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State Bar Court of California Hearing Department San Francisco DISBARMENT		
<p>Counsel For The State Bar</p> <p>Heather E. Abelson Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357</p> <p>Bar # 243691</p>	<p>Case Number(s): 15-N-14494-PEM</p>	<p>For Court use only</p> <p style="text-align: center;">PUBLIC MATTER</p> <p style="text-align: center;">FILED</p> <p style="text-align: center;">JAN 07 2016 <i>sh</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Hector Arnoldo Cavazos, Jr. 8250 Calvine Rd. Ste. C296 Sacramento, CA 95828 (209) 948-2222</p> <p>Bar # 226400</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: HECTOR ARNOLDO CAVAZOS, JR.</p> <p>Bar # 226400</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 **September 25, 2003**.
- (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 (10) 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."

(Effective November 1, 2015)

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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 13-O-16840 et al. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 7.
 - (b) Date prior discipline effective May 27, 2015. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 7.
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 1-300(A), 1-311(D), 3-700(D)(1), 4-100(B)(3), and Business and Professions Code, sections 6068(m) and 6106. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 7.
 - (d) Degree of prior discipline 18-months actual suspension, 3-years stayed suspension, 3-years probation. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 7.
 - (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. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 7.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.

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- (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) **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.
- (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.

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- (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:

Pretrial Stipulation - See "Facts Supporting Mitigating Circumstances" in the attachment hereto at page 8.

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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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: HECTOR ARNOLDO CAVAZOS, JR.

CASE NUMBER: 15-N-14494-PEM

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 15-N-14494-PEM (Rule 9.20 violation)

FACTS:

1. On October 10, 2014, respondent signed a stipulation as to facts and conclusions of law in case nos. 13-O-16840, 13-O-17116, 13-O-17514, 14-O-02136, and 14-O-04363. Respondent stipulated to an 18-month actual suspension for violating Rules of Professional Conduct, rules 1-300(A), 1-311(D), 3-700(D)(1), 4-100(B)(3), and Business and Professions Code, sections 6068(m), and 6106.
2. On December 2, 2014, the Hearing Department issued an order approving the stipulation.
3. On April 27, 2015, the Supreme Court of California issued Order No. S223982. Among other conditions, respondent was ordered to comply with California Rules of Court, rule 9.20, 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. Respondent's suspension became effective on May 27, 2015.
4. On May 15, 2015, the Office of Probation sent a letter to respondent reminding him of the requirement that respondent file a rule 9.20 affidavit by July 6, 2015. Respondent received this letter.
5. Respondent failed to file a 9.20 affidavit on or before July 6, 2015.
6. On July 13, 2015, the Office of Probation sent a reminder letter to respondent regarding his 9.20 compliance requirement. The letter also notified respondent that his 9.20 compliance declaration had not been timely filed. Respondent received this letter.
7. On July 13, 2015, respondent filed a rule 9.20 compliance declaration with State Bar Court. In this declaration, respondent falsely declared, under penalty of perjury, that as of the date upon which the order to comply with rule 9.20 was filed, respondent had no papers or other property to which clients were entitled.
8. In reality, respondent failed to return numerous client files to his former clients.
9. Respondent also falsely declared, under penalty of perjury, that as of the date upon which the order to comply with rule 9.20 was filed, respondent did not represent any clients in pending matters.

10. In reality, respondent remained counsel of record in at least four cases: (1) *Harris v. Guzman*, Contra Costa County Superior Court, case no. MSC13-00710; (2) *Garibay v. Farias*, Riverside County Superior Court, case no. RIC1109652; (3) *Gomez v. Khan*, San Joaquin County Superior Court, case no. STK-CV-UAT-2014-0004271; and (4) *Gallegos v. Freitas*, San Joaquin County Superior Court, case no. STK-CV-UPI-2014-0000736.

11. Respondent also falsely declared, under penalty of perjury, that he had notified, albeit untimely, all clients and co-counsel of his suspension on July 6, 2015, the date his 9.20 compliance declaration was due to be filed.

12. In reality, respondent failed to notify several opposing counsel of his suspension on or before July 6, 2015.

13. On July 17, 2015, the Office of Probation sent a letter to respondent stating that his 9.20 declaration was not compliant because the declaration had been filed late, the requisite notices of suspension had been sent late to his clients and opposing counsel, and because the declaration did not include an address at which respondent could be contacted.

