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STATE BAR COURT  
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# PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos. 15-C-11520;
	)	15-C-15620-DFM (Cons.)
MANUEL LUIS RAMIREZ,	)	
	)	DECISION AND ORDER SEALING
A Member of the State Bar, No. 103054.	)	CERTAIN DOCUMENTS
_____	)	

### Introduction

This consolidated conviction referral proceeding results from the misdemeanor convictions of respondent Manuel Luis Ramirez (Respondent) of violations of Vehicle Code sections 23152, subdivision (b) (driving under the influence with blood alcohol content of .08% or more) and 14601.5, subdivision (a) (driving on a suspended license). After the proceeding was commenced, Respondent was accepted for and has now successfully completed this court's Alternative Discipline Program (ADP). As a result, the court now recommends discipline as set forth below, including 90-days of actual suspension with credit for Respondent's prior period of inactive enrollment pursuant to Business and Professions Code section 6233.

### Significant Procedural History

Following the transmittal to the State Bar Court of the records of Respondent's misdemeanor convictions, including notice of the finality of the convictions, the Review Department of the State Bar Court issued orders on July 7, 2016, in case Nos. 15-C-11520 and 15-C-15620, referring those matters to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that

the facts and circumstances surrounding Respondent's convictions involved moral turpitude or other misconduct warranting discipline.

On July 12, 2016, a Notice of Hearing on Conviction (NOH) was filed against Respondent in both cases, and the matters were assigned to the Honorable W. Kearsse McGill.

Respondent then contacted the State Bar's Lawyer Assistance Program (LAP) on July 22, 2016, to assist him with his substance abuse issue and on August 15, 2016, requested that the matters be referred to an ADP judge for determination of Respondent's eligibility for participation in that program.

Following a status conference in both matters on August 17, 2016, Judge McGill issued an order granting Respondent's request for referral to the ADP; an ADP status conference was scheduled with the undersigned; and the cases were consolidated.

On September 23, 2016, this court received Respondent's nexus declaration, which established a nexus between Respondent's substance abuse issue and his misconduct in this consolidated matters.

The parties thereafter entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in the two conviction matters, including the factual findings, legal conclusions, and applicable aggravating and mitigating circumstances.

Respondent entered into a long-term Participation Plan with the LAP on October 28, 2016.<sup>1</sup>

On January 4, 2017, after a period of briefing by the parties, (1) the court executed a Confidential Statement of Alternative Disposition and Orders (Confidential Statement), setting forth the alternative disciplines to be recommended to the Supreme Court if Respondent successfully completed the ADP or, in the alternative, if Respondent was terminated from or

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<sup>1</sup> This is the date that Respondent signed the Participation Plan.

failed to successfully complete, the ADP; (2) the court received a Contract and Waiver for Participation in the State Bar Court's ADP (Contract) executed by Respondent and his counsel; (3) the court signed an order approving the parties' Stipulation; (4) the parties' Stipulation was filed; (5) the court accepted Respondent for participation in the ADP; and (6) Respondent was enrolled as an inactive member of the State Bar pursuant to Business and Professions Code section 6233.

Respondent filed a declaration in compliance with California Rules of Court, rule 9.20, on February 8, 2017, as required by the court's January 4, 2017, order enrolling Respondent as an inactive member of the State Bar.

On April 4, 2017, after the period of inactive enrollment had lasted for 90 days, the court filed an order terminating Respondent's inactive enrollment pursuant to Business and Professions Code section 6233.

Following a status conference on January 8, 2018, the court filed an order giving Respondent credit for his inactive enrollment toward the period of his actual suspension imposed as part of his discipline.

On June 1, 2018, the court received a Certificate of One Year of Participation in the Lawyer Assistance Program – Substance Use, which reflects that for at least one year prior to June 1, 2018, the LAP is not aware of the use of any unauthorized substances by Respondent.

Respondent filed a request for graduation from the ADP on June 6, 2018. Thereafter, the court filed an order on July 9, 2018, finding that Respondent has successfully completed the ADP, and the matter was submitted for decision on that date.

#### **Findings of Fact and Conclusions of Law**

The parties' Stipulation, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein.

