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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Angie Esquivel</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017-2515</b> <b>(213) 765-1080</b>  Bar # <b>286432</b>	<b>Case Number(s):</b> <b>16-O-12104-YDR</b> <b>16-O-13720</b> <b>16-O-15007</b> <b>16-O-16075 (Cons.)</b>  kwiktag® 226 154 826 	<b>For Court use only</b>  <b>FILED</b>  <b>JAN 05 2018</b>  <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Anthony Radogna</b> <b>1 Park Plaza, Suite 600</b> <b>Irvine, CA 92614</b> <b>(949) 852-7312</b>  Bar # <b>261859</b>	<b>PUBLIC MATTER</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>
<b>In the Matter of:</b> <b>GABRIEL ERIC DORMAN</b>  Bar # <b>182340</b>  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 **June 11, 1996**.
- (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 **17** 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".

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (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. See Attachment to Stipulation, page 14.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment to Stipulation, page 14.
- (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.
- (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:**

**No Prior Discipline, see page 14.**  
**Good Character, see page 14.**  
**Pretrial Stipulation, see pages 14-15.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **one (1) year**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of **one (1) year**, 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.

- 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.

- (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:** \_\_\_\_\_

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

IN THE MATTER OF:                       GABRIEL ERIC DORMAN

CASE NUMBERS:                         16-O-12104-YDR, 16-O-13720, 16-O-15007;  
   16-O-16075 (Cons.)

**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. 16-O-12104 (Complainant: Dean Sebata)

**FACTS:**

1. On January 1, 2015, Dean Sebata ("Sebata") hired respondent to represent him in a criminal matter pending in Los Angeles County Superior Court ("LASC") case number 5EA01211, entitled *People v. Sebata*, for a fee of \$2,250. Sebata paid respondent \$1,250 by personal check, dated January 2, 2015.
2. On February 21, 2015, Sebata and respondent executed their written agreement. On that same day, respondent informed Sebata that he would contact Sebata if Sebata needed to appear for any of his scheduled court hearings.
3. Sebata paid respondent the remaining balance of \$1,000 via direct debit from his checking account on March 2, 2015.
4. On March 25, 2015, neither respondent nor Sebata appeared at Sebata's initial arraignment. As a result, the court issued a bench warrant for Sebata's arrest.
5. On August 8, 2015, respondent appeared in court and requested the court recall and quash the warrant. The court granted the request and ordered Sebata to appear at the continued arraignment scheduled for September 9, 2015.
6. Respondent and Sebata appeared at the September 9, 2015 hearing. Sebata pled not guilty. The court scheduled a pretrial hearing for October 21, 2015 and ordered Sebata to return.
7. Neither Sebata nor respondent appeared at the October 21, 2015 pretrial hearing.
8. On October 21, 2015, respondent spoke with the courtroom clerk by telephone and informed her that he was unable to appear for the hearing. He requested that the court continue the hearing and issue and hold a bench warrant for Sebata's arrest until October 28, 2015.
9. Respondent did not inform Sebata that he did not appear at the October 21, 2015 hearing. Respondent also failed to inform Sebata that a bench warrant for Sebata's arrest had been issued and

held until the October 28, 2015 hearing. Respondent did not inform Sebata that Sebata's presence was required at the October 28, 2015 hearing.

10. Neither respondent nor Sebata attended the October 28, 2015 hearing. At the October 28, 2015 hearing, the court revoked Sebata's release on his own recognizance and issued the previously held bench warrant.

11. Respondent failed to take any action on Sebata's matter or to protect Sebata's interests following his last communication with the court on October 21, 2015. At that time, respondent effectively abandoned Sebata and terminated the representation.

12. On November 2, 2015, Sebata called the court and discovered that respondent had failed to appear at the October 28, 2015 hearing and that a warrant had been issued for his arrest.

