

(Do not write above this line.)

State Bar Court of California  
Hearing Department  
Los Angeles  
STAYED SUSPENSION

<p>Counsel For The State Bar</p> <p><b>Agustin Hernandez</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1713</p> <p>Bar # 161625</p>	<p>Case Number(s): 14-O-06310 15-O-10704</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b></p> <p>OCT 06 2015</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p><b>Thomas Richard D'Arco</b> 7301 Topanga Canyon Blvd., Ste. 203 Canoga Park, CA 91303 (818) 992-9900</p> <p>Bar # 79929</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>STAYED SUSPENSION; NO ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>THOMAS RICHARD D'ARCO</b></p> <p>Bar # 79929</p> <p>A Member of the State Bar of California (Respondent)</p>		

**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 23, 1978**.
- (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 **11** 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".

(Effective July 1, 2015)

*B.S.*  
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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):
- Costs are added to membership fee for calendar year following effective date of discipline.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(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 or a separate attachment entitled "Prior Discipline."
- (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..
- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.

- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of 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 to Stipulation, at page 8.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances**

**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)  **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.
- (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**

**No Prior Discipline - See Attachment to Stipulation, at page 8.**

**Prefiling Stipulation - See Attachment to Stipulation, at page 8.**

**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 fitness to practice and present learning and ability in the general 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:

The above-referenced suspension is stayed.

- (2)  **Probation:**
- Respondent is 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.)

**E. Additional Conditions of Probation:**

- (1)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2)  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.
- (3)  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.

- (4)  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.

- (5)  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.
- (6)  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.
- (7)  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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8)  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.
- (9)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **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)  **Other Conditions:**

**ATTACHMENT TO**

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: THOMAS RICHARD D'ARCO

CASE NUMBERS: 14-O-06310 and 15-O-10704

**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 Rules of Professional Conduct.

Case No. 14-O-06310 (Complainant: Caridad Perez)

FACTS:

1. On August 26, 2010, Caridad Perez employed Respondent to provide home mortgage loan modification services and other mortgage loan forbearance services pertaining to her residential property located in California.
2. Between August 26, 2010, and October 27, 2010, Perez paid Respondent a total of \$2,500 in attorney's fees for the mortgage loan modification services and other mortgage loan forbearance services.
3. Prior to charging and collecting any of the advanced attorney's fees from Perez, Respondent had not fully performed each and every service that Respondent had been contracted to perform or represented that he would perform.
4. Prior to entering into a fee agreement for home mortgage loan modification services and other mortgage loan forbearance services with Perez on August 26, 2010, Respondent failed to provide the following separate written statement, in not less than 14-point bold type, as required by Civil Code, section 2944.6:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting [www.hud.gov](http://www.hud.gov).

CONCLUSIONS OF LAW:

5. By negotiating, arranging, and offering to perform a mortgage loan modification and other mortgage loan forbearance for a fee paid by Perez, and demanding, charging, collecting and receiving fees prior to fully performing each and every service that Respondent had contracted to perform or represented that he would perform, in violation of Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated of Business and Professions Code section 6106.3(a).

6. By failing to provide a separate written statement, in not less than 14-point bold type, as required by Civil Code, section 2944.6, prior to entering into a fee agreement for home mortgage loan modification services and other mortgage loan forbearance services with Perez on August 26, 2010, Respondent wilfully violated of Business and Professions Code, section 6106.3.

Case No. 15-O-10704 (Complainant: Howard and Michelle Riscen)

FACTS:

7. On March 25, 2014, Howard and Michelle Riscen employed Respondent to provide home mortgage loan modification services and other mortgage loan forbearance services pertaining to their residential property located in California.

8. On March 31, 2014, the Riscens paid Respondent \$5,850 in attorney's fees for the mortgage loan modification services and other mortgage loan forbearance services.

9. Prior to charging and collecting any of the advanced attorney's fees from the Riscens, Respondent had not fully performed each and every service that Respondent had been contracted to perform or represented that he would perform.

