



(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles DISBARMENT		
Counsel For The State Bar R. Kevin Bucher Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1630 Bar # 132003	Case Number(s): 14-O-04026-DFM; 14-O-04815; 14-O-05386; 14-O-05959; 14-O-06202; 14-J-05673	For Court use only <div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">PUBLIC MATTER</div> <div style="font-size: 1.5em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div style="font-size: 1.2em; font-weight: bold; margin-bottom: 10px;">OCT 26 2015</div> <div style="font-size: 1.2em; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
Counsel For Respondent Paul Jean Virgo 9909 Topanga Boulevard, #282 Chatsworth, CA 91311 (310) 666-9701 Bar # 67900	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: RICHARD CLAY MENDEZ Bar # 199927 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 10, 1998**.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(18)** 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."

RV
10-16

- (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):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **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.

(Do not write above this line.)

- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. See attachment, page 14
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment, page 14
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution. See attachment, page 15
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances: Pending disciplinary stipulation, see attachment, page 15.

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Lack of Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

(Do not write above this line.)

- (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 subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances: Stipulation Before Trial, see attachment, page 15

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **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.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other: Restitution - See Financial Conditions Attachment**

(Do not write above this line.)

In the Matter of: RICHARD CLAY MENDEZ	Case Number(s): 14-O-04026; 14-O-04815; 14-O-05386; 14-O-05959, 14-O-06202; 14-J-05673
---	--

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
Everli and Lorena Marin	\$1,400	September 23, 2013
Alice Rodriguez	\$2,096	December 23, 2010
Francisco and Villma Fuentes	\$1,200	September 27, 2012
Ramon Alcides Marroquin Hernandez	\$2,500	April 14, 2014

- 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.

4. To date Respondent has not refunded the unearned fees and Respondent did not provide an accounting of the advanced fees upon the request of his clients.

CONCLUSIONS OF LAW:

5. By failing to prepare and file relevant court documents and to pursue bankruptcy on behalf of his clients, and by failing to supervise the work of subordinate non-attorney employees, who accepted legal fees, retained the clients, gave legal advice, offered initial case consultation and discussed case strategy, without attorney supervision or oversight, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

6. By accepting the sum of \$1,400 as advanced fees for legal services to be performed, and then failing to provide his clients with an accounting of their fees upon reasonable request, Respondent failed to render an appropriate accounting to the client regarding those funds upon the constructive termination of his employment and following the client's request for an accounting, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

7. By failing to refund to his clients any portion of unearned advanced fees upon the constructive termination of his employment and upon reasonable request by his clients, Respondent failed to refund promptly any part of the \$1,400 advanced fee to the clients, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

8. By allowing members of his non-attorney office staff to accept legal fees, retain clients, give legal advice, offer initial case consultation and discuss case strategy, without Respondent's supervision or oversight, Respondent aided his office staff, who are not licensed to practice law in California, in the unauthorized practice of law, in willful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 14-O-04815 (Alice Rodriguez)

FACTS:

9. On December 23, 2010, a non-attorney member of Respondent's office staff met with Alice Rodriguez, assessed her legal needs, offered advice on how to proceed, set a fee and accepted her as a client. Rodriguez paid Respondent's office \$2,096 in advanced fees.

10. Respondent initiated the bankruptcy proceedings then failed to appear at court hearings on May 17, 2014 and July 30, 2014, and filed a Motion to Compel Abandonment which was deficient and rejected by the court. Respondent then constructively terminated his employment in August 2014 and performed no further services for Rodriguez.

11. Thereafter, Rodriguez visited Respondent's office and requested a refund of unearned fees. To date, the fees have not been refunded.