13. On November 2, 2015, Sebata emailed respondent and requested a full refund.

14. On November 3, 2015, the court appointed a public defender to represent Sebata.

15. To date, respondent has failed to provide Sebata with an accounting for the \$2,250 in fees advanced to respondent.

16. However, respondent provided an accounting to the State Bar for the legal services rendered in Sebata's case, which indicates that a \$1,000 refund is due to Sebata.

17. On December 1, 2017, respondent issued a refund check to Sebata in the amount of \$1,000. On December 7, 2017, Sebata informed the State Bar that the check was negotiated.

18. On April 11, 2016, the State Bar opened an investigation regarding the complaint submitted by Sebata.

19. On April 13, 2016 and June 24, 2016, a State Bar investigator mailed respondent letters that were properly addressed to respondent's membership records address. The letters requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Sebata's complaint.

20. The State Bar investigator also emailed respondent on June 24, 2016, September 12, 2016, October 12, 2016, and October 18, 2016 regarding the State Bar investigator's inability to reach respondent and respondent's non-response to the State Bar investigator's request for a response to the allegations filed in Sebata's complaint.

21. Respondent received the State Bar investigator's letters and the emails, but did not respond.

#### CONCLUSIONS OF LAW:

22. By failing to attend the initial arraignment scheduled for March 25, 2015, which resulted in the issuance of a bench warrant for Sebata's arrest; by failing to attend the pretrial hearing scheduled for October 21, 2015, which resulted in a bench warrant hold for Sebata's arrest until October 28, 2015; by failing to attend the pretrial hearing scheduled for October 28, 2015, which resulted in the issuance of a bench warrant for Sebata's arrest; and by failing to take any other action on Sebata's behalf to advance



Sebata's legal interests and effectively abandoning Sebata after October 21, 2015, respondent repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

23. By failing to take reasonable steps to avoid reasonably foreseeable prejudice to Sebata upon termination of employment on October 21, 2015, and by failing to take any action on Sebata's behalf after respondent contacted the court by telephone, failing to appear at Sebata's pretrial hearings pending in Los Angeles Superior Court case number 5EA01211, entitled *People v. Sebata*, and thereafter failing to inform Sebata that respondent was withdrawing from employment, respondent improperly withdrew from Sebata's case, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

24. By failing to promptly refund to Sebata any part of the \$2,250 received as advanced legal fees that were unearned upon termination of respondent's employment on October 21, 2015, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

25. By failing to render an accounting to Sebata for the \$2,250 in advanced legal fees upon respondent's termination on October 21, 2015, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

26. By failing to inform Sebata that respondent had failed to attend the October 21, 2015 and October 28, 2015 hearings in Los Angeles Superior Court case number 5EA01211, entitled *People v. Sebata*, that a bench warrant for Sebata's arrest was issued on October 21, 2015 and held until October 28, 2015, that Sebata was required to appear in court on October 28, 2015, and that a bench warrant for Sebata's arrest was issued on October 28, 2015, respondent failed to keep his client reasonably informed of significant developments in his client's matter, in willful violation of Business and Professions Code, section 6068(m).

27. By failing to provide a substantive response to the State Bar's letters dated April 13, 2016 and June 24, 2016 and emails dated June 24, 2016, September 12, 2016, October 12, 2016, and October 18, 2016, which respondent received, 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. 16-O-13720 (Complainant: Shane Burrell, Jr.)

FACTS:

28. In February 2013, Shane Burrell, Jr. ("Burrell") retained respondent to represent him in a criminal matter pending in San Bernardino County Superior Court under case number TWV1300482 entitled *People v. Burrell*, for a fee of \$4,500.

29. Thereafter, respondent obtained several continuances in the matter.

30. On March 12, 2014, respondent appeared at Burrell's pretrial hearing and requested to continue Burrell's pretrial hearing. The court granted respondent's request for a continuance and set the pretrial hearing for May 12, 2014.

31. Respondent failed to attend the May 12, 2014 pretrial hearing. As a result, the court revoked Burrell's release on own recognizance status and issued a bench warrant for his arrest.