## **Factual Findings**

### **Case No. 15-C-15620**

In this conviction referral matter, Respondent entered a plea of guilty to a violation of Vehicle Code section 23152(a) [driving under the influence of alcohol/drugs with a prior DUI within 10 years], a misdemeanor, on August 19, 2009, in San Diego County Superior Court case No. C289159. The superior court suspended the imposition of sentence, and Respondent was placed on summary probation for five years with conditions, including incarceration in the county jail for 96 hours and 361 additional days of custody were stayed pending successful completion of certain probation requirements.

While on probation as a result of a prior DUI conviction,<sup>2</sup> Respondent drove a vehicle while intoxicated on March 19, 2009. At approximately 1:05 a.m., California Highway Patrol officers pulled Respondent over after they observed his vehicle drifting from left to right on an otherwise direct course. After an officer made contact with Respondent, the officer smelled the odor of an alcoholic beverage emitting from within Respondent's vehicle. When asked by the officer if he had consumed any alcoholic beverages, Respondent indicated that he had one beer and two glasses of wine between 8:30 p.m. and 12:30 a.m. Respondent's eyes were watery and red. Respondent was unable to perform all of the field sobriety tests the officer asked him to complete. Respondent was arrested. A breath test reflected that Respondent's blood alcohol concentration level was .13 percent.

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<sup>2</sup> Respondent had a prior DUI conviction in 2004 which occurred as a result of a January 6, 2004 arrest when Respondent drove while intoxicated with a blood alcohol concentration level of .22 and .20 percent. He was sentenced to summary probation for five years with certain conditions.

## **Conclusion of Law**

The parties stipulated, and this court finds, that the facts and circumstances surrounding Respondent's conviction did not involve moral turpitude but did involve other misconduct warranting discipline.

### **Case No. 15-C-11520**

In this conviction referral matter, Respondent entered a plea of guilty to a violation of Vehicle Code section 23152(b) [driving with a blood alcohol level of .08% or more with a prior DUI within 10 years] and Vehicle Code section 14601.5(a) [driving on suspended license due to DUI arrest – test refusal/blood alcohol], both misdemeanors, on January 27, 2016, in San Diego County Superior Court case No. M195624. The superior court suspended the imposition of sentence, and Respondent was placed on summary probation for five years with conditions.

On December 20, 2014, at approximately 11:42 p.m., Respondent drove while intoxicated toward a DUI checkpoint. Prior to reaching the DUI checkpoint, however, Respondent pulled to the curb quickly and stopped. A San Diego police officer noticed this and approached Respondent as he sat in the driver's seat with the car door open. The officer asked Respondent why he pulled over. Respondent informed the officer that he wanted to pull out his medications so the officers would see that he was on medication. When the officer asked Respondent if he had any alcoholic beverages that evening, Respondent indicated to the officer that he did not want to answer. Respondent's eyes were watery, bloodshot and glassy; he had a lax face; and the odor of an alcoholic beverage was coming from Respondent's breath. When the officer asked Respondent if he could check his eyes, Respondent refused. When Respondent complied with the officer's request that Respondent get out of the vehicle and walk over to the sidewalk, the officer noticed that Respondent had an unsteady gait when he walked and a circular sway. After Respondent refused to submit to any alcohol or field sobriety tests, he was arrested.

He subsequently completed a breath test at the nearby DUI checkpoint which indicated a blood alcohol concentration of .183 and .174 percent.

### **Conclusion of Law**

The parties stipulated, and this court finds, that the facts and circumstances surrounding Respondent's convictions did not involve moral turpitude but did involve other misconduct warranting discipline.

### **Aggravation<sup>3</sup>**

#### **Prior Records of Discipline (Std. 1.5(a).)**

Respondent has two prior records of discipline. In *Ramirez I*, Respondent was privately reprimanded effective April 19, 2013, in State Bar Court case No. 12-O-15076 for violating rule 3-110(A) of the Rules of Professional Conduct of the State Bar<sup>4</sup> [failure to perform legal services competently] and Business and Professions Code section 6068, subdivision (m)<sup>5</sup> [for failing to inform a client of the dismissal of the client's matter]. Multiple acts of misconduct by Respondent was an aggravating factor. Good character, emotional and health problems, recognition of wrongdoing, and a lack of a prior record of discipline in over 29 years of practice before the misconduct occurred were mitigating circumstances.