CONCLUSIONS OF LAW:

12. By failing to prepare and file insufficient bankruptcy documents, failing to appear at hearings in bankruptcy court, and by failing to supervise the work of subordinate non-attorney employees, who accepted legal fees, retained the client, gave legal advice, offered initial case consultation and discussed case strategy, without attorney supervision or oversight, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

13. By accepting the sum of \$2,096 as advanced fees for legal services to be performed, and then failing to provide his clients with an accounting of their fees upon reasonable request, Respondent failed to render an appropriate accounting to the client regarding those funds upon the constructive termination of his employment and following the client's request for an accounting, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

14. By failing to refund to his client any portion of unearned advanced fees upon the constructive termination of his employment and upon reasonable request by his client, Respondent failed to refund promptly any part of the \$2,096 advanced fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

15. By allowing members of his non-attorney office staff to accept legal fees, retain clients, give legal advice, offer initial case consultation and discuss case strategy, without Respondent's supervision or oversight, Respondent aided his office staff, who are not licensed to practice law in California, in the unauthorized practice of law, in willful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 14-O-05386 (Arturo Castro)

FACTS:

16. On June 10, 2012, Arturo Castro went to Respondent's Long Beach office and retained Respondent, through Respondent's non-attorney office staff, to assist him in a bankruptcy matter. A member of Respondent's non-attorney office staff met with Castro, assessed his legal needs, offered legal advice, accepted Castro as a client, and accepted legal fees. Over a period of time, Castro paid a total of \$1,606 of which \$306 were costs. Respondent failed to deposit the advanced costs into his client trust account ("CTA").

17. Respondent did not provide any legal services on Castro's behalf. Approximately one year after retaining Respondent, Castro contacted Respondent's office and requested a refund. Respondent and Castro settled their fee dispute through fee arbitration.

CONCLUSIONS OF LAW:

18. By doing no work on his client's case despite having the case for over a year, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

19. By failing to deposit \$306 in advanced costs into his CTA to be held on his client's behalf, Respondent failed to deposit advanced costs that he received from the client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

20. By allowing members of his non-attorney office staff to accept legal fees, retain clients, give legal advice, offer initial case consultation and discuss case strategy, without Respondent's supervision or oversight, Respondent aided his office staff, who are not licensed to practice law in California, in the unauthorized practice of law, in willful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 14-O-05959 (Francisco and Villma Fuentes)

FACTS:

21. Francisco and Villma Fuentes ("the Fuentes") contacted Respondent's office after seeing an ad regarding bankruptcies. On April 26, 2012, a member of Respondent's non-attorney office staff went to the Fuentes' home and consulted with them regarding preparing and filing a bankruptcy petition, and the Fuentes signed a retainer agreement. Thereafter, the Fuentes paid \$200 to Respondent every month, with the final payment made on September 27, 2012, for total fees of \$1200.

22. Between 2012 and 2014, the Fuentes called Respondent's office approximately 20 times. During one of the phone calls, the Fuentes were advised by a non-attorney member of Respondent's office staff that she could not file the bankruptcy case until a loan modification was completed.

23. In September, 2014, Villma Fuentes called Respondent's office due to a lawsuit that was filed against the Fuentes by one of their creditors. A non-attorney legal assistant asked Villma Fuentes for an additional \$200 because the file was on hold for a long time. The Fuentes never requested their file to be on hold and did not pay the extra \$200.

24. No legal services were performed on behalf of the Fuentes. On September 23, 2014, the Fuentes requested a refund of their advanced fees. Respondent never refunded any part of the advanced fees.

CONCLUSIONS OF LAW:

25. By failing to perform any legal services on behalf of his clients for two years, and by failing to supervise the work of subordinate non-attorney employees, who accepted legal fees, retained the client, gave legal advice, offered initial case consultation and discussed case strategy, without attorney supervision or oversight, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

26. By failing to refund to his clients any portion of unearned advanced fees upon reasonable request by his client, Respondent failed to refund promptly any part of the \$1,200 advanced fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

27. By allowing members of his non-attorney office staff to accept legal fees, retain clients, give legal advice, offer initial case consultation and discuss case strategy, without Respondent's supervision or oversight, Respondent aided his office staff, who are not licensed to practice law in

California, in the unauthorized practice of law, in willful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 14-O-06202 (Ramon Alcides Marroquin Hernandez)

FACTS:

28. On April 14, 2014, Ramon Alcides Marroquin Hernandez retained Respondent to represent his son, Luis Alberto Marroquin Rosales, in an Immigration matter. Hernandez had authority from his son, Rosales, to retain Respondent. Hernandez paid \$2500.00 in advanced fees. At the time he was retained, Respondent was informed of an April 23, 2014 hearing date. Respondent did not appear at an April 23, 2014 hearing on the client's behalf, a ruling adverse to Rosales was reached, and Rosales was ultimately deported. Respondent took no steps to set aside the adverse ruling.