32. Respondent failed to inform Burrell that respondent did not attend the May 12, 2014 pretrial hearing in his matter and that a bench warrant had been issued for Burrell's arrest. In addition, respondent failed to take any action on Burrell's matter or to protect Burrell's interests following the last court appearance on March 12, 2014, at which time respondent effectively abandoned Burrell and terminated the representation.

33. Respondent did not provide Burrell with an accounting of legal services performed upon his constructive termination from employment.

34. Burrell subsequently hired another attorney to represent him in the criminal matter and paid his subsequent counsel \$2,000.

35. On June 13, 2016, the State Bar opened an investigation regarding Burrell's complaint against respondent.

36. On June 24, 2016 and July 18, 2016, a State Bar investigator mailed respondent letters that were properly addressed to respondent's membership records address. The letters requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Burrell's complaint.

37. The State Bar investigator also emailed respondent on June 24, 2016, September 12, 2016, October 12, 2016 and October 18, 2016 regarding the State Bar investigator's inability to reach respondent and respondent's non-response to the State Bar investigator's request for a response to the allegations filed in Burrell's complaint.

38. Respondent received the letters and the emails but did not respond.

39. On May 18, 2017, Burrell received a refund check for \$500 and an accounting of the \$4,500 advanced fees paid to respondent by Burrell.

#### CONCLUSIONS OF LAW:

40. By failing to attend the pretrial hearing scheduled for May 12, 2014 in the criminal matter pending in San Bernardino County Superior Court case number TWV1300482, entitled *People v. Burrell*, which resulted in the issuance of a bench warrant for Burrell's arrest, and by failing to take any other action on Burrell's behalf to advance Burrell's legal interests and effectively abandoning Burrell after March 12, 2014, respondent repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

41. By failing to take reasonable steps to avoid reasonably foreseeable prejudice to Burrell upon termination of employment on March 12, 2014, and by not taking any action on Burrell's behalf after respondent's representative appeared at Burrell's pretrial hearing and failing to inform Burrell that he was withdrawing from employment, respondent improperly withdrew from in employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

42. By failing to promptly refund to Burrell any portion of the \$4,500 received as advanced legal fees that were unearned upon termination of respondent's employment on March 12, 2014, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

43. By failing to render an accounting to Burrell for the \$4,500 in advanced legal fees upon respondent's termination on March 12, 2014, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

44. By failing to inform Burrell that respondent had failed to attend the May 12, 2014 hearing in San Bernardino County Superior Court case number TWV1300482, entitled *People v. Burrell*, and that a bench warrant for Burrell's arrest was issued on May 12, 2014, respondent failed to keep his client reasonably informed of significant developments in his client's matter, in willful violation of Business and Professions Code, section 6068(m).

45. By failing to provide a substantive response to the State Bar's letters dated June 24, 2016 and July 18, 2016 and State Bar emails dated June 24, 2016, September 12, 2016, October 12, 2016, and October 18, 2016, which respondent received, 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. 16-O-15007 (Complainant: Humberto Diaz Carbajal)

FACTS:

46. In September 2014, Humberto Diaz Carbajal ("Diaz") hired respondent to pursue a dismissal and expungement of a criminal matter. On September 9, 2014, Diaz paid respondent \$2,000 for his legal services.

47. On September 18, 2014, Diaz emailed respondent with various documents pertaining to his case. Respondent acknowledged receipt of these documents by text message on September 19, 2014.

48. Over the next several months, respondent corresponded with Diaz by text message. On several occasions, Diaz expressed frustration or concern that nothing was happening with his case.

49. On March 4, 2015, Diaz sent respondent a text message requesting an update. Respondent replied "I will follow up with the [District Attorney] tomorrow and if I do not get a response then I will just file the motion on my own and without her stipulation!"

50. Additional text message communications occurred in March and April of 2015. On April 10, 2015, respondent sent Diaz a text message indicating he was driving and would call Diaz soon. Despite further text messages from Diaz in April through June of 2015, respondent did not return Diaz's texts or call.