In *Ramirez II*, Respondent was suspended from the practice of law for three years, the execution of which was stayed, and Respondent was placed on probation for three years subject to certain conditions, including that he be suspended from the practice of law for the first six months of probation in Supreme Court case No. S232512 (State Bar Court case Nos. 15-O-

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<sup>3</sup> All references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

<sup>4</sup> Unless otherwise indicated, all further references to rules refer to the State Bar Rules of Professional Conduct.

<sup>5</sup> Unless otherwise indicated, all further references to sections refer to provisions of the Business and Professions Code.

10980, etc.). Discipline was effective June 17, 2016. Respondent stipulated to violations of rule 3-110(A) (two matters); section 6068, subdivision (m) [for failing to respond promptly to reasonable client status inquiries or inform clients of the dismissal of their matter]; rule 3-700(A)(2) (two matters) [failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client's matter]; section 6068, subdivision (i) (two matters) [failing to participate and cooperate in a State Bar investigation]; and section 6103 [violation of a court order]. In aggravation, Respondent had a prior record of discipline; significant harm occurred to a client; there were multiple acts of wrongdoing; harm occurred to a vulnerable victim; there was prior similar conduct; and misconduct was committed during a reprobation period. In mitigation, Respondent entered into a stipulation early in the proceedings; law office problems occurred caused by the loss of his long-time secretary and the relocation of his office; and Respondent had a serious medical condition.

**Multiple Acts (Std. 1.5(b).)**

In aggravation, Respondent also engaged in multiple acts of misconduct as Respondent has three DUI convictions.

**Mitigation**

**Cooperation with State Bar (Std. 1.6(e)) & Recognition of Wrongdoing (Std. 1.6(g).)**

Respondent stipulated to facts and conclusions of law in this matter. The parties therefore stipulated that Respondent "is entitled to mitigation for saving the State Bar resources and evidencing recognition of wrongdoing. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigation credit given for entering into a stipulation as to facts and culpability].)"

**Good Character (Std. 1.6(f).)**

Respondent provided evidence of his good character from a wide-range of references in the general and legal communities who were aware of the full extent of his misconduct. These

individuals attested to Respondent's ability as an attorney, his good character, his community and charitable activities, his remorse with respect to his misconduct, and his commitment to rehabilitation.

### **Other**

In accordance with Supreme Court case law, an attorney's rehabilitation from alcoholism or other substance abuse problems can be accorded significant mitigating weight if it is established that (1) the abuse was addictive in nature; (2) the abuse causally contributed to the misconduct; and (3) the attorney has undergone a meaningful and sustained period of rehabilitation. (*Harford v. State Bar* (1990) 52 Cal.3d 93, 101; *In re Billings* (1990) 50 Cal.3d 358, 367.) Respondent's abuse was clearly addictive in nature; causally contributed to his misconduct; and Respondent has successfully participated in the LAP and has successfully completed ADP. It is therefore also appropriate to consider Respondent's successful completion of the ADP as a further mitigating circumstance.

### **Discussion**

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if Respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by OCTC, as well as certain standards and case law. In particular, the court considered standards 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8(a) & (b), 2.15(c) and 2.16(b) and *In the Matter of Guillory* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 402.



Because Respondent has now successfully completed the ADP, this court, in turn, now recommends the lower level of discipline set forth in the court's Confidential Statement for successful completion of the ADP.

### **Recommended Discipline**

#### **Discipline – Actual Suspension with Credit for Inactive Enrollment (Bus. & Prof. Code, § 6233)**

It is recommended that Manuel Luis Ramirez, State Bar Number 103054, be suspended from the practice of law for two years, that execution of that suspension be stayed, and that Respondent be placed on probation for two years with the following conditions.<sup>6</sup>

#### **Conditions of Probation**

##### **Actual Suspension**

Respondent is suspended from the practice of law for the first 90 days of probation (with credit given for inactive enrollment which was effective January 4, 2017 through April 3, 2017). (Bus. & Prof. Code, § 6233.)

