


(Do not write above this line.)

**State Bar Court of California
Hearing Department
San Francisco**

<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 1149 S. Hill Street Los Angeles, Ca. 90015 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number (s) 06-O-13226 06-O-14809</p> <p>PUBLIC MATTER</p>	<p>(for Court's use)</p> <p>FILED </p> <p>OCT 07 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Robert G. Berke 7236 Owensmouth Ave., Suite D Canoga Park, California 91303 818-389-0596</p> <p>Bar # 148957</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>STAYED SUSPENSION; NO ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: John Paul Garcia</p> <p>Bar # 222210</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 15, 2002**.
- (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 **15** 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."



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- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **2010 and 2011.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs 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
 - (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 or a separate attachment entitled "Prior Discipline."
- (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

See attachment to stipulation.

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:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.
- (6) 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

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directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason:
- (8) 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.
- (9) 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 checked="" 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 within one year. **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 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**

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Attachment language (if any):

In the Matter of
John Paul Garcia

Case number(s):
06-O-13226 and 06-O-14809

A Member of the State Bar

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
Jose Hernandez	\$1,000.00	March 2, 2006

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **six months from the effective date of discipline in this matter.**

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 reprobation), 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

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:
- 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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: John Paul Garcia

CASE NUMBER(S): ET AL. 06-O-13226 and 06-O-14809

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.

FACTS AND CONCLUSIONS OF LAW.

Case No. 06-O-13226:

1. From May 23, 2003 through August 24, 2006, Ann Fundora ("Fundora") operated an unauthorized law practice under the fictitious business name of Centro Legal ("Centro"). Fundora has never been admitted to practice law in the state of California.

2. Respondent's relationship with Fundora began approximately in 2005, when he was first contacted by Fundora. She told Respondent that she was not able to appear in court and needed an attorney for some of her clients to represent them in court. She asked Respondent if he would agree to represent her clients that she would refer to Respondent in return for fees. Respondent orally agreed to appear in court representing Centro's clients, as Centro needed.

3. On August 24, 2006, the State Bar of California petitioned the Superior Court pursuant to Business and Professions Code section 6125 and 6126 to assume the jurisdiction over the unauthorized law practice of Fundora. The Superior Court granted the petition which resulted in the State Bar closing Fundora's unauthorized law practice.

4. On February 27, 2006, Juan Zaldivar ("Zaldivar") entered into a written agreement ("agreement") with Centro to pay a flat fee of \$1,800 in return for Centro to prepare legal documents related to a family law matter against Nancy Galeas. The following is the exact language describing the work Centro promised to perform for Zaldivar:

///

“Attorney file OSC petition re: custody sole to petitioner, modify child support order & visitation, meeting w/child support Dept, attorney court records, interview w/ Respondent Nancy Galeas, Attorney meeting w/minor child’s school, attorneys court appearance \$1800” [sic].

5. At that time, Zaldivar paid Centro \$500, leaving an unpaid balance of \$1,500.

Subsequently, Zaldivar made two more payments as follows: On March 24, 2006, \$200, leaving an unpaid balance of \$900 and on May 5, 2006 \$500, leaving an unpaid balance of \$500.

6. The receipts issued by Centro to Zaldivar dated March 24, 2006 and May 5, 2006 stated the following words: “Centro Legal of Attorney’s”.

7. On April 3, 2006, Zaldivar, in pro per, filed a civil summons and complaint against Nancy Galeas in the Los Angeles Superior Court, case no. BF029133, which had been prepared by Centro. Shortly thereafter, Centro told Zaldivar to contact Respondent to arrange for a possible court hearing.

8. On May 23, 2006, Zaldivar met Respondent at Respondent’s office pursuant to Centro’s agreement with Respondent. On that same date, Zaldivar paid Respondent \$500 for Respondent’s legal fees to appear in court for him on May 24, 2006.

9. On May 24, 2006, Respondent and Zaldivar met at the court for the scheduled court appearance in Zaldivar’s case. At that time, Respondent told Zaldivar that he must pay Respondent an additional \$500 for Respondent to appear for him. Zaldivar paid an additional \$500 for a total payment of \$1,000 for legal services. On that same date, Respondent represented Zaldivar in court and prepared a stipulation to settle Zaldivar’s matter.

