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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1496 Bar # 146643	Case Number(s): 15-O-10980-WKM 15-O-10917 (Inv.) 15-O-11754 (Inv.)	For Court use only <div style="font-size: 24pt; font-weight: bold; margin-bottom: 10px;">FILED</div> DEC 23 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES

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 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 **19** 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."

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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):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the two billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(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 (See Stipulation Attachment at p. 15.)**
 - (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.
- (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.

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- (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. **See Stipulation Attachment at p. 15.**
- (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 Stipulation Attachment at p. 15.
- (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. See Stipulation Attachment at p. 15.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

Prior Similar Misconduct and Violations Committed During Repeal Period. (See Stipulation Attachment at pp. 15-16.)

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

Additional mitigating circumstances:

Pretrial and Prefiling Stipulations and Medical and Law Office Problems. (See Stipulation Attachment at p. 16.)

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **three years**.
- 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:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **three years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **six months**.

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- 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:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

No Ethics School recommended. Reason: **Respondent attended Ethics School on February 20, 2014, and passed the test given at the end of the session, in connection with case no. 12-O-15076. (Rules Proc. of the State Bar, rule 5.135).**

(9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

(10) The following conditions are attached hereto and incorporated:

- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" 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 during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

No MPRE recommended. Reason: **Respondent passed the MPRE on March 29, 2014 in connection with case no. 12-O-15076. (In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181, 183 [protection of the public and the interests of the attorney do not require passage of the MPRE in this case].)**

(2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

(5) **Other Conditions:**

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In the Matter of: MANUEL LUIS RAMIREZ	Case Number(s): 15-O-10980-WKM, 15-O-10917 (Inv.), 15-O-11754 (Inv.)
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Law Office Management Conditions

- a. Within **30** days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/12 months/ years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **six (6)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

Other:

7. On December 16, 2014, the State Bar sent a letter to respondent regarding his clients' complaint that respondent had ceased communicating with them. The State Bar requested that respondent reestablish communication with the clients and closed the complaint on December 17, 2014.

8. On January 4, 2015, the clients sent a letter to the State Bar stating that respondent had not resumed communication with them and their complaint against respondent was opened on February 12, 2015.

9. Mrs. Ransaw sent status inquiries to respondent by text on March 2, 9, 10, 17, 23 and 24, 2015 and April 1, 8, 9, 10, and 11, 2015, asking to meet respondent to discuss the status of the case. Although respondent received the inquiries, respondent did not provide the status to or meet with the clients, claiming that he was busy in trials and was having health issues.

10. On March 6, 2015, a State Bar investigator sent a letter to respondent asking for a written response to his clients' complaint by March 24, 2015. Respondent did not respond to the letter. On March 24, 2015, a State Bar investigator sent a letter to respondent asking for a written response to his clients' complaint by April 9, 2015.

11. On April 9, 2015, respondent replied to Mrs. Ransaw's April 8 text and said, "I promise we will communicate on the case status on or before next Thursday." On April 10, 2015, a State Bar investigator called and emailed respondent, requesting a response to the State Bar's correspondence. Respondent emailed the State Bar's investigator on April 10, 2015 and requested an extension until April 27, 2015. The investigator emailed respondent and granted the extension. On April 10, 2015, respondent replied to Mrs. Ransaw's April 9 text, "I've been in trial. . ." "I'm going to check this afternoon and contact you today." Respondent did not contact Mrs. Ransaw. On April 24, 2015, respondent emailed the State Bar's investigator and requested a one week extension. The State Bar's investigator emailed respondent and informed respondent that his response was expected by May 4, 2015.

12. On May 4, 2015, respondent emailed the State Bar's investigator and requested an extension to respond to May 19, 2015, which was granted. On May 19, 2015, respondent sent a letter to the State Bar that did not provide a substantive response to his clients' complaint. Respondent provided a copy of his fee agreement with his clients. He said he was providing correspondence with his response but no correspondence was received from respondent. Respondent stated that he was attempting to locate billing, even though he had a contingency fee agreement with his clients, provided the case number for his clients' case, and said that he would provide additional information and documents within the next 24 to 48 hours. No further information or documents were received.

13. On June 10, 2015, the clients tried calling respondent but there was no answer. On June 11, 2015, a State Bar investigator sent a letter to respondent asking for another response to his clients' complaint by June 29, 2015, and an email to respondent asking if he had released the file to his clients. On June 12, 2015, a State Bar investigator informed Ms. Hernandez that her case had been dismissed. The clients had been unaware of the dismissal prior to this date. On June 22, 2015, a State Bar investigator called respondent and left a message requesting that respondent return her call and stating that she had not received respondent's response to the State Bar's letter requesting a response to his clients' complaint. Respondent sent no further response.