##### **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions**

Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.

##### **Maintain Valid Official Membership Address and Other Required Contact Information**

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, he must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

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<sup>6</sup> The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

## **Meet and Cooperate with Office of Probation**

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

## **Quarterly and Final Reports**

**a. Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.

**b. Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

**c. Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

**d. Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

## **Criminal Probation**

Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and

final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

### **Compliance with Lawyer Assistance Program Participation Plan**

Respondent must fully comply with Respondent's Lawyer Assistance Program Participation Plan. Respondent must provide the Lawyer Assistance Program (LAP) with a satisfactory written waiver authorizing LAP to provide the Office of Probation and the State Bar Court with information regarding the terms and conditions of Respondent's participation in LAP and Respondent's compliance or non-compliance with LAP requirements. Revocation of such waiver is a violation of this condition. Respondent will be relieved of this condition upon providing satisfactory certification of successful completion of LAP to the Office of Probation. Voluntary or involuntary termination from LAP prior to successful completion of the program constitutes a violation of this condition.

### **State Bar Ethics School Not Recommended**

It is not recommended that Respondent be ordered to attend the State Bar Ethics School because Respondent was required to attend and successfully complete Ethics School as a condition of the disciplinary probation that the Supreme Court imposed on him in its May 18, 2016, order in *Ramirez II*, and Respondent committed all of the present misconduct before May 18, 2016 (See Rules Proc. of State Bar, rule 5.135(A).)

### **Other Requirements**

#### **Multistate Professional Responsibility Examination Not Recommended**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because the Supreme Court ordered Respondent to take and pass the MPRE in its May 18, 2016, order in *Ramirez II*, and Respondent committed all of the present misconduct before May 18, 2016. (Cf. *Rhodes v. State Bar* (1989) 49 Cal.3d 50, 61; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 286.)

#### **California Rules of Court, Rule 9.20**

It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because Respondent complied with rule 9.20 in connection with his inactive enrollment pursuant to Business and Professions Code section 6233.

### **Costs**

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with Respondent's membership fees for each of the following years: 2020, 2021, and 2022.

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

### **Direction Re Decision and Order Sealing Certain Documents**

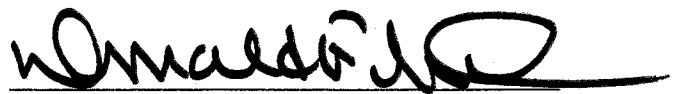
The court directs a court case specialist to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(c) of the Rules of Procedure of the State Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to:

(1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

**IT IS SO ORDERED.**

Dated: September 11, 2018



DONALD F. MILES  
Judge of the State Bar Court

(Do not write above this line.)

**State Bar Court of California**  
**Hearing Department**  
**Los Angeles**  
**ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p><b>Amanda F. Sanchez</b> Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1080</p> <p>Bar # <b>254880</b></p>	<p>Case Number (s) <b>15-C-11520</b> <b>15-C-15620</b> Consolidated</p>	<p>(for Court's use)</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</p> <p style="text-align: center; font-size: 1.2em; font-weight: bold;">JAN - 4 2017</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p><b>Susan Margolis</b> Margolis &amp; Margolis LLP 2000 Riverside Drive Los Angeles, CA 90039-3758 (323) 953-8996</p> <p>Bar # <b>104629</b></p>	<p>Submitted to: <b>Assigned Judge</b></p> <p style="text-align: center; font-weight: bold;">STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p>	
<p>In the Matter Of: <b>MANUEL LUIS RAMIREZ</b></p> <p>Bar # <b>103054</b></p> <p>A Member of the State Bar of California (Respondent)</p>	<p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 16, 1982**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11 pages**, excluding 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."

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [see 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 **12-O-15076**
  - (b)  Date prior discipline effective **April 19, 2013**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 3-110(A), Business and Professions Code section 6068(m)**
  - (d)  Degree of prior discipline **private reproof, one-year period**
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below:  
**See Attachment, p. 9**
- (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 involved 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)  **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.