10. Prior to entering into a fee agreement for home mortgage loan modification services and other mortgage loan forbearance services with the Riscens on March 25, 2014, Respondent failed to provide the following separate written statement, in not less than 14-point bold type, as required by Civil Code, section 2944.6:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting [www.hud.gov](http://www.hud.gov).

11. Respondent failed to properly supervise his employees which resulted in his employees informing the Riscens that Respondent's office had submitted a home mortgage loan modification request and a settlement proposal of a home equity line of credit to the Riscens' lenders when Respondent's office had not. Thereafter, on November 20, 2014, Respondent's employees submitted a loan modification request and a settlement proposal to the lenders on behalf of the Riscens even though the Riscens had previously instructed Respondent's employees not to submit a loan modification request or settlement proposal on their behalf. This was done without Respondent's knowledge and consent.

CONCLUSIONS OF LAW:

12. By negotiating, arranging, and offering to perform a mortgage loan modification and other mortgage loan forbearance for a fee paid by the Riscens, and demanding, charging, collecting and receiving fees prior to fully performing each and every service that Respondent had contracted to perform or represented that he would perform, in violation of Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated of Business and Professions Code section 6106.3(a).

13. By failing to provide a separate written statement, in not less than 14-point bold type, as required by Civil Code, section 2944.6, prior to entering into a fee agreement for home mortgage loan modification services and other mortgage loan forbearance services with the Riscens on March 25, 2014, Respondent wilfully violated of Business and Professions Code, section 6106.3.

14. By failing to properly supervise his employees, which resulted in improper information being conveyed and work being done contrary to his clients' instructions, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

#### **AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed five acts of misconduct by charging and collecting advanced fees for loan modification services in two client matters, failing to provide these clients with the written statement required by Civil Code, section 2944.6, and failing to perform legal services with competence in one matter.

#### **MITIGATING CIRCUMSTANCES.**

**No Prior Discipline:** Although the misconduct here is serious, Respondent has 37 years of practice without any discipline which is considered highly significant mitigation. (*Friedman v. State Bar* (1990) 50 Cal.3d 235 [Practicing law for over 20 years with no prior discipline was "highly significant"].)

**Prefiling Stipulation:** Respondent is entitled to mitigation for entering into this stipulation prior to filing a notice of disciplinary charges, thereby preserving State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

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

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



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

In this matter, Respondent admits to committing five 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 2.18, which applies to respondent's violations of Business and Professions Code, sections 6106.3. Standard 2.18 provides that actual suspension or disbarment is the presumed sanction for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in the Standards. In this matter, for the reasons below, a deviation from the Standards is appropriate.

In evaluating Respondent's misconduct and determining the appropriate level of discipline, Standard 1.7(c) provides that when mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances. If the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases involving minor misconduct, where there is little or no harm to the client, the public, the legal system, or the profession, and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Here, Respondent's 37 years of practice without any discipline is highly significant mitigation. It suggests the misconduct was aberrant. Respondent is also entitled to mitigation for entering into a stipulation prior to filing a notice of disciplinary charges. Respondent's multiple acts of misconduct are an aggravating circumstance. On balance, Respondent's misconduct is significantly mitigated by his 37 years of practicing without discipline. Further, the seriousness of Respondent's misconduct is lessened by refunding the illegal fees to his clients prior to entering into this stipulation. Since Respondent refunded the illegal fees, there was little or no harm to the clients, the public, the legal system, or to the profession. By refunding fees and entering into this stipulation, Respondent has demonstrated that he is willing and able to conform to ethical responsibilities in the future.

In consideration of respondent's misconduct in two client matters, the applicable standards, the mitigating circumstances, and the aggravating circumstances, actual suspension is not necessary for public protection. A one-year stayed suspension with two years of probation is appropriate.