CONCLUSIONS OF LAW:

14. By not appearing for the case management conference on December 27, 2013 and for the April 11, 2014 hearing on the court's OSC, resulting in the dismissal of the action, without prejudice, on April 11, 2014, and by not taking any action to set aside the dismissal of the action, respondent repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

15. By not responding to his clients' status inquiries in October 2014, March 2015, and April 2015, respondent failed to respond promptly to reasonable status inquiries by his clients that respondent received in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

16. By not informing his clients of the dismissal of their case on April 11, 2014, respondent failed to keep his clients reasonably informed of a significant development in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

17. By constructively terminating the representation of his clients after allowing the action to be dismissed by the court on April 11, 2014, and by not informing the clients that respondent was withdrawing from the representation, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his clients, including giving due notice to the clients, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with applicable laws and rules, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

18. By not providing a substantive response to the State Bar's letters of March 6, 2015, March 24, 2015, and June 11, 2015, which respondent received, that requested respondent's written response to the allegations of misconduct being investigated in case no. 15-O-10980, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code, section 6068(i).

Case No. 15-O-10917 (State Bar Investigation)

FACTS:

19. On March 5, 2014, the United States Court of Appeals, Ninth Circuit, issued an order directing respondent, as retained counsel for Betsy Elisabeth Duranty-Moore, to pay the filing and docketing fees for an appeal or file a motion to proceed in forma pauperis within 21 days after the date of the order in *United States of America v. Betsy Elisabeth Duranty-Moore*, case no. 14-50070. Respondent did not receive a copy of the court's order as on or before February 21, 2014, he changed his office address but had not reported his change of address to the court.

20. On April 8, 2014, the court issued a second order directing respondent to pay the filing and docketing fees for the appeal or file a motion to proceed in forma pauperis within 14 days after the date of the order or to file a motion to withdraw as counsel. Again, respondent did not receive a copy of the court's order as he had not reported his change of address to the court.

21. On May 7, 2014, the court ordered respondent removed as counsel of record in the appeal, and ordered respondent to show cause in writing why the court should not impose monetary sanctions not to exceed \$2,000 against respondent. The court ordered another attorney to be appointed as counsel for the defendant. Again, respondent did not receive a copy of the court's order as he had not reported his change of address to the court.

22. On August 19, 2014, the court imposed a \$2,000 sanction against respondent for failure to comply with the court's rules and orders. The sanction was imposed as a judgment and was ordered to be paid to the clerk of the court within 21 days of the filing date of the order. In August 2014, the court reported the imposition of the sanction against respondent to the State Bar of California ("State Bar").

23. Between December 30, 2014 and April 10, 2015, the State Bar repeatedly sent letters to respondent at his State Bar membership address, left telephone messages for respondent, and emailed respondent about the sanction and asked respondent to confirm whether he had paid the sanction, which placed respondent on notice of the sanction. On April 10, 2015, respondent replied via email, stating that he had been in and out of his office over the last months due to his schedule and health-related issues.

24. On April 1, 2015, the United States Department of Justice ("DOJ") sent respondent a Notice to Appear on April 17, 2015 at the Office of the United States Attorney to disclose his assets and liabilities. This letter was sent to respondent's membership records address but with an incorrect suite number. On April 17, 2015, an attorney contacted the DOJ on respondent's behalf and said that payment of the sanction would be sent by April 23, 2015. On April 23, 2015, respondent informed the DOJ that he would pay the sanction by April 29, 2015. On April 29, 2015, the United States Marshal served a demand for payment of the sanction on respondent.

25. On May 11, 2015, respondent called the Financial Litigation Unit of the United States Attorney's Office (the "Litigation Unit") and said that he would pay the sanction that day, but respondent did not pay the sanction.

26. On June 3, 2015, the DOJ sent respondent a letter to his State Bar membership records address requesting payment of the sanctions. On June 4, 2015, the Litigation Unit served respondent with a written demand for payment while respondent was in court and respondent agreed with the Litigation Unit to pay the sanction by June 11, 2015. Respondent did not pay the sanction by June 11, 2015. On June 26, 2015, respondent paid the sanction in full.