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- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment, p. 10.
- (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. **See Attachment, p. 9**

(Do not write above this line.)

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- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**Pre-Trial Stipulation: See Attachment, p. 8.**





## FACTS:

8. On March 19, 2009, while on probation imposed as a result of a prior DUI conviction, Respondent drove a vehicle while intoxicated.

9. On March 19, 2009, at approximately 1:05 am, Respondent was pulled over by California Highway Patrol ("CHP") Officers after they observed Respondent's vehicle drifting from left to right on an otherwise direct course.

10. Once Respondent pulled over and an officer made contact with Respondent, the officer smelled the odor of an alcoholic beverage emitting from within Respondent's vehicle. The officer asked Respondent if he had consumed any alcoholic beverages. Respondent indicated that he had one beer and two glasses of red wine between 8:30 p.m. and 12:30 a.m. The officer noticed Respondent's eyes were red and watery. The officer then asked Respondent to step out of his vehicle and Respondent complied.

11. The officer asked Respondent to complete a series of Field Sobriety Tests (FST). Respondent was unable to perform all of the FSTs as explained and demonstrated by the officer.

12. Based on observed driving, signs and symptoms of intoxication, statements of consuming alcoholic beverages and poor performance on the FSTs, the officer opined that Respondent was operating a motor vehicle while under the influence of an alcoholic beverage.

13. The officer ran a records check through the CHP dispatch which revealed that Respondent had a prior DUI conviction from 2004.

14. Respondent was arrested, transported to the El Cajon Area CHP Office and completed a breath test which indicated Respondent's blood alcohol concentration level was .13 percent.

15. Respondent's prior DUI conviction stemmed from a January 6, 2004 arrest Respondent drove while intoxicated with a blood alcohol concentration level of .22 and .20 percent. On April 26, 2004, Respondent pled guilty to one count of violating Vehicle Code section 23152(a) [Driving Under Influence of Alcohol/Drugs], a misdemeanor, in San Diego County Superior Court case number S181999 and was sentenced to summary probation for five (5) years, with conditions that included, among other things, completion of a three (3) month First Conviction Program, payment of court fines, a prohibition against driving with a measurable amount of alcohol/drugs in system, and restriction of Respondent's driver's license for 90 days.

## CONCLUSIONS OF LAW:

16. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

17. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

18. On February 3, 2015, the San Diego County District Attorney's Office filed a misdemeanor complaint in San Diego County Superior Court case number M195624 that alleged Respondent committed the following criminal acts: (1) violation of Vehicle Code section 23152(a) [Driving Under Influence of Alcohol/Drugs With a Prior DUI Within 10 years], a misdemeanor, including a special allegation of Vehicle Code section 23540 [DUI Conviction Within 10 Years]; (2) violation of Vehicle Code section 23152(b) [Driving With Blood Alcohol Level of .08% or More With a Prior DUI Within 10 Years], a misdemeanor, including a special allegation of Vehicle Code section 23540 [DUI Conviction Within 10 years]; (3) violation of Vehicle Code section 14601.2(a) [Driving on a Suspended License Due to a DUI Conviction], a misdemeanor; (4) violation of Vehicle Code section 14601.5(a) [Driving on a Suspended License Due to a DUI Arrest—Test Refusal/Blood Alcohol], a misdemeanor; and (5) violation of Vehicle Code section 12500(a) [Driving Without a License], a misdemeanor.

19. On January 27, 2016, Respondent entered a guilty plea to one (1) count of Vehicle Code section 23152(b) [Driving with Blood Alcohol Level of .08% or More—Prior DUI Within 10 Years], a misdemeanor and one (1) count of Vehicle Code section 14601.5(a) [Driving on a Suspended License Due to a DUI Arrest—Test Refusal/Blood Alcohol], a misdemeanor. All other counts were dismissed.

20. On January 27, 2016, the court suspended the imposition of sentence and placed Respondent on summary probation for a period of five (5) years with conditions, that included payment of court-ordered fines, compliance with Standard Alcohol Conditions pursuant to Vehicle Code section 23600, abstain from alcohol, do not drive without a valid license and liability insurance, enroll and complete Multiple Conviction and MADD (Mothers Against Drunk Driving) programs, random alcohol and drug testing for 18 months and 50 hours of volunteer work. Between July 9, 2015 and January 27, 2016, Respondent randomly tested negative for alcohol 891 times; Respondent tested negative for alcohol on July 27, 2016; and August 12, 2016.

