, to Respondent's official membership address, requesting Respondent's response to the allegations of misconduct being investigated in case number 14-O-03197. Respondent received the letters.

36. Respondent failed to provide any substantive response to the State Bar investigator's letters dated June 13, 2014 and August 29, 2014.

CONCLUSIONS OF LAW:

37. By failing to provide a substantive response to the State Bar's letters of June 13, 2014 and August 29, 2014, requesting Respondent's response to the allegations of misconduct being investigated in case no. 14-O-03197, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent and willfully violated Business and Professions Code, section 6068(i).

Case No. 14-O-04285 (Complainant: Maria Aguirre)

FACTS:

38. On October 10, 2010, Maria Aguirre ("Aguirre") employed Respondent to perform legal services, regarding her marital dissolution in the case entitled *Maria R. Aguirre vs. Pedro Aguirre*, case no. RID239908, in the Riverside County Superior Court.

39. On or about March 21, 2014, Aguirre filed a complaint with the State Bar. Based upon Aguirre's allegations in the complaint, the State Bar opened an investigation.

40. The State Bar investigator sent Respondent letters dated April 29, 2014 and September 5, 2014, addressed to Respondent's official membership address, requesting Respondent's response to the allegations of misconduct being investigated in case number 14-O-04285. Respondent received the letters.

41. Respondent failed to provide any substantive response to the State Bar investigator's letters dated April 29, 2014 and September 5, 2014.

CONCLUSIONS OF LAW:

42. By failing to provide a substantive response to the State Bar's letters of April 29, 2014 and September 5, 2014, requesting Respondent's response to the allegations of misconduct being investigated in case no. 14-O-04285, Respondent failed to cooperate and participate in a disciplinary

investigation pending against Respondent and willfully violated Business and Professions Code, section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior discipline in State Bar case numbers, 02-O-10522, et.al., consisting of eleven client matters. (Supreme Court Case No. S164141). Respondent received discipline consisting of a one (1) year stayed suspension and five (5) years' probation, effective September 7, 2008. Respondent committed the misconduct between September 1999 and August 2004. Respondent stipulated to misconduct which consisted of failing to perform, failing to provide prompt accounting of fees, improperly withdrawing from representation of clients, failing to promptly refund unearned fees and failing to cooperate in the investigation of the matters.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's conduct in these four matters evidences multiple acts of misconduct.

MITIGATING CIRCUMSTANCES.

Good Character (Std. 1.6(f)): Eleven individuals, from a wide range of references in the general and legal communities, who are aware of the full extent of Respondent's misconduct in these four matters, have provided statements which attest to Respondent's extraordinarily good character and volunteer pro bono services to the poor.

Pretrial Stipulation: Respondent agreed to enter a disciplinary stipulation, and is therefore entitled to mitigating credit for saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].) However, the weight of this mitigating circumstance is tempered by Respondent's failure to cooperate in the investigation of these matters.

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 committed nine acts of professional misconduct. 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 2.15. Respondent violated Rule 3-700(D)(2) in case no. 14-O-2765 (Orellana) by not promptly refunding the unearned fees to Ms. Orellana. Standard 2.15 provides that a suspension not to exceed three years or a reproof, is appropriate, for a violation of a provision of the Business and Professions Code or the Rules of Professional Conduct not specified in the Standards. In addition, Standard 1.8(a) provides that "[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust." Accordingly, Respondent's instant discipline should be higher than her prior discipline.

Respondent is entitled to receive mitigation for her good character. Eleven individuals from the general and legal community, having knowledge of the extent of the misconduct in these four matters, have provided statements which attest that Respondent has helped them and has exemplary character. Respondent refunded unearned fees in the Orellana matter during these proceedings. Respondent has also agreed to enter a disciplinary stipulation, and is therefore entitled to mitigating credit for saving the State Bar significant resources and time.

Here, the misconduct in the present matter is similar to the misconduct committed by Respondent in her prior discipline matter. Therefore, although Respondent has mitigating circumstances, the aggravating circumstances are more prominent. There are fewer client matters in the present case than the number of client matters in the prior discipline. However, the multiple acts of wrongdoing committed by Respondent in close proximity of time to the prior discipline is a serious factor in this matter. The prior discipline did not prevent recidivism. Since public protection is primary, and because Respondent has a prior discipline consisting of a stayed suspension, under the Standards, progressive discipline consisting of an actual suspension is warranted in this matter. Accordingly, two years suspension, stayed, and two years' probation with conditions, and a 90-days' actual suspension is warranted in this matter.