CONCLUSION OF LAW:

27. By not paying the \$2,000 sanction until June 26, 2015, respondent disobeyed and violated an order of the court requiring respondent to do an act connected with or in the course of respondent's profession which respondent ought in good faith to do, in willful violation of Business and Professions Code section 6103.

Case No. 15-O-11754 (Complainant Javier Velasco Ambriz)

FACTS:

28. Effective April 19, 2013, respondent received a private reproof in case no. 12-O-15076 for misconduct related to his representation of Javier Velasco ("Velasco"). Velasco had employed

respondent on November 10, 2010 to represent him in a breach of contract claim against Jesus Segura ("Segura") to recover \$20,000 that Velasco loaned to Segura. On March 8, 2011, respondent filed a lawsuit on behalf of Velasco in the San Diego County Superior Court entitled, *Javier Velasco v. Jesus Segura*, case number 37-2011-00087192 (the "action"). Segura was served with the action, but did not file an answer to the complaint.

29. On or about August 11, 2011, respondent attempted to file a request for entry of default in the action (the "request"). However, the request was never filed by the court. Respondent did not follow up to confirm whether or not the request was filed with the court. On September 29, 2011, the court dismissed the action, without prejudice, when respondent did not appear for a duly noticed hearing on the court's order to show cause why the action should not be dismissed for failing to file the request with the court.

30. On February 13, 2013, Velasco agreed that respondent could continue to represent him in his claims against Segura by refiling Velasco's lawsuit against Segura or by filing a motion to set aside the dismissal; by paying the filing fees for Velasco; by reducing respondent's contingency fee from 15 percent to 5 percent if there is any recovery obtained from Segura; and by assisting Velasco in pursuing criminal charges against Segura.

31. On March 6, 2013, respondent filed an ex parte application for an order setting aside the dismissal and paid the related filing fees. On March 12, 2013, the court set aside the dismissal and granted respondent leave to file a request for entry of default and default judgment. In March 2013, respondent stipulated with the State Bar that he failed to perform legal services with competence by not filing a request for entry of default, by not appearing at the OSC, and by not filing a motion to set aside the dismissal of the action, refiling the lawsuit or by taking further action to pursue Velasco's claim. Respondent further stipulated that he failed to inform Velasco of significant developments in the action by not promptly informing Velasco of the outcome of the August 26, 2011 hearing, the dismissal of the action and the reason for the dismissal.

32. On April 15, 2013, Velasco sent an email to respondent asking for the status of his case. On April 16, 2013, respondent filed a request for entry of default and informed Velasco of the filing. Respondent told Velasco that he would wait for the court to provide a date to file a default judgment. Respondent stated that he would contact Velasco in 30 days. On April 25, 2013, the request for entry of default submitted to the court by respondent on Velasco's behalf was denied for the following reasons, "Form CIV-100#1(c) and #6(b)(2): Defendant's name must match the name on complaint, exactly. Form CIV-100 page 2 must be completed and corrected (mailed date cannot be after declaration date). Proof of Service of Summons and Complaint has not been filed. Exhibit C on Manuel L. Ramirez' (sic) declaration is not a proper form for POS of Summons and complaint; please refer to highlighter (sic) area."

33. On June 18, 2013, Velasco sent respondent an email asking whether respondent had some information about the status of his case. On June 19, 2013, respondent sent Velasco an email stating that he would check the next day when he returned to his office. Velasco sent respondent a reply email thanking respondent. On June 28, 2013, Velasco sent respondent an email asking if respondent had checked the status of his case.

34. On July 2, 2013, respondent sent Velasco an email stating that he checked the court file. Respondent stated that his request to enter default was rejected "based on technicalities, such as not having the exact name/spelling of the parties on the Request as it appears on the original complaint we

filed, and not including the proof of service of the original complaint on the defendant.” Respondent stated that he was rectifying the issues and would refile the request as soon as possible. Respondent stated that once he refiled the request, it should be granted, and that he had calendared July 10 as the next status report to Velasco. On July 13, 2013, respondent sent a letter to Velasco stating that he had reviewed the court’s basis for the rejection of his request and was having difficulty understanding the basis, and that once he resolved the issue, he would file another request with the court.

35. On August 17, 2013, Velasco sent respondent an email asking whether respondent had any news about his case. On August 28, 2013, Velasco sent respondent an email expressing his disappointment with respondent not prosecuting his case. Respondent sent Velasco an email stating that he had a “setback with his heart.” Respondent asked Velasco to “not think that I have left you,” and stated that he had responded and provided Velasco with updates aside from the last two weeks when he was dealing with health issues. Respondent stated that the default against Segura was filed but the court rejected it. Respondent stated that he was filing a revised request that week and asked if Velasco would like to get together next week.