21. On July 7, 2016, the Review Department of the State Bar Court issued an order referring case no. 15-C-11520 to the Hearing Department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances involved moral turpitude or other misconduct warranting discipline.

22. On July 12, 2016, the State Bar Hearing Department filed a Notice of Hearing on Conviction in case no. 15-C-11520 against Respondent.

23. On August 17, 2016, case nos. 15-C-15620 and 15-C-11520 were consolidated.

FACTS:

24. On December 20, 2014, Respondent drove while intoxicated. At approximately 11:42 p.m., Respondent was driving towards a DUI checkpoint.

25. Respondent quickly pulled over to the curb and parked.

26. A San Diego Police Officer noticed Respondent pull over before the DUI checkpoint and approached Respondent as he sat in the driver's seat with the door open.

27. Upon making contact with Respondent and asking Respondent why he pulled over after passing the DUI checkpoint signs and prior to entering the cone pattern of the DUI checkpoint, Respondent indicated that he wanted to pull out his medications so the officers would see that he is on medication.

28. The officer asked Respondent if he had any alcoholic beverages that evening. Respondent indicated that he did not want to answer.

29. The officer could see that Respondent's eyes were glassy, bloodshot and watery and also noted the odor of an alcoholic beverage coming from Respondent.

30. The officer asked Respondent if he could check Respondent's eyes, which Respondent refused.

31. Respondent was then asked to step out of the vehicle and walk over to the sidewalk. Respondent complied and the officer noticed that Respondent walked with an unsteady gait.

32. The officer asked Respondent if he had been drinking any alcoholic beverages and Respondent indicated that he did not want to answer.

33. Respondent disclosed to the officer that he had suffered a heart attack a month earlier and that he also has high blood pressure. Respondent had a bag of medications with him that included nitroglycerin that appeared to be related to heart and blood pressure issues.

34. Respondent refused to submit to any preliminary alcohol or field sobriety tests.

35. Based on Respondent's glassy, bloodshot and watery eyes, lax face, alcohol odor from Respondent's breath, Respondent's unsteady gait and circular sway, Respondent was arrested.

36. Respondent was then transported to the nearby DUI checkpoint where Respondent completed a breath test indicating his breath alcohol concentration level was .183 and .174 percent.

#### CONCLUSIONS OF LAW:

37. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

#### MITIGATING CIRCUMSTANCES:

Pre-Filing / Pre-Trial Stipulation: Respondent has stipulated to facts and conclusions of law, therefore he is entitled to mitigation for saving State Bar resources and evidencing recognition of wrongdoing. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [mitigation credit given for entering into a stipulation as to facts and culpability].)

Good Character (Std. 1.6(f)) : Respondent has provided evidence of eight individuals willing to attest to his good character, including respondent's ex-wife and sister, a retired teacher and educational administrator, a local bail bondsman, several business people, and two attorneys. They have each known respondent for significant periods of time, are aware of the full extent of the misconduct, and attested to their belief in respondent's good character, his ability as an attorney, his charitable and community activities, his remorse concerning the misconduct, and his commitment to rehabilitate himself.

#### **AGGRAVATING CIRCUMSTANCES:**

Prior Record of Discipline (Std. 1.5(a)): Respondent has two (2) prior impositions of discipline. Effective April 19, 2013, Respondent was privately reprimanded in case no. 12-O-15076 for failing to perform legal services competently, in violation of Rules of Professional Conduct, rule 3-110(A), and failure to inform a client of the dismissal of the client's action, in willful violation of Business and Professions Code section 6068(m). The misconduct occurred from the latter half of 2011 to 2012. Respondent's multiple acts of misconduct were an aggravating factor. Respondent's lack of prior discipline in over 29 years of practice before his misconduct occurred, good character, emotional and health problems related to a chronic heart condition and recognition of wrongdoing were mitigating factors.

