ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Jessica A. Lienau Office of the Chief Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1165 Bar # 269753	Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282 Investigation No. 11-O-18105; 11-O-12927	FILED FEB 13 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER
Counsel For Respondent Scott J. Drexel, Esq. Law Office of Scott J. Drexel 1325 Howard Ave. #151 Burlingame, CA 94010 (650) 918-8328 Bar # 65670	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: JAMES DEAGUILERA Bar # 166315 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 2, 1993.

(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 25 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 following the effective date of the Supreme Court order. (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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

(1) ☒ **Prior record of discipline** [see standard 1.2(f)]

(a) ☒ State Bar Court case # of prior case 06-O-10692 (06-O-12695)

(b) ☒ Date prior discipline effective March 20, 2007

(c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rule 1-400(D)(1), Rules of Professional Conduct; Business and Professions Code Sections 6068(o)(3) and 6103

(d) ☒ Degree of prior discipline Private Reproval

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.

(2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ **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.

(4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.

(2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.

(3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.

(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 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:

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of one year.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) 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 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 90 days.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), 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 learning and ability in the general law, pursuant to standard 1.4(c)(ii), 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:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☒ 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:** Respondent must participate in fee arbitration with the following individuals: Greg Mason and Ruben and Jenny Betancourt, should these individuals choose to pursue fee arbitration. Respondent will treat any fee arbitration award as binding and pay any award against him pursuant to the terms of the fee arbitration award.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JAMES DEAGUILERA

CASE NUMBER(S): Case Nos.: 10-O-05856; 10-O-07607; 10-O-07636; 10-07637; 10-O-07639; 10-O-10282; Investigation Nos. 11-O-18105; 11-O-12927

FACTS AND CONCLUSIONS OF LAW.

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his culpability of the statutes and/or Rules of Professional Conduct specified herein.

Case No. 10-O-07607 (Complainant: Ronald W. Hendrickson)

FACTS:

On August 15, 2008, Ronald W. Hendrickson ("Hendrickson") employed Respondent for a civil matter. By October 2008, Hendrickson had paid Respondent $5,000 in advanced attorney's fees.

On October 20, 2008, Respondent filed a civil complaint entitled *Hendrickson v. Ton Ten Horn et. al.,* Riverside County Superior Court, case no. RIC511089 (the "Hendrickson action").

On November 20, 2008, defendant Ton Ten Horn filed a cross-complaint against Hendrickson. On November 19, 2008, Respondent was properly served with the cross-complaint, but Respondent failed to file a response to the cross-complaint on Hendrickson's behalf. Therefore on July 27, 2009, cross-complainant Ton Ten Horn filed a request for entry of default on the cross-complaint. On July 27, 2009, default was entered against Hendrickson on the cross-complaint. From August 2009 through December 2009, Respondent appeared at hearings on the Hendrickson action but did not file a motion to set aside the default on the cross-complaint.

In August 2009, Hendrickson went to Respondent's office and asked Respondent why an answer to the cross-complaint had not been filed. Respondent told Hendrickson that he did not know why an answer to the cross-complaint had not been filed. From October 27, 2009 through February 24, 2010, Hendrickson was incarcerated. As a result, Hendrickson asked friend Joseph Krencik ("Krencik") to handle his business affairs, including relaying communications between Hendrickson and Respondent regarding the Hendrickson action. Over the approximate four months of Hendrickson's incarceration, Krencik spoke to Respondent's staff several times, who informed him everything was going fine with the Hendrickson action.

On November 23, 2009, Respondent filed a Case Management Statement with the court in the Hendrickson action in which he stated that he expected to file a motion to set aside the default against plaintiff Ron Hendrickson in the cross-complaint. On January 28, 2010, Respondent finally filed a motion to set aside the default pursuant to Code of Civil Procedure section 473.

On March 8, 2010, Respondent appeared at the hearing regarding the motion to set aside the default. On March 8, 2010, the court asked Respondent to provide a new and better declaration in support of the motion set aside the default and continued the hearing to May 3, 2010.

In April 2010, Hendrickson terminated Respondent and employed attorney Veronica Aguilar ("Aguilar') to help him with the Hendrickson action. On or about April 26, 2010, Aguilar wrote Respondent asking him for an accounting and a refund of the attorney's fees paid by Hendrickson. In addition, Aguilar told Respondent that she would not be substituting into the case until after the May 3, 2010 hearing and instructed Respondent to appear at the hearing and to advise the court that he had been negligent in not filing a response the cross-complaint. Respondent received the April 26, 2010 letter.

On May 3, 2010, Respondent appeared at the hearing regarding the motion to set aside the default but had not provided the court with a new declaration. On May 3, 2010, the court instructed Respondent to provide the declaration on or before May 24, 2010. On May 3, 2010, Respondent filed a substitution of attorney substituting Respondent out of the Hendrickson action.