36. On September 1, 2013, Velasco sent respondent an email asking respondent to give him notice that his case “is in court” and to complete the case before September 12, 2013.

37. On October 6, 2013, respondent sent Velasco an email stating that the request for entry of default judgment was filed last month with the court. Respondent stated that he was waiting for a conformed copy from the court. Respondent stated that he would contact Velasco in the next 30 days to advise Velasco of the case status. On October 14, 2013, the request for entry of default submitted to the court by respondent was denied by the court for the following reasons: documentation submitted was not in agreement with information in the case file; defendant’s name does not match what is in the file; #5 a, b, and c was incomplete; proof of service was incorrect (POS-020 is not the form to use to show service of a summons and complaint; proof of service does not have an original signature; and original signature required.

38. On November 21, 2013, Velasco sent respondent an email asking about the status of his case.

39. On December 9, 2013, respondent sent Velasco an email stating that he had been in trial over the last two weeks and that he had another two weeks of trial to go. Respondent stated that he would check on Velasco’s case that week. On December 21, 2013, respondent, who had not performed an adequate investigation into the case status with the court, sent Velasco a letter stating that no action had been taken on the request to date. Respondent stated he would keep Velasco advised.

40. On January 16, 2014, Velasco sent respondent an email asking about the status of his case. On January 20, 2014, respondent sent Velasco an email stating that he has been in trial and was starting another trial the next day. Respondent stated that he would send someone from his office to court to find out the status of the case.

41. On February 18, 2014, respondent sent a letter to Velasco stating that he checked the court file and “for some unknown reason” the request is not in the court file. Respondent stated that he would follow up to see what was happening. Respondent stated that he believed that the request was at the default desk. Respondent advised Velasco that he was moving his office to a new location and that his email address would remain the same.

42. On March 14, 2014, Velasco submitted another complaint to the State Bar against respondent.

43. On April 30, 2014, respondent sent Velasco an email stating that he had reviewed the court file and that his request for entry of default and default judgment was still not in the court file. Respondent stated that he would be filing another request that week. Respondent stated that he would place the case on a 30-day diary for a review of the court file and a status report to Velasco.

44. On May 1, 2014, the State Bar closed Velasco's complaint.

45. On September 19, 2014, Velasco sent respondent an email stating that it had been four years and no paperwork had been filed in his case. Velasco asked respondent if everything was moving along or if there had been any changes in the case. Respondent sent Velasco an email stating that he may have located Segura. Respondent stated that he should have a report for Velasco within the week. Thereafter, Velasco did not hear from respondent.

46. On February 10, 2015, the State Bar received another complaint from Velasco about respondent's failure to prosecute his case.

47. On April 17, 2015, the State Bar's investigator sent a letter to respondent regarding the allegations raised by his client's complaint and requested a response by May 5, 2015. Respondent did not respond to the letter.

48. On June 11, 2015, the State Bar's investigator sent a letter to respondent with a copy of her April 17, 2015 letter regarding the allegations raised by Velasco's complaint and requested a response by June 29, 2015. Respondent did not respond to the letter.

49. On July 9, 2015, the State Bar's investigator sent an email to respondent requesting contact to discuss receipt of respondent's response. Respondent did not respond to the email. On July 29, 2015, the State Bar's investigator tried calling respondent's telephone number listed with the State Bar's Membership Records, but respondent's number was disconnected.

50. On September 2, 2015, the State Bar's investigator sent respondent an email regarding respondent's failure to respond to the investigator's letters and asking respondent to contact the investigator about when his response would be sent. Respondent did not respond to the email or the investigator's letters.

CONCLUSIONS OF LAW:

51. By not obtaining the entry of default and a default judgment after April 25, 2013, respondent repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

52. By constructively terminating the representation of Velasco in October 2013, after filing the request for entry of default, which was denied by the court on October 14, 2013, and by not informing Velasco that he was withdrawing from the representation, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, including giving due notice to Velasco, allowing time for employment of other counsel, complying with

rule 3-700(D), and complying with applicable laws and rules, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

53. By not providing a substantive response to the State Bar's letters of April 17, 2015 and June 11, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 15-O-11754, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline [Std. 1.5(a)]:

Effective April 19, 2013, respondent was privately reprovved in case no. 12-O-15076 for failing to perform and to inform Velasco of the dismissal of his action. The misconduct occurred from the latter half of 2011 through 2012. Respondent's multiple acts of misconduct was 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 and recognition of wrongdoing were mitigating factors.