51. On June 22, 2015, respondent sent Diaz a text message that stated, "I'm waiting to hear back from the [District Attorney] so I can get things moving forward on the expungement."

52. Between March 13, 2015 and June 22, 2015, Diaz sent a total of eight text messages to respondent to which respondent did not provide a substantive response.

53. On October 30, 2015, Diaz sent respondent a text message requesting an update. Respondent replied and stated, "spoke with [District Attorney] and she is supposed to get back to me ... I'm trying to get her to agree to it." Diaz responded immediately asking for further information. Respondent never replied nor communicated any further with Diaz.

54. Respondent did not file any pleading on behalf of Diaz.

55. On April 1, 2016, Diaz filed a Motion to Dismiss his criminal matter himself.

56. The court granted Diaz's motion on June 10, 2016.

57. On July 15, 2016, Diaz wrote respondent a letter, requesting a full refund. Diaz sent the letter to respondent's membership address and an alternate address. The letter sent to respondent's membership address was returned as undeliverable.

58. Diaz did not receive a response to his request for a refund until a year later.

59. On August 2, 2016, the State Bar opened an investigation regarding Diaz's complaint filed against respondent.

60. On August 15, 2016, a State Bar investigator mailed respondent a letter that was properly addressed to respondent's membership records address. The letter requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Diaz's complaint.

61. Respondent did not provide a response until March 3, 2017. In his response to the State Bar, respondent asserted that he spoke with the District Attorney on several occasions. However, respondent never identified the District Attorney with whom he spoke.

62. The State Bar contacted Deputy District Attorney James Toro who handled Diaz's request for expungement once Diaz filed the petition himself.

63. Toro stated that he never spoke with respondent.

64. Toro was also unable to locate anyone within the District Attorney's office who had purportedly talked with respondent about Diaz's case. Toro indicated that nothing had been filed on Diaz's behalf by respondent.

65. On May 9, 2017, Diaz received a refund check and an accounting of the advanced fees for legal services he paid respondent.

#### CONCLUSIONS OF LAW:

66. By failing to take any steps to obtain a dismissal or expungement, failing to take any other action on Diaz's behalf to advance Diaz's legal interests, and effectively abandoning Diaz after October 30, 2015, respondent repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

67. By failing to respond or provide substantive responses to eight text message reasonable status inquiries made by Diaz between March 13, 2015 and June 22, 2015, respondent failed to respond

promptly to reasonable client inquiries, in willful violation of Business and Professions Code, section 6068(m).

68. By stating to Diaz by text message on October 31, 2015, that respondent had spoken to the District Attorney regarding Diaz's matter when respondent knew the statement was false, respondent committed an act involving dishonesty, in willful violation of Business and Professions Code, section 6106.

69. By failing to take reasonable steps to avoid reasonably foreseeable prejudice to Diaz upon constructive termination of employment on October 30, 2015, and by failing to take any action on Diaz's behalf after sending a text message to Diaz, and thereafter failing to inform Diaz that respondent was withdrawing from employment, respondent improperly withdrew from Diaz's case, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

70. By failing to promptly refund to Diaz any portion of the \$2,000 received as advanced legal fees that were unearned upon termination of respondent's employment on October 21, 2015, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 16-O-16075 (State Bar Investigation)

FACTS:

71. On May 25, 2016, the Supreme Court of California issued an order suspending respondent from the practice of law for failing to pay his State Bar membership dues. The suspension became effective on July 1, 2016.

72. On August 5, 2016, the Managing Director for Member Records and Compliance with the State Bar, mailed a letter to respondent's membership records address and informed respondent of his suspension. The letter from Member Records and Compliance further provided respondent with information on how to restore his membership. The letter was returned as undeliverable and received by the State Bar on August 15, 2016.