On May 5, 2010, Respondent sent a letter to Aguilar stating that she was now the attorney of record in the Hendrickson action and told Aguilar that the May 3, 2010 hearing was continued to give her an opportunity to provide a declaration. Respondent also instructed Aguilar to check the website for the next hearing date. In the May 5, 2010 letter, Respondent said he would be providing an accounting to Hendrickson shortly but failed to do. On May 14, 2010, Respondent sent another letter to Aguilar advising her that Hendrickson's file was ready for pick up and advising her that her supplemental declaration or Hendrickson's declaration was due on or before May 24, 2010.

On June 14, 2010, the court in the Hendrickson action denied the motion to set aside the default against Hendrickson.

Respondent did not provide services of value to Hendrickson and did not earn the advanced attorney's fees he received. To date, Respondent had not refunded any attorney's fees to Hendrickson.

CONCLUSIONS OF LAW:

By failing to file an answer to the cross complaint, by failing to provide a new declaration to the court in support of the motion to set aside the default and by failing to pursue the Hendrickson action, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

By not providing a prompt accounting to Hendrickson, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

By failing to refund unearned attorney's fees to Hendrickson, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

FACTS:

In January 2003, John Collins ("Collins") agreed to allow Riverside Yeager Construction ("Yeager") to dump dirt on his property. In January 2005, heavy rains caused a mudslide sending mud from Collins's property onto property owners Grafius and Reese. In May 2005, Collins employed Respondent to represent him in litigation stemming from the mudslide.

On June 13, 2005, Respondent filed a civil complaint on Collins's behalf entitled *John Collins v. E.L. Yeager Construction Company, Inc., Yeager Skanska Inc. County of Riverside,* Riverside County Superior Court, case no. RIC432097 (the "Collins action"). On February 21, 2007, property owners Grafius and Reese filed a complaint against Collins and Yeager (the "G&R action"). In July 2007, the two cases were consolidated.

On August 16, 2007, defendant Riverside County served written discovery on Respondent in the Collins action. On January 4, 2008, Respondent had not yet provided responses to discovery, so counsel for County of Riverside mailed a letter to Respondent requesting discovery responses by January 18, 2008. Respondent received the January 4, 2008 letter but did not provide the discovery responses. On January 22, 2008, County of Riverside served additional discovery on Respondent in the Collins action, and responses were due on February 26, 2008. Respondent received the discovery but failed to provide responses and failed to request an extension of time to provide the responses.

On March 28, 2008, counsel for County of Riverside mailed a letter to Respondent requesting all discovery responses without objection by April 7, 2008. Respondent received the letter but did not provide the responses. In addition to writing Respondent, opposing counsel also telephoned Respondent's office on several occasions inquiring about the discovery responses. Respondent's office informed opposing counsel that they would look into the status of the discovery, but opposing counsel never received a response.

On April 28, 2008, defendant County of Riverside filed a motion to compel discovery responses in the Collins action and properly served Respondent. The hearing on the motion to compel was set for June 12, 2008. Respondent did not file any opposition to the motion to compel. Respondent did not inform Collins that the County of Riverside had filed a motion to compel discovery. On June 12, 2008, Respondent appeared at the hearing regarding the motion to compel, and the court continued the hearing to allow the parties to resolve the issue.

On June 24, 2008, Respondent dismissed Riverside County from the Collins action with prejudice. Respondent did not inform Collins that he had dismissed County of Riverside from the Collins action.

On November 5, 2008, the parties in the Collins action and the G&R action participated in mediation. At the mediation, Collins first learned that Riverside County had been dismissed as a defendant. During the November 5, 2008 mediation, property owners Grafius and Reese settled with Yeager and dismissed its action against Collins. During the mediation, Yeager agreed to settle with Collins for a non-cash settlement pending conditions, including Collins obtaining an engineering report and obtaining permits. Respondent did not inform Collins that had to obtain an engineering report and the permits. In addition, Respondent did not ensure that the settlement agreement was put in writing.

Following the mediation, Yeager's attorney, John Boyd, wrote to Respondent on several occasions, but Respondent did not respond to Boyd. After Respondent failed to respond to his letters, Boyd approached Respondent at the courthouse and hand-delivered his letters and asked Respondent to respond. Respondent still did not follow up with Boyd to resolve the Collins action.

In January 2010, Collins telephoned Respondent regarding the status of the Collins action. During the conversation, Respondent told Collins that Yeager had "reneged" on the settlement. At the time Respondent made this representation to Collins, Yeager desired to go forward with the settlement with Collins reached at the November 2008 mediation.

On May 14, 2010, the court in the Collins action scheduled a September 10, 2010 hearing on Order to Show Cause ("OSC") regarding dismissal unless a judgment was entered prior to the hearing. Respondent did not inform Collins that the court had set an OSC regarding dismissal. Respondent was properly served with the court's May 14, 2010 order.