Multiple Acts of Misconduct [Std. 1.5(b)]:

Respondent failed to perform, respond to status inquiries and inform his clients of a significant development in one client matter; failed to timely comply with a sanction order in a second client matter; and failed to perform and properly withdraw from representation in a third client matter and failed to cooperate in two State Bar investigations.

Harm [Std. 1.5(j)]:

In case no. 15-O-10980, respondent's misconduct led to the dismissal of the medical malpractice action of his clients. In case no. 15-O-11754, respondent unreasonably delayed for almost three years finalization of Velasco's matter, including failing to obtain a monetary judgment against the defendant.

Vulnerable Victim Std. 1.5(n):

In case no. 15-O-10980, respondent's clients were highly vulnerable, as they were dealing with the loss of their baby. The clients reported that they had two children since their initial meeting with respondent, but those pregnancies were treated as high risk given the loss of their first child, and without answers regarding the progress of the case, the high risk pregnancies impacted them financially and emotionally.

Prior Similar Misconduct:

In case no. 12-O-15076, respondent was previously disciplined for similar misconduct, particularly, failing to perform and failing to inform a client of the dismissal of the client's action. (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149-1150 [similar misconduct, not rising to the level of a pattern of misconduct, properly considered as an aggravating factor].)

Violations Committed During Repeval Period:

From April 19, 2013 to April 19, 2014, respondent was serving a one-year reprobation at the time of his misconduct in case nos. 15-O-10980 and 15-O-11754. (*In the Matter of Katz* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430, 438 [aggravation given greater weight when attorney committed current misconduct while on probation].)

MITIGATING CIRCUMSTANCES.

Pretrial and Prefiling Stipulations:

Respondent has stipulated to facts and culpability prior to the filing of pretrial statements in case no. 15-O-10980, and prior to the filing of formal charges in case nos. 15-O-10917 and 15-O-11754, thereby demonstrating his recognition of wrongdoing and saving State Bar resources and time. However, this mitigation is tempered by respondent's failure to cooperate in the State Bar investigation. (*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].)

Medical and Law Office Problems:

To a significant extent, respondent's misconduct commencing in 2014 resulted from his serious medical condition and the relocation of his office and changes in his office staff. In January 2014, respondent began relocating his office, which involved a change of employees, including the loss of his long-time secretary. (*Chefsky v. State Bar* (1984) 36 Cal.3d 116, 132 [misconduct mitigated by attorney illness, office relocation and loss of full-time secretary]; *Lister v. State Bar* (1990) 51 Cal.3d 1117, 1122 [misconduct mitigated to some degree by an office move and staff problems suffered by the attorney].) Beginning in mid 2014, respondent suffered from symptoms related to his chronic heart condition dating back to 2012. In November 2014, respondent underwent heart surgery and experienced a prolonged period of recovery from the surgery. Respondent has not provided an expert opinion that his medical condition had a nexus to his misconduct, but his medical condition negatively impacted respondent's ability to devote his full attention to Velasco's matter. (See *In the Matter of Kaplan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547, 566 [limited mitigation for marital and family problems in absence of expert testimony establishing nexus to misconduct].) Respondent's health problems have stabilized and his practice is now staffed with experienced employees.

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).)

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 2.12(a), which applies to respondent’s violation of Business and Professions Code section 6103. Standard 2.12(a) provides that disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member’s practice of law. However, the gravamen of respondent’s misconduct is his failure to perform and properly withdraw from representation in two client matters resulting in significant harm to his clients. Standard 2.7(b) provides that actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.

Also applicable is standard 1.8(a), which provides that if a member has a single prior 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. Respondent’s private reproof from 2013 involves the same client matter that is the subject of case no. 15-O-11754, is not remote in time, and involved similar misconduct of failing to perform and communicate the dismissal of Velasco’s action as in the present matter, case no. 15-O-10980, which warrants the imposition of greater discipline for his present misconduct.

Respondent’s failure to perform and properly withdraw from representation was serious. In case no. 15-O-10980, respondent’s misconduct led to the dismissal of his clients’ action. For over a year, respondent did not disclose the dismissal of the action to his clients, who were emotionally vulnerable, having suffered the loss of their baby. Respondent compounded his misconduct by not timely withdrawing from the representation and releasing the file to his clients and thereby depriving his clients of the opportunity to obtain other counsel to assume the representation. In case no. 15-O-11754, respondent’s misconduct involved a continuation of his misconduct in his prior discipline and his failure to finalize his client’s case for five years. In case no. 15-O-10917, respondent’s violation of a court order in not timely paying a sanction was related to the practice of law.