29. No legal services were performed on behalf of Hernandez or Rosales. Between April and September 2014 Hernandez made numerous attempts to telephonically contact Respondent, with no response. On September 23, 2014, Hernandez requested a refund of his fees. On October 11, 2014, Hernandez made his last call to Respondent's office and asked the status of his refund. To date Respondent has not received a refund.

CONCLUSIONS OF LAW:

30. By failing to appear and represent his client at the contested Immigration and Customs Enforcement hearing on or about April 23, 2014, and thereafter by failing to take any steps to set aside the adverse ruling against his client as a result of that hearing, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

31. By failing to refund to his client any portion of unearned advanced fees upon reasonable request by his client, Respondent failed to refund promptly any part of the \$1,200 advanced fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 14-J-05673 (State Bar Investigation)

32. PROCEDURAL BACKGROUND IN OTHER JURISDICTION:

Respondent was disciplined in the State of Iowa pursuant to Iowa Supreme Court order No. 14-0426, filed September 5, 2014. The Iowa Supreme Court Attorney Disciplinary Board brought a complaint against Respondent, charging numerous violations of Iowa's disciplinary rules. Respondent was not licensed to generally practice law in Iowa but acquired a Des Moines-based immigration practice and represented Iowa residents in federal immigration proceedings. Since Respondent was allowed to practice immigration law in Iowa pursuant to Iowa Rules of Professional Conduct 32:5.5(d)(2) he was subject to discipline. The Iowa Supreme Court, following a hearing on the merits, including presentation of evidence by both the Iowa Supreme Court Attorney Disciplinary Board and Respondent, found that Respondent was culpable of violating Iowa's rules and ordered him to cease and desist from practicing law in Iowa for sixty days.

33. BACKGROUND FACTS

Respondent began practicing in Iowa in July 2011, when he took over two branches of an immigration practice, ASESAL Immigration Services ("ASESAL"). One branch of ASESAL was located in Des Moines and the other in Grand Island, Nebraska. Respondent assumed representation of ASESAL's clients and retained the majority of ASESAL's staff. He renamed both branches "Law Office of Richard Mendez."

A. Rigoberto Flores Representation.

On September 16, 2011, Rigoberto Flores engaged Respondent to represent him in a criminal matter and paid Respondent \$1000 of their agreed \$1500 flat fee for the criminal representation.

Respondent engaged an Iowa-licensed criminal attorney to enter an appearance on Flores's behalf. Respondent and the Iowa attorney orally agreed that the Iowa attorney would be paid an hourly rate for his services from the \$1000 Flores advanced to Respondent. In actuality, the Iowa attorney was paid \$808 from Flores, by Respondent, for his services, while the Iowa attorney's records reveal he only performed \$558 of legal service. The board found that by using Flores' money to pay the Iowa attorney more than the value of his services, Respondent charged his client an unreasonable fee.

In his representation of Flores, Respondent was found culpable of violating the following Iowa rules:

Iowa Rule of Professional Conduct 32:5.5(a) [Unauthorized practice of law]
Iowa Rule of Professional Conduct 32:1.5(e)(2) [Improper division of fees]

B. Sergio Guayllas Representation.

Sergio Guayllas is a non-United States citizen who was initially represented by another attorney on a visa petition. Guayllas's petition was denied on September 8, 2011. His letter of denial informed him that he had thirty-three days from the date of the letter, or until October 8, to file his notice of appeal. On September 21, after terminating his first attorney's services, Guayllas spoke with a member of Respondent's staff and engaged Respondent to handle his appeal.

In his representation of Guayllas, Respondent was found culpable of violating the following Iowa rules:

Iowa Rule of Professional Conduct 32:1.3 [Neglect]
Iowa Rule of Professional Conduct 32:1.4 [Failure to communicate]
Iowa Rule of Professional Conduct 32:1.15(d) and 32.1.16(d) [Failure to turn over file]

C. Miguel Angel Arechiga Cuellar Representation.

On August 30, 2011, Immigration and Customs Enforcement apprehended Miguel Angel Arechiga Cuellar and detained him in the Polk County jail. On September 1, Arechiga's fiancée, Sandra Melendez, hired Respondent to represent Arechiga in a bond reduction hearing.

