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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION PUBLIC MATTER		
Counsel For The State Bar Anand Kumar Senior Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1714 Bar # 261592	Case Number(s): 15-O-15794-CV	For Court use only <div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 1.5em; font-weight: bold;">FEB 22 2017</div> <div style="font-size: 1.2em; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="font-size: 1.5em; font-weight: bold; margin-left: 20px;">P.B.</div>
Counsel For Respondent Paul Jean Virgo 9909 Topanga Blvd # 282 Chatsworth, CA 91311 (310) 666-9701 Bar # 67900	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: ALEJANDRO PORTALES Bar # 202992 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 1, 1999**.
- (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 **12** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



- (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: **two (2) 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 **14-C-02180 and 14-C-02181**
 - (b) Date prior discipline effective **April 18, 2015**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Other misconduct warranting discipline. A further description of the misconduct is explained at page 9 of the Stipulation.**
 - (d) Degree of prior discipline **one-year stayed suspension and a two-year probation with conditions.**
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See stipulation, at page 9.
- (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.

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- (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 stipulation, at page 9.**
- (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:

Prefiling stipulation, see stipulation, at page 9.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **two (2) 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 **two (2) 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 **thirty (30) days**.
- 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.

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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: .
- (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.

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- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

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

No Client Trust Accounting School recommended.

Reason: On February 8, 2017, Respondent attended State Bar Client Trust Accounting School and passed the test given at the end of the session. Accordingly, the protection of the public and the interests of the Respondent do not require passage of the CTA School as a condition of his probation in this case.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ALEJANDRO PORTALES

CASE NUMBER: 15-O-15794

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-O-15794 (Complainants: Tien and Amy Nguyen)

FACTS:

1. On October 11, 2013, Dr. Tien Nguyen and his wife, Aimy, hired Respondent to file a lawsuit and pursue claims on behalf of their medical corporation, V&A Enterprises, against Glovis America (“Glovis America”) and Glovis Business Center Owners Association (“Glovis BCOA”) and other parties arising out of a commercial real estate dispute. The retainer agreement was an hourly fee agreement.

2. On September 17, 2013, Respondent filed a civil lawsuit on behalf of V&A Enterprises in *V&A Enterprises v. Glovis America, Inc., et al.*, Orange County Superior Court, case number 30-2013-00676103, against Glovis America, Glovis BCOA, and several individuals employed by Glovis.

3. During the course of litigation, in March 2015, Glovis BCOA agreed to settle for \$60,000. The Nguyens accepted the settlement offer.

4. Also in March 2015, Glovis America filed two motions to compel against the Nguyens regarding their refusal to provide additional discovery, which resulted in a total of \$4,000 in sanctions against the Nguyens. Accordingly, after deducting the \$4,000 sum for sanctions, the insurance carrier for Glovis BCOA sent Respondent a settlement check on behalf of the Nguyens in the amount of \$56,000.

5. On March 25, 2015, Tien Nguyen sent an email to Respondent demanding that Respondent ensure the settlement funds be sent directly to the Nguyens. Respondent received the email.

6. On March 27, 2015, Respondent sent an email to Tien stating that once he received the settlement check, he would release the funds once the check cleared and that any pending costs or fees would be deducted from the settlement funds to pay for pending obligations. However, Respondent’s email did not state how much the anticipated fees and costs were, or that in fact, the total amount of his legal fees and the costs would consume the entire amount of the Nguyen’s settlement funds. Tien received the email, and did not object or otherwise respond to Respondent’s stated intention to deduct the pending costs and fees prior to disbursement of the funds to the Nguyens.

7. Based on his reliance upon his March 27, 2015 email and the lack of response from Tien, Respondent held the mistaken belief that he had been authorized by the Nguyens to apply the settlement funds to his outstanding attorney's fees and costs.

8. On April 6, 2015, Respondent received the settlement draft in the amount of \$56,000 and deposited the settlement funds into his Wells Fargo Bank client trust account ("CTA"). The balance in his CTA prior to the deposit was \$600 and after the April 6, 2015 deposit, the balance in Respondent's CTA was \$56,600.

