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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		ORIGINAL
Counsel For The State Bar William Todd Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2515 213-765-1491 Bar # 259194	Case Number(s): 14-O-03663-DFM, 14-O-04211	For Court use only <div style="text-align: center;"> <p style="font-size: 1.5em; font-weight: bold;">FILED</p> <p style="font-size: 1.2em;">APR 29 2015 <i>Pro</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div>
Counsel For Respondent Dick R. Runels 2122 North Broadway #100 Santa Ana, CA 92706 714-547-0726 Bar # 42362	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of: FRANK FRANCIS BARILLA Bar # 103282 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 10, 1982**.
- (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".

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- (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: **the two billing cycles immediately following the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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 **10-O-10205, 11-O-10871**
 - (b) Date prior discipline effective **January 12, 2012**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct rules 1-311(D) and 3-110(A)**
 - (d) Degree of prior discipline **Private reproof**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

Please see "Attachment to Stipulation," at page 10.

- (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.

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- (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. **Please see "Attachment to Stipulation," at page 11.**
- (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.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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(13) No mitigating circumstances are involved.

Additional mitigating circumstances:

Please see "Pre-trial stipulation" in "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 **one year**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **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 **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.

(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: **Respondent is currently under order from his prior discipline effective July 26, 2014 to complete Ethics School by July 26, 2015.**
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

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No MPRE recommended. Reason: **Respondent complied with an MPRE requirement on April 6, 2013 incident to his prior discipline. Since the misconduct in the current matter occurred before Respondent took and passed the MPRE in April 2013, public protection does not require that Respondent repeat it.**

- (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:**

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In the Matter of: FRANK FRANCIS BARILLA	Case Number(s): 14-O-03663, 14-O-04211
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Jose Argueta	\$3,990	April 2, 2012
Jamilia Jones	\$4,500	October 15, 2012

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: FRANK FRANCIS BARILLA

CASE NUMBERS: 14-O-03663, 14-O-04211

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. 14-O-03663 (Complainant: Jose Argueta)

FACTS:

1. On February 9, 2012, client Jose Argueta hired Respondent to prepare and negotiate a residential mortgage loan modification. On that same day, Argueta paid Respondent an advance fee of \$1,000 for the loan modification.
2. On March 6, 2012, Argueta paid Respondent an additional advance fee of \$1,495 to prepare and negotiate Argueta's residential mortgage loan modification.
3. On April 2, 2012, Argueta paid Respondent an additional advance fee of \$1,495 to prepare and negotiate Argueta's residential mortgage loan modification.
4. At the time Respondent received the \$3,990 in fees from Argueta, Respondent had not completed all of the home mortgage loan modification services that he agreed to perform on behalf of Argueta.
5. Respondent has not refunded any portion of Argueta's \$3,990 advance fee.

CONCLUSION OF LAW:

6. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a client and borrower, namely Argueta, and demanding, charging, collecting and receiving fees from Argueta prior to fully performing each and every service he contracted to perform or represented he would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 14-O-04211 (Complainant: Jamilia Jones)

FACTS:

7. On August 12, 2012, client Jamilia Jones hired Respondent to prepare and negotiate a residential mortgage loan modification on Jones's behalf.

8. On August 15, 2012, Jones paid Respondent an advance fee of \$1,700 to prepare and negotiate Jones's residential mortgage loan modification.

9. On September 14, 2012, Jones paid Respondent an additional advance fee of \$1,400 to prepare and negotiate Jones's residential mortgage loan modification.

10. On October 15, 2012, Jones paid Respondent an additional advance fee of \$1,400 to prepare and negotiate Jones's residential mortgage loan modification.

11. At the time Respondent received the \$4,500 fees in from Jones, Respondent had not completed all of the home mortgage loan modification services that he agreed to perform on behalf of Jones.

12. Respondent not refunded any portion of Jones's \$4,500 advance fee.

CONCLUSIONS OF LAW:

13. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a client and borrower, namely Jones, and demanding, charging, collecting and receiving fees from Jones prior to fully performing each and every service he contracted to perform or represented he would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has two prior records of discipline.

By stipulation, the State Bar Court privately reprovved Respondent on February 2, 2012 for two violations of Rules of Professional Conduct rule 1-311(D) after Respondent employed a disbarred attorney in two client matters without notifying the State Bar. Respondent also failed to supervise that attorney in the same pair of client matters, in violation of Rules of Professional Conduct rule 3-110(A). Mitigating circumstances included the absence of prior discipline in 30 years of practice and Respondent's acceptance of responsibility for his misconduct. There were no aggravating circumstances.