Case law also supports a 90-day actual suspension. In *Bach v. State Bar* (1991) 52 Cal.3d 1201 the client retained Bach to obtain a dissolution of her marriage, paying Bach \$3,000 in advance. Bach failed to communicate with the client for months at a time despite repeated telephone calls and office visits; never obtained the dissolution; and purported to withdraw from the dissolution proceeding in March of 1987 without the consent of either the client or the superior court and without returning the unearned portion of the fees advanced. The California Supreme Court ordered Bach to be suspended from the practice of law for one year but ordered that execution of the suspension order be stayed, and that Bach be placed on probation for one year with probation conditions, including actual suspension for the first 30 days of the probationary period and until Bach made restitution to the client.

In *Amante v. State Bar* (1990) 50 Cal.3d 247, the California Supreme Court ordered Amante be suspended from the practice of law for three years, but stayed the execution with conditions that Amante was placed on probation for three years, and be actually suspended for six months. Amante had committed multiple acts of misconduct in five matters which included failure to perform and communicate. Amante also committed trust account violations, which did not occur in this present matter. Amante also had no prior record of discipline. Unlike *Amante*, Respondent has one prior discipline.

Respondent's misconduct in the present matter was more egregious than the one client matter in *Bach* and less egregious than the five client matters described in *Amante*. Amante was also culpable of misappropriating client funds in two of the five matters. There is no allegation of misappropriation in the present matter. Unlike *Amante*, Respondent has one prior discipline and two client matters involving similar violations.

The primary purpose of attorney discipline is 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. Discipline consisting of a two year suspension, stayed, and two years' probation with conditions, and including a 90-days' actual suspension, is warranted and consistent with the Standards and case law.

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>
14-O-03197	Eight	Business and Professions Code section 6068(m)
14-O-03197	Nine	Rules of Professional Conduct, rule 4-100(B)(3)
14-O-04285	Eleven	Rules of Professional Conduct, rule 3-110(A)
14-O-04285	Twelve	Business and Professions Code section 6068(m)
14-O-04285	Thirteen	Business and Professions Code section 6068(m)
14-O-04285	Fourteen	Rules of Professional Conduct, rule 4-100(B)(3)
14-O-04285	Fifteen	Rules of Professional Conduct, 3-700(D)(2)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 1, 2015, the prosecution costs in this matter are \$5,680.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT


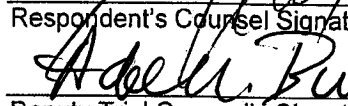

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: ELISA ANN CASTRO	Case number(s): 14-O-02079 14-O-02765 14-O-03197 14-O-04285
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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.

Date	Respondent's Signature	Elisa Ann Castro
5/13/15		Print Name
Date	Respondent's Counsel Signature	Edward O. Lear
5/18/15		Print Name
Date	Deputy Trial Counsel's Signature	Adriana M. Burger
		Print Name

(Do not write above this line.)

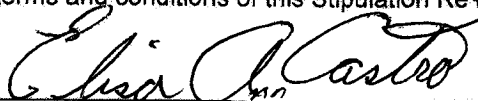
In the Matter of: ELISA ANN CASTRO	Case number(s): 14-O-02079 14-O-02765 14-O-03197 14-O-04285
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SIGNATURE OF THE PARTIES

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.

5-11-15

Date



Respondent's Signature

Elisa Ann Castro

Print Name

Date

Respondent's Counsel Signature

Edward O. Lear

Print Name

Date

Deputy Trial Counsel's Signature

Adriana M. Burger

Print Name

(Do not write above this line.)

In the Matter of: ELISA ANN CASTRO	Case Number(s): 14-O-02079; 14-O-02765; 14-O-03197; 14-O-04285
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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.

1. On page 2 of the Stipulation, at paragraph B.(1)(a), all the case numbers are deleted, and in their place are inserted "02-O-10521; 02-O-10522; 02-O-10526; 06-O-13303 (Cons.) (Supreme Court case No. S164141)".
2. On page 2 of the Stipulation, at paragraph B.(1)(d), "page 12" is deleted, and in its place is inserted "page 11".
3. On page 5 of the Stipulation, the "X" in the box at paragraph E.(10) is deleted.
4. On page 9 of the Stipulation, at numbered paragraph 28, line 2, "repeatedly failed to perform legal services with competence and therefore" is inserted after "Respondent".
5. On page 11 of the Stipulation, at the paragraph regarding Respondent's prior record of discipline, line 2, "02-O-10522, et.al.," is deleted, and in its place is inserted "02-O-10521, etc.".

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.)**

June 1, 2015
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, 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 San Francisco, on June 3, 2015, I deposited a true copy of the following document(s):

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

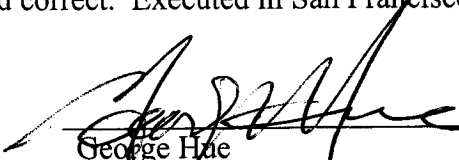
in a sealed envelope for collection and mailing on that date as follows:

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

EDWARD O. LEAR
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Adriana M. Burger, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 3, 2015.


George Hae
Case Administrator
State Bar Court