On May 19, 2010, Respondent mailed a letter to Collins requesting an additional $10,000 and asking Collins to sign a new retainer agreement to prepare for and attend trial in the Collins action. By June 2010, Collins had paid Respondent over $31,000 in attorney's fees. In June 2010, Collins contacted Respondent and requested an accounting of the attorney's fees paid by Collins. Respondent did not provide the accounting.

On July 26, 2010, Collins filed a complaint against Respondent with the State Bar of California. On August 23, 2010, Collins learned from the State Bar that an OSC regarding dismissal was scheduled. On August 23, 2010, Collins mailed a letter to Respondent seeking the status of his action. Respondent received the letter. In September 2010, Respondent told Collins that he would provide Collins with an accounting.

On September 10, 2010, the court continued the OSC regarding dismissal to January 7, 2011.

On September 22, 2010, Respondent telephoned Collins and informed him that he had settled the Collins action. Respondent told Collins that Yeager had agreed to remove dirt from his land, agreed to prep the land for drainage, to pay for the engineering expert and for the permits. In addition, Respondent told Collins that Yeager had agreed to pay $5,200 in cash as reimbursement.

During the week of September 27, 2010, Boyd informed Respondent that the five-year statute of limitations was about to run on the Collins action and that Yeager was going to file a motion for dismissal. Respondent did not advise Collins that the statute of limitations was about to run on the Collins action.

On September 27, 2010, Respondent contacted Collins by telephone and stated to Collins that the court needed the Collins action dismissed in order to enforce the settlement agreement. As a result, Collins consented to the dismissal of the Collins action. Respondent also told Collins he would provide Collins with a copy of the settlement agreement.

On September 30, 2010, although Respondent had not entered into a written settlement agreement with Yeager and although Boyd had told Respondent that the statute of limitations was about to run on the Collins action, Respondent dismissed the Collins action. On September 30, 2010, Respondent telephoned Collins and told him that Yeager was trying to get out of the settlement

agreement because Collins had not obtained a grading permit. Respondent told Collins that if Yeager reneged, he would write a letter to the judge and have the judge handle the matter.

In October 2010, Respondent sent Collins a new retainer agreement and requested $5,000 in advanced fees to file a new lawsuit against Yeager.

CONCLUSIONS OF LAW:

By not responding to discovery in the Collins action, by not responding to the motion to compel and by not procuring a written settlement agreement prior to dismissing the Collins action, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to inform Collins that the County of Riverside had filed motions to compel discovery, by failing to inform Respondent that he had dismissed the County of Riverside from the Collins action and by failing to inform Collins that the statute of limitations was about to run on his action, 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).

By failing to provide Collins with a prompt accounting of the attorney's fees paid to Respondent despite Collins's request, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 10-O-07639 (Complainant: Joel Alvarez and Reyna Rivas)

FACTS:

On September 3, 2009, the home belonging to Joel Alvarez ("Alvarez") and Reyna Rivas ("Rivas") was sold at a trustee sale. On December 29, 2009, Alvarez and Rivas employed Respondent to set aside the trustee sale. As of January 13, 2010, Alvarez and Rivas had paid Respondent $5,000 in advanced attorney's fees. In January 2010, Alvarez and Rivas had also paid $355 in filing fees.

On or about January 19, 2010, Respondent filed a complaint entitled *Alvarez v. Federal Home Loan Mortgage Corporation,* Los Angeles County Superior Court, Case No. BC043006 (the "Alvarez action"). On June 1, 2010, defendants Federal Home Loan Mortgage Corporation ("Freddie Mac") and Bank of America filed a notice of removal the Alvarez action to federal court. On June 1, 2010, Respondent was properly served with the notice of removal.

On June 18, 2010, defendant Freddie Mac filed a motion to dismiss the Alvarez action on the grounds the complaint had no basis in fact or law. On June 17, 2010, counsel for Freddie Mac properly served Respondent with the motion to dismiss via email. Respondent did not file a response to the motion. On July 13, 2010, the district court granted the motion to dismiss and gave plaintiffs 21 days leave to amend. The district court's July 13, 2010 order was properly served on Respondent, but Respondent failed to file an amended complaint.

On September 29, 2010, Respondent was properly served by the court with an Order to Show Cause ("OSC") by October 8, 2010 regarding why the Alvarez action should not dismissed for failure to

prosecute. Respondent received notice of the OSC but did not file a response. On October 13, 2010, the court dismissed the Alvarez action and properly served Respondent with notice of the dismissal.

On December 3, 2010, Respondent wrote Alvarez and Reyes regarding their matters and told them they had failed to keep in contact with his office. In the letter, Respondent informed them the Alvarez action had been moved from superior court to federal court and the Alvarez action had been dismissed. Respondent did not inform Alvarez and Reyes that he failed to respond to the motion to dismiss and failed to respond to the OSC regarding dismissal.