According to the terms of the engagement agreement, Respondent charged a flat fee of \$1500 for the bond reduction hearing.

In his representation of Arechiga, Respondent was found culpable of violating the following Iowa rules:

Iowa Rule of Professional Conduct 32:1.15(d) [Failure to refund fees]

D. Orlando Ramirez Barragan Representation.

In April 2011, Orlando Ramirez Barragan retained ASESAL to represent him in immigration matters. Barragan was to pay a total of \$4000, with \$1000 paid in advance on April 9, 2011, and the remaining money paid in monthly increments of \$200 commencing May 15, 2011. Barragan continued to make monthly payments of \$200 after July, when Respondent took over ASESAL.

At an immigration hearing on August 31, 2011, Respondent was out of the and another made a court appearance on Respondent's behalf. She not only missed the appearance but misrepresented to Barragan that the hearing didn't go forward because the judge was absent. Due to her failure to appear, the judge ordered Barragan removed in absentia.

Both Respondent and the attorney who made the court appearance continued working on the matter, both filing separate motions to re-open. The disciplinary board found that Respondent's continued representation of Barragan presented a conflict of interest, in that he failed to inform Barragan that he should retain separate counsel and file a disciplinary complaint against ASESAL to re-open his immigration matter. Respondent never communicated that information to his client.

In his representation of Barragan, Respondent was found culpable of violating the following Iowa rules:

Iowa Rule of Professional Conduct 32:1.4 [Failure to communicate]

Iowa Rule of Professional Conduct 32:1.5(e) [Improper division of fees]

CONCLUSIONS OF LAW:

34. As a matter of law, Respondent's culpability of professional misconduct determined in the proceeding in Iowa warrants the imposition of discipline under the laws and rules binding upon Respondent in the State of California at the time Respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)) – Respondent's multiple acts of misconduct, including failing to perform, failing to account, aiding the unauthorized practice of law, and failing to deposit client funds in his CTA, unauthorized practice of law, among others, evidences multiple acts of wrongdoing.

Harm (Std. 1.5(f)) – In four separate matters, clients paid Respondent to handle their bankruptcy matters, when they were in dire financial straits. Respondent then failed to perform the required services

or refund their unearned advanced fees, causing additional harm to the clients. Further, in an immigration case, Respondent failed to appear at his client's immigration hearing, contributing to his deportation, and causing serious harm to his client.

Failure to Make Restitution (Std. 1.5(i)) – In four of the California cases Respondent has failed to make restitution despite his complete failure to perform and the requests from his clients for accountings and refunds.

Pending Disciplinary Stipulation - A stipulation to a 30 day actual suspension has been signed and submitted in two other matters, case nos. 14-O-02720 and 14-O-02723. In two client matters, Respondent accepted employment to represent clients in bankruptcy matters. In both cases he accepted fees and performed some work on the clients' behalves. However, at some point in both cases he quit working on the files, failed to return calls, and moved his office without advising the client's that he was moving. The hearing department has recommended discipline and the matter is currently before the Supreme Court.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into the present stipulation prior to trial, Respondent has saved considerable State Bar time and resources (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

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

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.5(a), which applies to Respondent’s violation of Rules of Professional Conduct, rule 3-110(a) and Business and Professions Code section 6068(m), which provides disbarment is appropriate for failing to perform legal services with clients, demonstrating a pattern of misconduct. As shown below, this is a case involving multiple matters, and there is a pattern of misconduct.

The primary factors in determining if a pattern of misconduct exists or whether the conduct was habitual include the time period over which the misconduct occurred, the number of clients affected and whether there is a common thread linking the misconduct. (See, e.g. *Levin v. State Bar*(1989) 47 Cal.3d 1140, 1149 [only the most serious misconduct over a prolonged period of time could be characterized as demonstrating a pattern of wrongdoing]; *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63 [the number of clients is but one factor to be considered].)