73. On August 22, 2016, respondent appeared at a pretrial hearing in Department W15 of the Orange County Superior Court in case number 14WM04777, entitled *People v. Nye*. At the hearing, respondent filed a Request for Continuance with the court and signed the request as the defense attorney in the matter.

74. On August 22, 2016, the presiding judge was informed that respondent was not authorized to practice law. The judge then referred the matter to the State Bar. The judge's complaint form was received by the State Bar on August 30, 2016.

75. On August 24, 2016, respondent paid his membership dues. He restored his eligibility to practice law that same day.

76. On October 18, 2016, a State Bar investigator emailed respondent requesting the status of his response to the investigation letters sent to him in the Sebata and Burell matters. Respondent replied to the State Bar investigator's email on that same day and indicated that he was in the process of updating his membership records information.

77. Respondent updated his membership records address on October 26, 2016 and again on January 6, 2017.

#### CONCLUSIONS OF LAW:

78. By appearing as defense counsel at the August 22, 2016 hearing in *People v. Nye*, case number 14WM04777 then pending in Orange County Superior Court and filing a Request for Continuance with the court and signing such request as defense counsel, respondent held himself out as entitled to practice law and actually practiced law, in violation of Business and Professions Code, sections 6125 and 6126, thereby willfully violating Business and Professions Code, section 6068(a).

79. By failing to notify the State Bar of his change in membership address within 30 days of after vacating his office on August 5, 2016, which respondent held as his official membership records address, respondent failed to comply with the requirements of Business and Professions Code section 6002.1, thereby willfully violating Business and Professions Code section 6068(j).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent committed 19 acts of misconduct in four matters. In addition, respondent engaged in the unauthorized practice of law while suspended. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647; *In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168 [finding multiple acts of misconduct aggravating].)

**Significant Harm to Client and the Administration of Justice (Std. 1.5(j)):** Respondent's failures to appear for his clients' hearings in the *Sebata* and *Burrell* matters deprived his clients of their chosen counsel and required the court to appoint a public defender in the *Sebata* matter. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 792 [improperly burdening justice system with additional work as a result of misconduct constituted aggravating factor].) Additionally, *Burrell* had to hire subsequent counsel. (*In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126 [harm to client where client had to hire a new attorney and incur additional costs due to respondent's misconduct].) Respondent's conduct in the *Sebata*, *Burrell* and *Diaz* matters delayed the resolution of respondent's clients' cases. Respondent also failed to promptly refund *Sebata*, *Burrell*, and *Diaz*.

#### MITIGATING CIRCUMSTANCES.

**No Prior Discipline (Std. 1.6(a)):** Respondent has been admitted to practice law since June 1996. Respondent has been discipline free for approximately 18 years of practice from admission to the earliest misconduct herein and is therefore entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 (ten years given "significant weight" in mitigation).)

**Good Character (Std. 1.6(f)):** Respondent has provided evidence of good character in the form of letters from seven individuals attesting to his character. The letters come from individuals in the general and legal communities and indicate familiarity with the charged misconduct.

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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 Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### **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).)

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 standards 2.11 and 2.12(a). Standard 2.11, indicates that disbarment or actual suspension is appropriate for respondent's misrepresentation to his client. Standard 2.12(a) presumes disbarment or actual suspension for respondent's violation of Business and Professions Code, section 6068(a).

In the Diaz matter, respondent misrepresented to his client that he spoke to the District Attorney and that he was waiting to hear back from the District Attorney so that he could move forward with filing Diaz's request to expunge his criminal matter. In the State Bar Investigation, respondent appeared on the record in a pending criminal matter before the Orange County Superior Court while not entitled to practice law. Here, both Standards 2.11 and 2.12(a) provide for the same level of discipline for the misconduct committed by respondent in the Diaz matter and in the State Bar investigation, thus appropriate discipline would include a period of actual suspension.