9. Unbeknownst to the Nguyens, on April 15, 2015, Respondent issued several checks from his CTA to pay for fees and costs associated with the Nguyens' case, which consumed the entire \$56,000 settlement. Specifically, Respondent issued a CTA check in the amount of \$44,563.10 to himself for his legal fees, and issued several other CTA checks, totaling \$11,436.90, to the vendors who provided services in connection with the Nguyens' case. The vendors did not negotiate all of the checks until May 15, 2015.

10. Respondent failed to promptly inform the Nguyens that he received their settlement funds until April 23, 2015.

11. Between March 27, 2015 and April 15, 2015, Respondent also failed to timely inform the Nguyens of a significant development, namely how much he intended to disburse to himself and the vendors, and the fact that he did disburse their settlement funds to himself and third parties for legal fees and costs respectively.

12. On April 23, 2015, Tien sent an email to Respondent asking about the status of the settlement check. Respondent received the email and the same day, Respondent sent a responsive email, which stated that he received the settlement check, deposited the funds in his CTA, and then applied the funds to outstanding fees and costs based on his belief that he was authorized to do so.

13. On April 23, 2015, Tien sent another email to Respondent stating his frustration with Respondent's application of the funds for his fees and costs, disputing Respondent's authorization to apply the settlement funds to his legal fees and costs. Respondent received the email.

14. On April 27, 2015, the Nguyens terminated Respondent's employment.

15. On May 31, 2015, Respondent sent the Nguyens an accounting of their settlement funds and costs paid. Thereafter, at no time did the Nguyens pursue any claim regarding the amount of Respondent's legal fees.

16. On February 8, 2017, Respondent attended State Bar Client Trust Accounting School and successfully completed the test given at the end of the session

CONCLUSIONS OF LAW:

17. By failing to inform the Nguyens that he received their settlement funds until April 23, 2015, Respondent failed to promptly notify a client of the receipt of the client's funds, in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

18. By failing to inform the Nguyens of the specific amounts of the settlement funds he intended to disburse and the fact that he did disburse their settlement funds to himself and third parties for legal fees and costs respectively between March 27, 2015 and April 15, 2015, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Stds. 1.5(a) and 1.8(a)): Respondent has one prior record of discipline from 2014 since being admitted to practice law on December 1, 1999. Respondent entered into a disciplinary stipulation in State Bar case numbers 14-C-02180 and 14-C-02181, on November 20, 2014, wherein Respondent received a one (1) year stayed suspension and a two (2) year probation with conditions. The ensuing disciplinary order became effective on April 18, 2015. In those matters, Respondent stipulated that his misconduct arising out of two separate misdemeanor convictions for driving under the influence constituted other misconduct warranting discipline. The last of the two convictions stemmed from an arrest which occurred on October 17, 2013.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple acts of misconduct by failing to timely inform his clients of two distinct significant developments, including his receipt of their settlement funds and the disbursement of their funds for legal fees and costs. The commission of multiple acts of misconduct is considered serious aggravation. (*See e.g., In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555.)

MITIGATING CIRCUMSTANCES.

Good Character (Std. 1.6(f)): Respondent submitted character declarations and letters from a widespread sample of the legal and general communities, including three attorneys, a former client, and two long-term friends, and all of whom are aware of the full extent of Respondent's misconduct and attesting to an extraordinary demonstration of his good character.

Additional Mitigating Circumstances:

Pretrial Stipulation: While some of the instant facts are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter without the necessity of a trial, thereby saving State Bar resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, Respondent admits to committing multiple acts of professional misconduct constituting two violations of the State Bar Act and Rules of Professional Conduct. 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 sanctions applicable to Respondent’s misconduct here are Standard 1.8(a), which applies in light of his prior record of discipline, and Standard 2.2(b), which applies to his failure to timely inform the clients of the receipt of their funds, in violation of rule 4-100 of the Rules of Professional Conduct.