In the present matter, there is evidence of misconduct in at least nine client matters, five in California and four in Iowa¹, occurring over a three year time span. While the multiple charges of misconduct in this matter represent misconduct ranging from failures to perform, failures to supervise, trust account violations and unauthorized practice of law in various types of representation, given the gravamen of the misconduct, that is, client abandonment and failure to perform, disbarment as afforded by standard 2.5(a) is appropriate.

Client abandonment is “serious misconduct that constitutes a breach of the fiduciary duty owed by an attorney to the client and, accordingly, warrants substantial discipline.” (See *Stanley v. State Bar* (1990) 50 Cal.3d 555, 566.) The court in *Stanley*, reiterated that disbarment is the appropriate sanction where a member of is found culpable of a pattern of wilfully failing to perform services and failing to communicate with clients. (*Stanley, supra*, (1990) 50 Cal.3d at 566, citing *Grove v. State Bar* (1967) 66 Cal.2d 680 (ten counts of misconduct, attorney disbarred), *Ridley v. State Bar* (1972) 6 Cal.3d 551 (misconduct in six matters, attorney disbarred), *Ken v. State Bar* (1987), 43 Cal.3d 729 (misconduct involving six clients, attorney disbarred), and *Cooper v. State Bar* (, 43 Cal.3d 1016 (misconduct in six matters, attorney disbarred).”

In the present matter, while the Respondent’s misconduct is not as extensive as that in *Stanley*, the number of client matters, the nature of the misconduct, and the time span of the misconduct, clearly suggest a common thread of misconduct. The Respondent lacks a true understanding of his professional responsibilities. In addition to his acts of client neglect, he set up a satellite office and allowed non-attorneys to run it without sufficient oversight. His mitigation is far outweighed by aggravation, the misconduct was serious, and continued over at least three years. Given the clear pattern of misconduct, and considering the aggravating circumstances, including harm to multiple clients, disbarment is appropriate.

¹ The equivalent California violations committed by Respondent in Iowa are: Rules of Professional Conduct, rules 2-200(A) [Fee-splitting]; 3-110(A) [Failure to perform with competence]; 3-700(D)(1) [Failure to return client file]; 3-700(D)(2) [Failure to refund unearned fees]; Business and Professions Code, sections 6068(m) [Failure to communicate]; 6068(a) [Unauthorized practice of law].

COSTS OF DISCIPLINARY PROCEEDINGS.

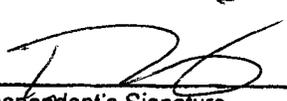
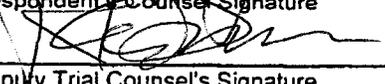
Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of September 24, 2015, the prosecution costs in this matter are \$5,680. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of RICHARD CLAY MENDEZ	Case number(s): 14-O-04026; 14-O-04365; 14-O-05386; 14-O-05959, 14-O-06202; 14-J-05673
---	--

SIGNATURE OF THE PARTIES

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

<u>10/12/15</u> Date	 Respondent's Signature	<u>RICHARD CLAY MENDEZ</u> Print Name
<u>10/15/2015</u> Date	 Respondent's Counsel Signature	<u>PAUL VIRGO</u> Print Name
<u>10-15-15</u> Date	 Deputy Trial Counsel's Signature	<u>R. KEVIN BUCHER</u> Print Name

(Do not write above this line.)

In the Matter of: RICHARD CLAY MENDEZ	Case Number(s): 14-O-04026; 14-O-04815; 14-O-05386; 14-O-05959, 14-O-06202; 14-J-05673
--	---

DISBARMENT 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.

Page 12, Paragraph 31: The number "\$1,200" is amended to read: "\$2,500".

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.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

10/26/15
Date


DONALD F. MILES
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 October 26, 2015, I deposited a true copy of the following document(s):

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

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

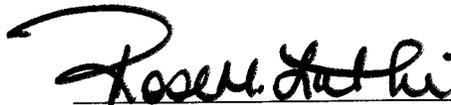
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311

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

RONALD BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 26, 2015.



Rose M. Luthi
Case Administrator
State Bar Court