On March 11, 2010, Federal Home Loan Mortgage Corporation ("Freddie Mac") filed an unlawful detainer action against Alvarez (the "unlawful detainer action"). The hearing in the unlawful detainer action was scheduled for April 27, 2010. In March 2010, Alvarez and Rivas employed Respondent to represent Alvarez in the unlawful detainer action. In March 2010, Alvarez and Rivas paid Respondent $2,500 in advanced attorney's fees to handle the unlawful detainer action. In March 2010, Alvarez and Rivas had also paid $410 for filing fees in the unlawful detainer action.

On March 22, 2010, Respondent filed a response in the unlawful detainer action. On April 22, 2010, Respondent's employee gave Alvarez a substitution of attorney to sign removing Respondent out of the unlawful detainer action. Alvarez is a Spanish speaker and was not informed nor did he understand that he was signing a document removing Respondent as his counsel in the unlawful detainer action. On April 23, 2010, the substitution of attorney was filed in the unlawful detainer action. On April 27, 2010, no one appeared at the hearing on the unlawful detainer action on Alvarez's behalf, and the court granted Freddie Mac's unlawful detainer. In May 2010, Alvarez received a notice to vacate his residence.

On January 6, 2011, Alvarez and Rivas mailed a letter to Respondent in response to his December 3, 2010 letter stating that they had responded to every call from his office. In the January 6, 2011 letter, Alvarez and Rivas asked for a refund of all the fees and costs paid to Respondent in the Alvarez action and the unlawful detainer action. Respondent received the January 6, 2011 letter but failed to provide a refund or an accounting.

CONCLUSIONS OF LAW:

By not explaining to Alvarez and Rivas that he was withdrawing from the unlawful detainer action and by withdrawing from the unlawful detainer action four days prior to the hearing, Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

By not timely informing Alvarez and Rivas of the removal to federal court, by not timely informing Alvarez and Rivas that the court had granted the motion to dismiss and by not timely informing Alvarez and Rivas that the Alvarez action had been dismissed due to a lack of prosecution, 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).

FACTS:

On February 16, 2010, Greg Mason ("Mason") employed Respondent to pursue a civil action against a realty company. On February 16, 2010, Mason paid Respondent $2,500 in advanced attorney's fees. On March 5, 2010, Mason paid Respondent an additional $2,500 in advanced attorney's fees and $355 for filing fees.

From February 2010 through July 2010, Mason called Respondent's office approximately thirty-five times leaving messages asking to speak to Respondent in order to obtain the status of his matter. Respondent received the messages but failed to respond.

On March 23, 2010, Respondent filed a civil action on Mason's behalf entitled *Mason v. Shear Realty,* San Bernardino County Superior Court, case no. CIVVS1001958 (the "Mason action").

On April 5, 2010, the court in the Mason action properly served Respondent with notice of a hearing on an Order to Show Cause ("OSC") scheduled for July 7, 2010 regarding service of summons and with notice of a Case Management Conference ("CMC") scheduled for September 7, 2010. Respondent received the court's notice. On July 7, 2010, the court held the OSC, and Respondent failed to appear. The court rescheduled the OSC for September 7, 2010. Respondent was properly served with notice of the September 7, 2010 OSC.

On September 7, 2010, Respondent did not appear at the CMC and continued OSC in the Mason action, and Respondent's office notified the court that Respondent would not be present. On September 7, 2010, the court ordered the parties to participate in mediation before December 31, 2010. On September 7, 2010, Respondent was properly served with the CMC Notice of Ruling. Respondent received the notice of ruling but did not inform Mason that he had not appeared at the CMC and did not inform Mason that the parties had been ordered to mediation. On October 14, 2010, Shear Realty served Respondent with written discovery in the Mason action. Respondent did not notify Mason that he had been served with written discovery.

In early November 2010, after Mason reviewed the register of actions in the Mason's action, Mason asked Respondent to substitute out as counsel in the Mason action.

On April 22, 2011, Mason wrote Respondent requesting an accounting and refund of unearned fees. Respondent received Mason's letter but failed to respond, failed to provide an accounting and failed to provide a refund. In September 2011, Respondent provided Mason with an accounting and a refund of $2,500.00.

CONCLUSIONS OF LAW:

By failing to inform Mason that mediation had been set and that Respondent had been served with written discovery in the Mason action, 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).

By failing to provide a prompt accounting for the $5,000 in attorney's fees following his termination, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

Investigation No. 11-O-12927 (Complainant: Josefina Amaya)

FACTS:

On May 29, 2010, Josephina Amaya ("Amaya") hired Respondent to represent her in a civil action. The retainer agreement states that Respondent will charge a fixed fee of $5,000.00 for preparing and filing a complaint for a usury law violation seeking injunctive relief as to the trustee sale and lis pendens. On May 29, 2010, Amaya paid Respondent $2,500.00 in fees. Respondent provided Amaya with a receipt for this payment which stated, "Service Provided: Retainer Fee Payment." On June 26, 2010, Amaya paid Respondent $535.00 in filing fees. On June 26, 2010, Amaya paid Respondent $2,500.00 in fees. Respondent provided Amaya with a receipt which stated, "Service Provided: Retainer for Preparing and Filing Complaint."