Effective June 17, 2016, Respondent was suspended from the practice of law for three years, stayed, and placed on probation for three years subject to various conditions, including the condition that Respondent be suspended from the practice of law for the first six months of probation, pursuant to Supreme Court order S232512 filed on May 18, 2016. The discipline was imposed in connection with State Bar Court case nos. 15-O-10980; 15-O-10917; and 15-O-11754, wherein Respondent stipulated to nine counts of misconduct in three client matters. In the first matter, Respondent failed to appear for scheduled hearings, resulting in the dismissal of the clients' case, and therefore failed to perform legal services competently in willful violation of Rules of Professional Conduct, rule 3-110(A); Respondent failed to respond promptly to reasonable status inquiries by his clients or inform his clients of the dismissal of their case, in willful violation of Business and Professions Code section 6068(m); failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to the client's case, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2); and failed to cooperate and participate in the State Bar investigation in willful violation of Business and Professions Code section 6068(i). In the second matter, Respondent violated an order of the court by not timely paying a \$2,000 court-ordered sanction, in willful violation of Business and Professions Code section 6103. In the third matter, Respondent failed to perform legal services competently, in willful violation of Rules of Professional Conduct, rule 3-110(A), resulting in the dismissal of the client's case; failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to the client's case, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2); and failed to cooperate and participate in the State Bar investigation, in willful violation of Business and Professions Code section 6068(i). The misconduct occurred from the latter half of 2011 to 2015. The misconduct was aggravated by Respondent's prior record of discipline, multiple acts of wrongdoing, significant harm to the client, harm to a vulnerable victim, prior similar conduct and misconduct committed during a reprobation period. The misconduct was mitigated by entering into a stipulation at an early stage in the proceedings, law office problems caused by the relocation of his office and the loss of his long-time secretary, and Respondent's serious medical condition related to his chronic heart condition and heart surgery.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent has been convicted of three (3) DUI(s). Consequently, Respondent's conduct is aggravated by multiple acts of misconduct. (See, *In the Matter of Guillory* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 402 [Respondent's four alcohol-related driving convictions are multiple acts that constitute significant aggravation].)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 26, 2016, the prosecution costs in this matter are \$2,567.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: Manuel Luis Ramirez	Case number(s): 15-C-15620 and 15-C-11520 (consolidated)
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### SIGNATURE OF THE PARTIES

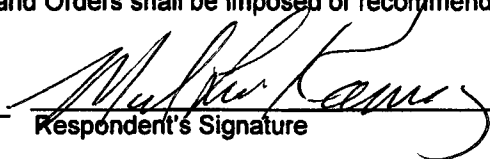
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

September 26, 2016  
Date

  
Respondent's Signature

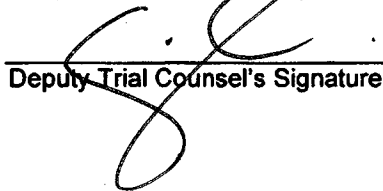
Manuel Luis Ramirez  
Print Name

September 26, 2016  
Date

  
Respondent's Counsel Signature

Susan Margolis  
Print Name

September 26, 2016  
Date

  
Deputy Trial Counsel's Signature

Amanda F. Sanchez  
Print Name

(Do not write above this line.)

In the Matter of: Manuel Luis Ramirez	Case Number(s): 15-C-15620 and 15-C-11520 (consolidated)
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**ALTERNATIVE DISCIPLINE PROGRAM 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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

1/4/17

  
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 January 4, 2017, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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:

SUSAN LYNN MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039

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

MICHAELA F. CARPIO, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 4, 2017.



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Mazie Yip  
Case Administrator  
State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 September 11, 2018, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN RECORDS; STIPULATION RE FACTS  
AND CONCLUSIONS OF LAW

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

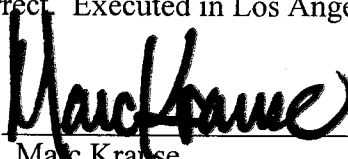
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SUSAN LYNN MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039

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

ANDREW J. VASICEK, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 11, 2018.



Marc Krause  
Court Specialist  
State Bar Court