14. To date, respondent has not filed a compliant declaration.

CONCLUSIONS OF LAW:

15. By failing to file with the clerk of the State Bar Court a declaration of compliance with rule 9.20 (a) and (b), California Rules of Court, in conformity with the requirements of rule 9.20(c), failing to return all client files, failing to withdraw as counsel of record in at least four cases, and failing to timely notify opposing counsel of his suspension, as required by Supreme Court Order no. S223982, respondent willfully violated California Rules of Court, rule 9.20.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior record of discipline. In case nos. 13-O-16840, 13-O-17116, 13-O-17514, 14-O-02136, and 14-O-04363, respondent stipulated to an 18-month actual suspension for violating Rules of Professional Conduct, rules 1-300(A), 1-311(D), 3-700(D)(1), 4-100(B)(3), and Business and Professions Code, sections 6068(m) and 6106. Respondent's prior record of discipline constitutes an aggravating circumstance pursuant to Standard 1.5(a).

Misrepresentation (Std. 1.5(e)): Respondent misrepresented in his declaration, under penalty of perjury, that, as of the date upon which the order to comply with rule 9.20 was filed, respondent had no papers or other property to which clients were entitled, that respondent had earned all fees paid to him, that he did not represent any clients in pending matters, and that he had untimely notified all clients and opposing counsel of his suspension on July 6, 2015. Respondent's misrepresentations constitute an aggravating circumstance pursuant to Standard 1.5(e).

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to the trial, thereby saving State Bar Court time and resources. Also, by entering into this stipulation, respondent is recognizing his wrongdoing and taking steps to atone. (*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 provide a “process of fixing discipline” pursuant to a set of written principles to “better discharge the purposes of attorney discipline as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

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.) Any discipline recommendation different from that set forth in the applicable Standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Here, Standard 1.8(a) applies because respondent has a single prior record of discipline. Standard 1.8(a) provides that “[i]f a member has a single record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.”

In respondent’s prior disciplinary matter, respondent stipulated to an 18-month actual suspension. Respondent’s prior disciplinary matter involved serious misconduct and is not remote in time. Therefore, pursuant to Standard 1.8(a), a level of discipline greater than an 18-month actual suspension is warranted.

Disbarment is warranted, as opposed to a two or three year actual suspension, because respondent’s current and prior misconduct demonstrates an unwillingness or inability to conform to ethical responsibilities. Respondent is a threat to the public, as demonstrated by respondent’s prior disciplinary matter, the fact that respondent failed to timely notify requisite individuals of his suspension, the fact that respondent remained counsel of record on multiple cases after his suspension became effective, and the fact that respondent failed to return client files to several former clients. Based on all of these facts, disbarment is warranted.

A rule 9.20 violation is deemed a serious ethical breach for which disbarment generally is considered the appropriate discipline. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131 [“Disbarment is generally the

appropriate sanction for a willful violation of rule [9.20].”.) Indeed, California Rule of Court 9.20 provides that “[a] suspended member’s willful failure to comply with the provisions of this rule constitutes a cause for disbarment....” In *In the Matter of Esau* (2007) 5 Cal. State Bar Rptr. 131, the Review Department disbarred the respondent attorney for failing to comply with rule 9.20. The Court stated “[i]ndeed, the finding that respondent willfully violated a court order requiring his compliance with rule 9.20 is sufficient grounds for disbarment when, as here, the evidence in mitigation is not compelling.” (*Id.* at 133.) The Court noted that “the decisional law has been weighted towards disbarment for violations of rule 9.20. (*Id.* at 138.) The Court further noted that recent cases that “resulted in discipline of less than disbarment involved significant evidence in mitigation and/or substantial compliance with rule 9.20[.]” (*Id.*)

Here, as in *Esau*, there is no significant evidence in mitigation, nor is there substantial compliance with rule 9.20. Although respondent attempted to file a 9.20 declaration, he filed it late and it contained several misrepresentations of fact. Indeed, respondent failed to comply with the other requirements set forth in rule 9.20. Respondent’s current and prior misconduct evidences a significant disregard for the State Bar. Respondent’s misconduct is also aggravated by his prior record of discipline and misrepresentations.

Based on Standard 1.8(a), applicable caselaw, and Rule 9.20, disbarment is the appropriate level of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.



Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of December 18, 2015, the prosecution costs in this matter are \$2,594. 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.

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In the Matter of: HECTOR ARNOLDO CAVAZOS, JR.	Case number(s): 15-N-14494-PEM
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SIGNATURE OF THE PARTIES

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

<u>12/30/15</u> Date	<u></u> Respondent's Signature	<u>Hector Arnaldo Cavazos, Jr.</u> Print Name
<u>1/4/16</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Heather E. Abelson</u> Print Name

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In the Matter of: HECTOR ARNOLDO CAVAZOS JR.	Case Number(s): 15-N-14494-PEM
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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.

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.

Jan. 7, 2016
Date


LUCY ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on January 7, 2016, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

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

HECTOR A. CAVAZOS JR
8250 CALVINE RD STE C296
SACRAMENTO, CA 95828

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Heather E. Abelson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 7, 2016.


George Hue
Case Administrator
State Bar Court