On August 2, 2010, Amaya paid Respondent another $2,500.00 in fees by check postdated August 12, 2010. Respondent provided Amaya with a receipt which stated, "Service Provided: TRO." On November 20, 2010, Amaya paid Respondent $1,500.00 in fees.

On December 22, 2010, Amaya signed another retainer agreement with Respondent which stated that it was a fixed fee of $2,500.00 for the settlement of real estate dispute re usury interest rate and wrongful foreclosure. On December 22, 2010, Amaya paid Respondent $1,000.00 in fees. On January 13, 2011, Amaya paid Respondent $1,000.00 in fees. Respondent provided Amaya with a receipt which stated, "Service Provided: Retainer Payment."

On December 27, 2010, Respondent on behalf of Amaya filed a Complaint to Set Aside Trustee Sale against defendant Metro Financial in Los Angeles County Superior Court Case No. BC451999.

On January 3, 2011, the Court in Los Angeles County Superior Court Case No. BC451999 filed an Order to Show Cause Hearing Notice which set an Order to Show Cause hearing on February 28, 2011 ordering Respondent to appear and show cause why sanctions should not be imposed for failing to file a proof of service of the Complaint on Metro Financial. Respondent received the Order to Show Cause Hearing Notice on or about January 3, 2011. Respondent did not inform Amaya of the Court's January 3, 2011 Notice setting the Order to Show Cause.

On January 3, 2011, Respondent was served with a Notice of Case Management Conference by the Court in Los Angeles County Superior Court Case No. BC451999, setting the Case Management Conference for March 28, 2011.

On February 28, 2011, the Court in Los Angeles County Superior Court Case No. BC451999 held the Order to Show Hearing on Respondent's failure to file a proof of service of the Complaint on Metro Financial. Respondent did not appear at the February 28, 2011 Order to Show Cause Hearing. On February 28, 2011, the Court reset the Order to Show Cause Hearing to March 16, 2011. Respondent received notice of the rescheduled Order to Show Cause Hearing on or about February 28, 2011. Respondent did not inform Amaya of the Court's February 28, 2011 Notice setting the Order to Show Cause.

On March 16, 2011, the Court in Los Angeles County Superior Court Case No. BC451999 held the rescheduled Order to Show Hearing on Respondent's failure to file a proof of service of the Complaint on Metro Financial. Respondent did not appear at the March 16, 2011 Order to Show Cause Hearing. On March 16, 2011, the Court reset the Order to Show Cause Hearing to March 28, 2011. Respondent received notice of the rescheduled Order to Show Cause Hearing on or about March 16, 2011. Respondent did not inform Amaya of the Court's March 16, 2011 Notice setting the Order to Show Cause.

On March 28, 2011, Respondent filed a Request for Dismissal without Prejudice in Los Angeles County Superior Court Case No. BC451999. Prior to filing the Request for Dismissal, Respondent did not discuss the dismissal with Amaya or receive her approval to file the dismissal.

On March 28, 2011, the Court held the Case Management Conference and Order to Show Cause Hearings. Respondent did not appear. At the hearing, in light of the Request for Dismissal that was filed on March 28, 2011, the Court placed the Case Management Conference and Order to Show Cause off calendar.

Amaya terminated Respondent's services. At no time did Respondent provide Amaya with an accounting. Respondent did not earn the $11,000 he received from Amaya in advance attorneys fees. At no time did Respondent refund to Amaya any portion of the $11,000 Amaya paid in advance attorneys fees.

CONCLUSIONS OF LAW:

By not filing the proof of service on Metro Financial, by not appearing at the Order to Show Cause Hearings, by dismissing Amaya's Complaint, and by otherwise failing to pursue the Amaya action on Amaya's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to inform Amaya that the Court had set an Order to Show Cause regarding the filing of the proof of service, 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).

By failing to provide an accounting for the $11,000 in attorney's fees following his termination, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

By failing to refund unearned fees to Amaya, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Investigation No. 11-O-18105 (Complainant: Ruben and Jenny Betancourt)

FACTS:

On December 31, 2008, Ruben and Jenny Betancourt (collectively "the Betancourts") filed a civil action against Beazer Homes in Riverside County Superior Court Case No. RIC516848. The Betancourts were not represented by counsel when they filed the complaint on December 31, 2008.

Beginning in or around February 2009, the Betancourts met with Respondent about the possibility of Respondent representing them in Riverside County Superior Court Case No. RIC516848. On February 27, 2009, the Betancourts paid Respondent $200.00. On March 17, 2009, Respondent sent the Betancourts a request for $1,000.00 as a retainer for paralegal time.