The level of discipline is consistent with case law involving similar misconduct. In *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, an attorney received discipline consisting of a two-year stayed suspension and two years of probation with conditions including an actual suspension of six months and until he pays restitution. Taylor collected illegal fees in violation of Civil Code, section 2944.6(a) from eight clients, and failed to provide one client with the written statement required by Civil Code, section 2944.6. In aggravation, Taylor committed multiple acts of misconduct, caused significant harm to his clients, and demonstrated indifference toward rectification or atonement for the consequences of his misconduct. In mitigation, he presented evidence of good character.

Here, Respondent's misconduct was less egregious and warrants lesser discipline. Respondent's misconduct involved two clients while *Taylor* involved eight clients. Taylor was indifferent about his misconduct. In contrast, by entering into this stipulation, Respondent has acknowledged his wrongdoing. Respondent has also already refunded the illegal fees to both clients. Although Taylor did not have a prior record of discipline, it was not considered in mitigation because he had only been practicing for a short period of time when he committed the misconduct. By contrast, Respondent's 37 years of practicing without discipline is considered highly significant mitigation. Given that Taylor received a six-month actual suspension for his misconduct, a one-year stayed suspension with two years of probation is appropriate here.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 3, 2015, the prosecution costs in this matter are \$4,044. 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**

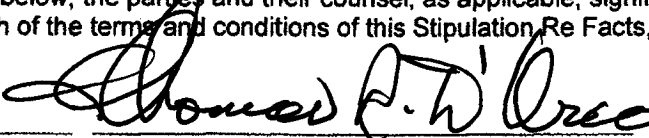
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational courses to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

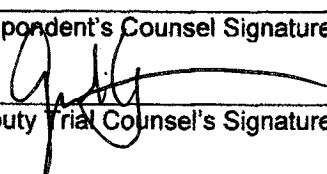
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In the Matter of: <b>THOMAS RICHARD D'ARCO</b>	Case number(s): <b>14-O-06310</b> <b>15-O-10704</b>
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**SIGNATURE OF THE PARTIES**

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.

9/24/15            THOMAS RICHARD D'ARCO  
Date                      Respondent's Signature                      Print Name

September 28, 2015            AGUSTIN HERNANDEZ  
Date                      Deputy Trial Counsel's Signature                      Print Name

(Do not write above this line.)

In the Matter of: THOMAS RICHARD D'ARCO	Case Number(s): 14-O-06310 15-O-10704
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### STAYED 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.

See attached Modifications to Stipulation.

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.)**

October 6, 2015  
Date

W. Kearse McGill  
W. KEARSE MCGILL  
Judge of the State Bar Court

### MODIFICATIONS TO STIPULATION

1. On page 1 of the stipulation, in box Submitted to: delete "Settlement Judge" and replace it with "Assigned Judge."
2. On page 3 of the stipulation, an "X" is INSERTED in box C(1) to provide that respondent is credited with full mitigation for not having a prior record of discipline.
3. On page 4 of the stipulation, an "X" is INSERTED in box D(1)(a) to provide that a one-year stayed suspension is imposed on respondent.
4. On page 8 of the Stipulation, in the paragraph titled "No Prior Discipline," on the fourth line, following the parenthetical description of *Friedman v. State Bar*, the following citation and parenthetical description are INSERTED: "*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13, and cases there cited [noting that the Supreme Court has repeatedly given mitigation for many years of misconduct free practice in cases involving serious misconduct]."
5. On page 10 of the stipulation, the text in the section titled "Exclusion From MCLE Credit," is MODIFIED to read in its entirety as follows: "In accordance with Rules of Procedure of the State Bar, rule 3201, Respondent will not receive any MCLE credit for completing the State Bar Ethics School."

-x-x-x-

## 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 6, 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:

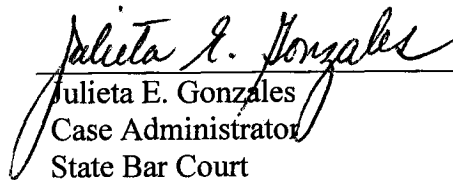
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

THOMAS RICHARD D'ARCO  
7301 TOPANGA CANYON BLVD  
STE 203  
CANOGA PARK, CA 91303

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

Agustin Hernandez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 6, 2015.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court