Respondent's second record of prior discipline was effective July 26, 2014. Respondent stipulated to violations of Business and Professions Code section 6106.3 in two matters based on his failure to comply with California Civil Code sections 2944.6 and 2944.7, and another section 6106.3 violation in a third client matter, based on his failure to comply with Civil Code section 2944.7, for a total of five violations. The level of discipline imposed included a one-year suspension, stayed, with a two-year suspension and a 30-day actual suspension.

The aggravating force of prior discipline is generally diminished if the misconduct underlying that discipline occurred during the same time period as the current misconduct. (See *In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171; *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136.) The misconduct described in Respondent's second prior record occurred just prior to the misconduct in the Argueta matter, and several months before the Jones matter. However, by the time Respondent was prosecuted in what would become his second record of prior discipline, Respondent had already committed all of the misconduct described in the instant case.

Since part of the rationale for considering prior discipline as an aggravating factor is that it is typically indicative of a recidivist attorney's inability to conform his conduct to ethical norms, it is appropriate here to consider the fact that the misconduct here was contemporaneous with the misconduct in the prior case, thus diminishing the aggravating force of the prior misconduct. (See *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619; see also *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646.)

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed acts of misconduct in multiple client matters.

Failure to Make Restitution (Std. 1.5(i)): To date, Respondent has not made restitution to either Argueta or Jones for the advance loan modification fees Respondent improperly received from each of them.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent has admitted his culpability by stipulating to facts, conclusions of law and disposition, thereby saving State Bar Court time and resources. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, Respondent violated Business and Professions Code section 6106.3 in two client matters. Standard 2.14 provides that disbarment or actual suspension is appropriate for any violation of a provision of Article 6 of the Business and Professions Code not otherwise specified in these Standards. Though the State Bar Court previously disciplined Respondent for identical conduct in three other matters, Respondent had already made restitution at the time the parties entered a stipulation in those cases. Respondent has not made restitution in these cases, which suggests that the 30 days of actual suspension ordered in the second prior is an insufficient level of discipline when the current misconduct is added and considered

A comparable case is *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221. In *Taylor*, the Review Dept. held the attorney culpable for accepting advance fees in eight loan modification matters in violation of Business and Professions Code section 6106.3. The attorney committed multiple acts of misconduct, caused significant harm, committed misconduct in a larger number of matters, displayed indifference towards the rectification of his misconduct and did not pay restitution to the majority of his clients in advance of his disciplinary trial. Mitigating factors included the absence of prior misconduct and limited evidence of good character.

Though Respondent's misconduct here is less severe than that in *Taylor*, the presence of prior misconduct, multiple acts of misconduct and failure to make restitution proves aggravation similar to that in *Taylor*, with a pre-trial stipulation as the only mitigation. However, the six months of actual suspension in *Taylor* is too severe for this Respondent's misconduct. Instead, the appropriate discipline is a one-year suspension, stayed, with two years of probation to include 90 days of actual suspension with rule 9.20 compliance, and until all restitution is paid.

COSTS OF DISCIPLINARY PROCEEDINGS.

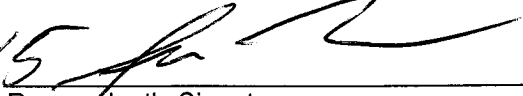
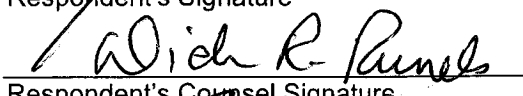

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 17, 2015, the prosecution costs in this matter are \$4,562. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: FRANK FRANCIS BARILLA	Case number(s): 14-O-03663, 14-O-04211
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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>17 APRIL 2015</u> Date	 Respondent's Signature	<u>Frank Francis Barilla</u> Print Name
<u>4-17-2015</u> Date	 Respondent's Counsel Signature	<u>Dick R. Runels</u> Print Name
<u>4-20-15</u> Date	 Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

(Do not write above this line.)

In the Matter of: FRANK FRANCIS BARILLA	Case Number(s): 14-O-03663-DFM and 14-O-04211-DFM (Consolidated)
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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)(b), "January 12, 2012" is deleted, and in its place is inserted "February 2, 2012".
2. On page 4 of the Stipulation, at paragraph D.(3)(a)(ii), "and provides satisfactory proof of such restitution to the State Bar's Office of Probation" is inserted after "stipulation".
3. On page 10 of the Stipulation, under the heading "Prior Record of Discipline (Std. 1.5(a))," second paragraph, line 6, "two-year suspension" is deleted, and in its place is inserted "two-year probation".

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.)**

April 28, 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 Los Angeles, on April 29, 2015, I deposited a true copy of the following document(s):

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

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:

**DICK RAYMOND RUNELS
2122 N BROADWAY
SANTA ANA, CA 92706**

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

WILLIAM TODD, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 29, 2015.



Cleaver, Tamar
Case Administrator
State Bar Court