The aggravating factors present overwhelmingly outweigh respondent’s mitigation. The similarity of respondent’s present misconduct to his misconduct in his prior discipline case and his misconduct during the period of his reproof are particularly aggravating and demonstrate his unwillingness to conform to his ethical responsibilities in the future. Therefore, a substantial actual suspension of six months is appropriate.

This recommendation is consistent with prior case law involving misconduct similar to respondent's misconduct, but involving deceit by attorneys, including two attorneys with no prior record of discipline over many years of practice, and involving only two, not three, client matters. (*Gold v. State Bar* (1989) 49 Cal.3d 908 [a 30-day actual suspension and a three-year stayed suspension for attorney who failed to perform and communicate with clients in two matters, and acted deceitfully in one of the client matters, and who had no prior record of discipline in 25 years of practice]; *Carter v. State Bar* (1988) 44 Cal.3d 1091 [a six-month actual suspension and a two-year stayed suspension for attorney culpable of abandonment in one matter and improper withdrawal in a second matter with misrepresentations and prior public reproof for mishandling two separate matters]; *Slavkin v. State Bar* (1989) 49 Cal.3d 894 [a one-year actual suspension and until rehabilitation was proved and a three-year stayed suspension for abandonment of one client matter and deceit to obtain a loan in a second client matter by an attorney with no prior record in 10 years of practice].) While respondent's misconduct did not involve deceit, his inattention to his clients' matters over an extended period of time in case nos. 15-O-10980 and 15-O-11754 led to the clients being misinformed about the true status of their matters.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
15-O-10980	Four	Business and Professions Code section 6106
15-O-10980	Five	Business and Professions Code section 6106

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 17, 2015, the prosecution costs in this matter are \$5,540. 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

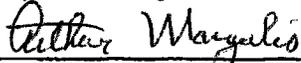
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of MCLE courses or any other educational courses to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: MANUEL LUIS RAMIREZ	Case number(s): 15-O-10980-WKM, 15-O-10917 (Inv.), 15-O-11754 (Inv.)
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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>Dec. 7, 2015</u> Date	<u></u> Respondent's Signature	<u>Manuel L. Ramirez</u> Print Name
<u>Dec. 10, 2015</u> Date	<u></u> Respondent's Counsel Signature	<u>Arthur L. Margolis</u> Print Name
<u>12/10/15</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Diane J. Meyers</u> Print Name

(Do not write above this line.)

In the Matter of: MANUEL LUIS RAMIREZ	Case Number(s): 15-O-10980-WKM, 15-O-10917 (Inv.), 15-O-11754 (Inv.)
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ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

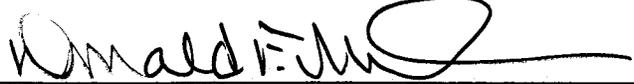
On page 5 of the Stipulation, at paragraph E.(8), an "X" is inserted in the box requiring Respondent to provide the Office of Probation with satisfactory proof of attendance at a session of Ethics School and passage of the test given at the end of that session. Furthermore, at that same paragraph on page 6 of the Stipulation, the "X" in the box next to "No Ethics School recommended" is deleted, as is the language following "Reason:".

On page 6 of the Stipulation, at paragraph F.(1), an "X" is inserted in the box requiring Respondent to provide proof of passage of the Multistate Professional Responsibility Examination. Furthermore, at that same paragraph, the "X" in the box next to "No MPRE recommended" is deleted, as is the language following "Reason:".

The court finds that the above requirements are appropriate because some of Respondent's misconduct in this matter occurred after he had previously taken the Ethics School and the MPRE. The court therefore finds it appropriate to require Respondent again to take and pass the State Bar Ethics School and the Multistate Professional Responsibility Examination in connection with this disciplinary matter.

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.)

12/23/15
Date


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 23, 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:

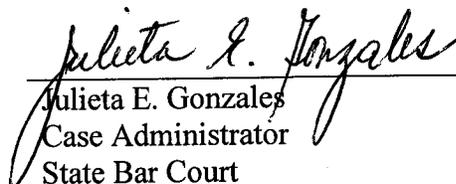
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS 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:

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 23, 2015.



Julieta E. Gonzales
Case Administrator
State Bar Court