On April 2, 2009, the Betancourts signed a retainer agreement with Respondent wherein Respondent agreed to represent the Betancourts in their lawsuit against Beazer Homes, Riverside County Superior Court Case No. RIC516848. On April 1, 2009, the Betancourts paid $1,000.00 to Respondent in advanced attorneys fees.

On April 8, 2009, Respondent filed a Substitution of Attorney in Riverside County Superior Court Case No. RIC516848 substituting into the case as attorney of record for the Betancourts. On April 14, 2009, Respondent forwarded, via letter, to the Betancourts discovery propounded by Beazer Homes, including Form Interrogatories-General, Set One; Requests for Admission, Set One; and Request for Production of Documents, Set One. The Betancourts provided all requested information to Respondent. At some point between April and August 10, 2009, Respondent served the Betancourts' discovery responses on Beazer Homes.

On June 26, 2009, Respondent filed an untimely Case Management Statement in Riverside County Superior Court Case No. RIC516848. On July 10, 2009, Respondent attended a Case Management Conference Hearing on behalf of the Betancourts. On July 10, 2009, Respondent requested an additional $2,500.00 as an "additional retainer related to court appearance; preparation of trial motions and proceedings."

On August 10, 2009, Beazer Homes filed a Motion to Compel Responses to Interrogatories in Riverside County Superior Court Case No. RIC516848. Respondent was properly served with this Motion to Compel on August 10, 2009.

On September 15, 2009, Respondent requested an additional $2,500 as an "additional retainer for preparation of first amended complaint." On September 18, 2009, the Betancourts paid Respondent $1,000.00 in advanced attorneys fees. Respondent never filed an amended complaint on behalf of the Betancourts in Riverside County Superior Court Case No. RIC516848.

On September 23, 2009, Respondent filed a timely Case Management Statement in Riverside County Superior Court Case No. RIC516848. On September 24, 2009, Respondent filed a Memorandum of Points and Authorities in Opposition to Beazer Homes' August 10, 2009 Motion to Compel Responses to Interrogatories in Riverside County Superior Court Case No. RIC516848. On October 7, 2009, the Court in Riverside County Superior Court Case No. RIC516848 held a hearing on Beazer Homes' Motion to Compel. Respondent was present at this hearing. The Court granted the Motion to Compel, ordered the Betancourts to respond without objection within 20 days, and ordered Jenny Betancourt to pay $430.00 in sanctions to Beazer Homes on or before October 27, 2009. The Court's October 7, 2009 Order was filed on December 14, 2009. Respondent received this Order. On December 21, 2009, a Notice of the Entry of the October 7, 2009 Order was filed and properly served on Respondent.

On January 6, 2010, Jenny Betancourt emailed Respondent asking for an update on the Betancourts' case and a detailed billing. Respondent received this email on or about January 6, 2010. I the January 6, 2010 email, Jenny Betancourt stated that Beazer has made a second request fir discovery,

but that she had provided that information to Respondent month ago. Respondent did not respond to Jenny Betancourt's January 6, 2010 email. In total, the Betancourts paid Respondent $5,000.00 in advance attorneys fees between February 2009 and February 2010.

The Betancourts provided supplemental responses to Beazer Homes' discovery to Respondent's office before the deadline of October 27, 2009. Respondent's office never provided the Betancourts' supplemental responses to Beazer Homes. On January 27, 2010, Beazer Homes filed a Motion for Terminating and Monetary Sanctions against the Betancourts as well as a Memorandum of Points and Authorities in Support of the Motion and a Declaration in Support of the Motion for Respondent's failure to provide Beazer Homes with the discovery responses that the Court ordered the Betancourts to provide in the October 7, 2009 Order. Respondent was properly served with the Motion for Terminating Sanctions and received the Motion on or around January 27, 2010.

On February 10, 2010, Respondent was notified via facsimile from the Betancourts new attorney, Danielle K. Little ("Little"), that Respondent's services were terminated and that Respondent was to cease doing work on the Betancourts' matter. Respondent received the February 10, 2010 facsimile from Little on or around February 10, 2010. In the February 10, 2010 facsimile, Little enclosed two substitution of attorney forms and asked Respondent to sign the documents and return them to Little immediately. In the February 10, 2010 facsimile, Little requested a date for when the Betancourts' file would be available for pickup from Respondent.

On February 18, 2010, Little again sent Respondent a facsimile asking Respondent to sign the substitution of attorney forms and to provide the Betancourts file for pick up. Respondent received this facsimile on or about February 18, 2010. In the February 18, 2010 facsimile, Little mentioned the need for the Betancourts file immediately because of the pending Motion for Terminating Sanctions that had been filed by Beazer Homes on January 27, 2010. Little requested, at the very least, that Respondent provide the underlying motions, oppositions, replies and ruling that formed the basis of the January 27, 2010 Motion for Terminating Sanctions.