Although respondent has mitigation for 18 years of discipline-free practice, good character and for entering into this pre-trial stipulation, respondent's mitigation is outweighed by the fact that respondent's misconduct stretched over multiple client matters and several years. Moreover, the

countervailing weight in aggravation of 19 acts of misconduct in four matters and harm to the clients and the administration of justice demonstrates that deviation from the Standards is not appropriate.

Thus, a one-year period of stayed suspension and a one-year period of probation with conditions including actual suspension of thirty days on the remaining terms and conditions set forth herein, is necessary to protect the public, the courts, and the profession; maintain the highest professional standards; and preserve public confidence in the profession.

Case law is in accord. In *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 913-914, the Review Department confirmed that decisional law involving the unauthorized practice of law supports a range of discipline from 30 days' to six months' actual suspension. In *In the Matter of Wells, supra*, the attorney received a six-month actual suspension, for engaging in the unauthorized practice of law, committing additional acts of moral turpitude and dishonesty separate and apart from the unauthorized practice of law and charging illegal fees. Her prior record of discipline was found to be a significant aggravating factor.

Although respondent, like the *Wells* attorney, engaged in the unauthorized practice of law and committed an act of dishonesty in the *Diaz* matter, respondent does not have a prior record of discipline and did not charge his clients illegal fees. Additionally, *Wells*' misconduct was more serious than the respondent's misconduct in the present matters as *Wells* committed two separate acts of dishonesty when communicating with the California State Bar and the Solicitor for the State of South Carolina, the agencies responsible for investigating her misconduct. Thus the same level of discipline as in *Wells* is not appropriate, but 30 days actual suspension is warranted.

Therefore, in order to protect the public, the courts, and the legal profession, to maintain the highest professional standards, to preserve public confidence in the profession and in consideration of the mitigating circumstances, discipline consisting of a one-year period of stayed suspension and a one-year period of probation with standard conditions including an actual suspension of thirty days is appropriate.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 8, 2017, the discipline costs in this matter are \$10,612. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

Respondent may not receive MCLE credit for completion of State Bar Ethics School ordered as a condition of his suspension. (Rules Proc. of State Bar, rule 3201.)


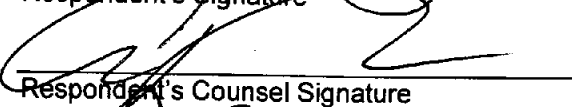
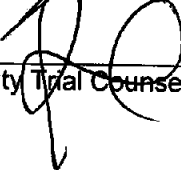


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In the Matter of: <b>GABRIEL ERIC DORMAN</b>	Case number(s): 16-O-12104-YDR, 16-O-13720, 16-O-15007, 16-O-16075 (Cons.)
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**SIGNATURE OF THE PARTIES**

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>12/8/17</u> Date	 Respondent's Signature	<u>Gabriel Eric Dorman</u> Print Name
<u>12-8-17</u> Date	 Respondent's Counsel Signature	<u>Anthony Radogna</u> Print Name
<u>12/8/17</u> Date	 Deputy Trial Counsel's Signature	<u>Angie Esquivel</u> Print Name

(Do not write above this line.)

In the Matter of: GABRIEL ERIC DORMAN	Case Number(s): 16-O-12104-YDR, 16-O-13720, 16-O-15007, 16-O-16075 (Cons.)
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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.)**

Jan. 5, 2018  
Date

Cynthia Valenzuela  
**CYNTHIA VALENZUELA**  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 5, 2018, 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:

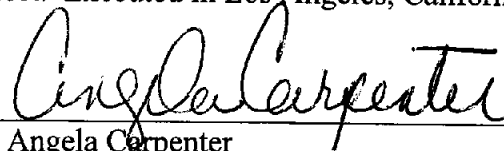
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ANTHONY P. RADOGNA  
LAW OFFICES OF ANTHONY RADOGNA  
1 PARK PLZ STE 600  
IRVINE, CA 92614 - 5987

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

Angie Esquivel, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 5, 2018.



Angela Carpenter  
Case Administrator  
State Bar Court