Standard 1.8(a) provides that if 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. Standard 2.2(b) provides suspension or reproof is the presumed sanction for any violation of rule 4-100, not involving commingling and failure to promptly pay out entrusted funds.

Applying the progressive disciplinary recommendation of Standard 1.8(a) here, the minimum discipline warranted for Respondent’s misconduct must include a two year stayed suspension, because the prior discipline was recent and also serious. Respondent’s client trust account misconduct involves his failure to timely inform his clients of the receipt of their settlement funds when he had been specifically directed to do so by his client on March 25, 2015, and he subsequently failed to notify the clients of the amount of funds he intended to disburse and the actual disbursement of their settlement funds. However, his misconduct stemmed from a mistaken belief regarding his authority to make disbursements from the settlement funds, and when questioned by the client, Respondent immediately disclosed the disbursements he made and subsequently provided an accounting of the settlement funds to the Nguyens, showing that Respondent did not conceal his disbursement of the clients’ funds. Additionally, Respondent’s misconduct is surrounded by mitigating circumstances, including good character evidence and his cooperation by entering into a pretrial stipulation. Therefore, Respondent’s misconduct warrants a period of actual suspension at the lowest end of the range of discipline.

Accordingly, a two (2) year stayed suspension with a two (2) year probation including a thirty (30) day actual suspension, with conditions, is appropriate discipline to protect the public, the courts and the legal profession, maintain high professional standards, and preserve public confidence in the legal profession.

Relevant case law supports the instant discipline recommendation. In *Sternlieb v. State Bar* (1990) 52 Cal.3d 317, the Supreme Court imposed a thirty (30) day actual suspension where an attorney improperly applied client funds to her legal fees and misappropriated a total of \$2,997. In concluding that she misused the client's funds, the Court found that while the attorney mistakenly believed she was authorized by her client to apply the trust funds to her legal fees, that there was no reasonable basis for her belief. (*Id.* at p. 332.) In mitigation, the Court considered her good character and pro bono activities, her remorse and objective steps taken to prevent future recurrence of the misconduct. Here, Respondent's misconduct did not involve misuse or an improper application of client funds and unlike in *Sternlieb*, his belief as to the entitlement to the funds was more reasonable based on the lack of response by his client to his March 27, 2015 email. However, Respondent has a recent prior record of discipline involving a period of suspension. Accordingly, Respondent's misconduct warrants similar discipline imposed in *Sternlieb*.

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-15794	3	Rules of Professional Conduct, rule 4-100(B)(3)
15-O-15794	4	Business and Professions Code section 6068(k)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of February 8, 2017, the prosecution costs in this matter are approximately \$3,669. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

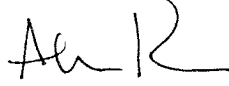
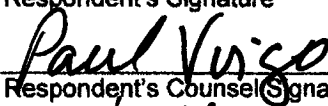
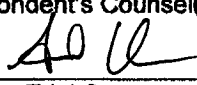
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: ALEJANDRO PORTALES	Case number(s): 15-O-15794
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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.

February 10, 2017 Date	 Respondent's Signature	Alejandro Portales Print Name
February 13, 2017 Date	 Respondent's Counsel Signature	Paul Virgo Print Name
February 13, 2017 Date	 Deputy Trial Counsel's Signature	Anand Kumar Print Name

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In the Matter of: ALEJANDRO PORTALES	Case Number(s): 15-O-15794
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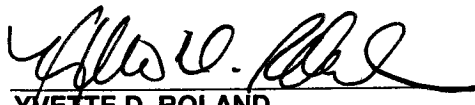
ACTUAL SUSPENSION ORDER

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.

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.)**

February 21, 2017
Date


YVETTE D. ROLAND
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 February 22, 2017, I deposited a true copy of the following document(s):

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

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

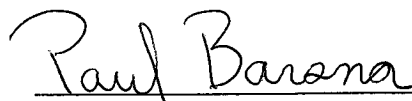
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

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

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 22, 2017.



Paul Barona
Case Administrator
State Bar Court