On March 26, 2010, Little's paralegal, Joe R. Hernandez ("Hernandez"), sent Respondent another facsimile which memorialized a telephone conversation Hernandez had with Respondent's assistant Elaine earlier in the day on March 26, 2010. Respondent received this facsimile on or about March 26, 2010. Hernandez states in the facsimile that Elaine stated that Respondent's office would provide the discovery responses at issue as well as a declaration from Respondent stating that his office was responsible for the failure to provide the discovery requested by Beazer Homes. Hernandez requested these documents by the close of business on March 26, 2010.

On April 22, 2010, Little sent Respondent a facsimile memorializing telephone conversations between Respondent and Little. Respondent received this facsimile on or about April 22, 2010. Little states that Respondent agreed to pay the terminating sanctions of $1,288.00. Little asks Respondent to either forward the check in the amount of $1,288.00 or to inform Little of Respondent's unwillingness to pay the sanctions. Little reminded Respondent of his multiple verbal agreements to pay the sanctions and to provide Little with a declaration for the Court attesting to the fact that the discovery violations were the fault of his office.

On April 28, 2010, Little sent Respondent another facsimile asking Respondent to forward her a check in the amount of $1,288.00 as Respondent had promised to do. Respondent received this facsimile on or about April 28, 2010.

On April 29, 2010, Respondent sent Little a facsimile wherein he stated that the discovery responses at issue in Beazer Homes' January 27, 2010 were in fact late due to the illness of his discovery paralegal. Respondent states that he has provided Little with a declaration from his discovery paralegal about her illness and has provided the information the Betancourts had given to him for the discovery responses and that Respondent believed these two things should allow the Betancourts to avoid payment of the sanctions.

On April 29, 2010, the Betancourts provided a check in the amount of $1,288.00 for the payment of sanctions to Little to forward to Beazer Homes.

CONCLUSIONS OF LAW:

By failing to respond to discovery in a timely manner, and by otherwise failing to pursue the Betancourts' action on the Betancourts' behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

By failing to provide an accounting for the $5,000 in attorney's fees following his termination, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was January 3, 2012.

AUTHORITIES SUPPORTING DISCIPLINE.

Standards:

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 1.7 holds that if a Respondent has a prior record of discipline, the degree of discipline in the current stipulation should be greater than that imposed in the prior discipline. Respondent has one private reproval, so the discipline in this matter should be greater than a private reproval.

Standard 2.2 holds that violations of rule 4-100 that do not result in misappropriation shall result in at least a three month actual suspension, irrespective of mitigating circumstances.

Standard 2.4 states that a pattern of willfully failing to perform or willfully failing to communicate shall result in disbarment, whereas failing to perform or failing to communicate in individual matters not evidencing a pattern shall result in reproval or suspension depending on the extent of the misconduct and the degree of harm to the client. Respondent is charged with four failures to perform and four failures to communicate/inform his clients of significant developments. Although these series of violations may not constitute a pattern for purposes of Standard 2.4, they clearly warrant the imposition of actual suspension.

Standard 2.6 holds that a violation of § 6068 shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim.

Standard 2.10 holds that the violation of rule 3-700(D)(1) and (2), failure to release file and failure to return unearned fees, shall result in reproval or suspension, depending on the gravity of the offense or the harm to the victim.

Caselaw:

In *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, the Review Department found the member culpable of misconduct in nine matters, including the failure to sign substitution of attorney forms and/or to forward client files in seven matters, failure to communicated properly in five matters, reckless or repeated failure to perform legal services competently in three matters, failure to endorse and return a settlement draft in one matter and failure to pay court-ordered sanctions in one matter. The Review Department recommended that the member be suspended from the practice of law for two years stayed, with probation of two years and an actual suspension of 90 days.

Additionally, in *In the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907, the Review Department found the member culpable of misconduct in five client matters, including acts of moral turpitude in two of the matters by inducing two clients to withdraw discipline complaints. The member was also found culpable of appearing without a client's authority, failing to promptly return unearned fees and client papers, failure to communicate properly with clients and recklessly and repeatedly failing to provide competent legal services. The Review Department recommended that the member be suspended from the practice of law for two years stayed, with probation of three years and an actual suspension of 90 days.

See also, Matthew v. State Bar (1989) 49 Cal.3d 784 [actual suspension of 60 days for member's failure to competently perform legal services in three client matters and failure to refund unearned fees in two of the matters]; *In the Matter of Kennon* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 267 [30 days actual suspension for member's failure to competently perform services, failure to communicate and failure to refund unearned fees in two client matters].

DISMISSALS.

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

Case No.	**Count**	**Alleged Violation**
10-O-05856	One	Business and Professions Code § 6068(m)
10-O-05856	Two	Rule 3-700(D)(1), Rules of Professional Conduct
10-O-05856	Three	Rule 3-700(D)(2), Rules of Professional Conduct
10-O-07607	Five	Business and Professions Code § 6068(d)
10-O-07636	Ten	Business and Professions Code § 6106

10-O-07637	Twelve	Rule 4-100(B)(4), Rules of Professional Conduct
10-O-07637	Thirteen	Rule 4-100(B)(3), Rules of Professional Conduct
10-O-07637	Fourteen	Rule 3-700(D)(2), Rules of Professional Conduct
10-O-07639	Fifteen	Rule 3-110(A), Rules of Professional Conduct
10-O-07639	Eighteen	Rule 4-100(B)(3), Rules of Professional Conduct
10-O-07639	Nineteen	Rule 3-700(D)(2), Rules of Professional Conduct
10-O-10282	Twenty	Rule 3-110(A), Rules of Professional Conduct
10-O-10282	Twenty-Three	Rule 3-700(D)(2), Rules of Professional Conduct

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of January 3, 2012, the prosecution costs in this matter are $11,426.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

In the Matter of:	Case Number(s):
JAMES DEAGUILERA	Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282 Investigation No. 11-O-18105; 11-O-12927

Financial Conditions

a. Restitution

☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Ronald W. Hendrickson	$5,000.00	October 1, 2008
Josephina Amaya	$11,000.00	May 29, 2010
Ruben and Jenny Betancourt	$6,288.00	April 29, 2010

☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the end of his probation period.

b. Installment Restitution Payments

☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reproval), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

☐ 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.

c. Client Funds Certificate

☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:

a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

i. A written ledger for each client on whose behalf funds are held that sets forth:
   1. the name of such client;
   2. the date, amount and source of all funds received on behalf of such client;
   3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
   4. the current balance for such client.

ii. a written journal for each client trust fund account that sets forth:
   1. the name of such account;
   2. the date, amount and client affected by each debit and credit; and,
   3. the current balance in such account.

iii. all bank statements and cancelled checks for each client trust account; and,

iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

i. each item of security and property held;
ii. the person on whose behalf the security or property is held;
iii. the date of receipt of the security or property;
iv. the date of distribution of the security or property; and,
v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

In the Matter of:	Case Number(s):
JAMES DEAGUILERA	Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282; 11-O-12927; Investigation No. 11-O-18105

Nolo Contendere Plea Stipulations to Facts, Conclusions of Law, and Disposition

The terms of pleading nolo contendere are set forth in the Business and Professions Code and the Rules of Procedures of the State Bar. The applicable provisions are set forth below:

Business and Professions Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

(a) Admission of culpability.

(b) Denial of culpability.

(c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere will be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court will find the member culpable. The legal effect of such a plea will be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

Rules of Procedure of the State Bar, rule 5.56. Stipulations to Facts, Conclusions of Law, and Disposition

"**(A) Contents.** A proposed stipulation to facts, conclusions of law, and disposition must comprise:
[¶] . . . [¶]
(5) a statement that the member either:
(a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
(b) pleads nolo contendere to those facts and misconduct;
[¶] . . . [¶]
(B) Plea of Nolo Contendere. If the member pleads nolo contendere, the stipulation must also show that the member understands that the plea is treated as an admission of the stipulated facts and an admission of culpability."

I, the Respondent in this matter, have read the applicable provisions of Business and Professions Code section 6085.5 and rule 5.56 of the Rules of Procedure of the State Bar. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea will be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

1/25/2012		James DeAguilera
Date	Respondent's Signature	Print Name

In the Matter of: JAMES DEAGUILERA	Case number(s): Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282; Investigation No. 11-O-18105; 11-O-12927

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.

Date		Print Name
11/25/2012	Respondent's Signature	James DeAguilera
Date	Respondent's Counsel Signature	Scott J. Drexel
Date	Deputy Trial Counsel's Signature	Jessica A. Lienau

In the Matter of: JAMES DEAGUILERA	Case number(s): Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282; Investigation No. 11-O-18105; 11-O-12927

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.

Date	Respondent's Signature	James DeAguilera Print Name
January 25, 2012 Date	Respondent's Counsel Signature	Scott J. Drexel Print Name
January 26, 2012 Date	Deputy Trial Counsel's Signature	Jessica A. Lienau Print Name

(Do not write above this line.)

In the Matter of:	Case Number(s):
JAMES DEAGUILERA	Case Nos. 10-O-05856; 10-O-07607; 10-O-07636; 10-O-07637; 10-O-07639; 10-O-10282 Investigation No. 11-O-18105; 11-O-12927

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.)**

2/9/12
Date

RICHARD A. HONN
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 13, 2012, I deposited a true copy of the following document(s):

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

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:

SCOTT JOHN DREXEL
1325 HOWARD AVE #151
BURLINGAME, CA 94010

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

JESSICA LIENAU, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 13, 2012.

Tammy Cleaver
Case Administrator
State Bar Court