10. On May 24, 2006, Centro owed Respondent \$1,100.00 for his attorney services provided to Centro’s clients for matters unrelated to Zaldivar.

11. On May 24, 2006, Respondent told Zaldivar to pay him an additional \$500 for legal services. Respondent did not tell Zaldivar that the \$500 was for fees owed to Respondent in other Centro matters. Zaldivar paid Respondent the additional \$500, not knowing that the money was to pay down Centro’s debt to Respondent.

12. Respondent knew he was charging the additional \$500 from Zaldivar to partially pay down the \$1,100 owed to him by Centro. Respondent knew that Zaldivar did not owe Respondent the additional \$500.

13. Respondent failed to disclose to Zaldivar that the additional \$500 was owed by Centro and not to Zaldivar.

CONCLUSIONS OF LAW

By not disclosing that the additional fees taken from Zaldivar were for fees owed Respondent by Centro and by accepting referrals from Centro, an entity not permitted to practice law in California which operated with no attorney supervision or oversight, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

Case No. 06-O-14809

14. In January 2006, Jose Hernandez ("Hernandez") and Centro signed a written agreement ("agreement") whereby Hernandez agreed to pay a "flat fee" of \$2,000 to Centro for processing paperwork related to a modification of dissolution. Hernandez paid Centro the \$2,000 in three payments as follows: On January 9, 2006, Hernandez paid Centro \$1,000, leaving a balance of \$1,000; on January 23, 2006 Hernandez paid \$500, leaving a balance of \$500; and, on February 6, 2006, Hernandez paid \$500, payment in full.

15. On January 9, 2006, January 23, 2006, and February 3, 2006, Centro issued three receipts to Hernandez for the payments received from Hernandez. The words "Centro Legal of Attorney's" was printed at the top center of each receipt.

16. On January 26, 2006, Centro prepared and filed, on behalf of Hernandez, in pro per, a civil summons and complaint against Maria Mungia in the Los Angeles Superior Court, case no. BD409187 for an order to show cause ("OSC") regarding modification of spousal support and production of documents. The hearing on the OSC was scheduled for March 7, 2006. Centro gave Hernandez Respondent's name, address and phone number and told Hernandez to pay Respondent \$1,000 to represent Hernandez at the hearing.

17. On March 2, 2006, Hernandez met Respondent at Respondent's office pursuant to a referral by Centro and consistent with Centro's and Respondent's prior understanding. On that date, Hernandez paid Respondent \$1,000 in advance attorney fees. The receipt stated the following: "up to two special appearances only on prop/spousal support case". Respondent told Hernandez that he would represent Hernandez at the hearing on March 7, 2006. On March 7, 2006, the date of the OSC, Respondent was ill and did not go to the court for the OSC. On that same date, the court was closed and had continued all its cases. The court continued the OSC to May 2, 2006. Respondent never contacted the court or Hernandez to ascertain the status of Hernandez's OSC.

18. Respondent's name does not appear on any of the court records related to Hernandez's court matter. Respondent never substituted into Hernandez's court matter.

19. Respondent did not perform any legal services on behalf of Hernandez, including not appearing for the hearing in Hernandez's matter and contacting the court to obtain the new court date for the OSC.

CONCLUSIONS OF LAW

By not performing any legal services on behalf of Hernandez, failing to appear at a scheduled court hearing, and not contacting the court to obtain the new court date after being paid by Hernandez, 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 Hernandez that he was not going to appear for the March 7, 2006 hearing in Hernandez's matter, 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).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(6), was August 20, 2009.

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-13226	One	Business and Professions Code, section 6106
	Two	Rules of Professional Conduct, rule 1-300(A)
	Three	Rules of Professional Conduct, rule 4-200(A)
	Four	Rules of Professional Conduct, rule 1-320(A)
06-O-14809	Seven	Rules of Professional Conduct, rule 3-700(A)(2)
	Eight	Rules of Professional Conduct, rule 3-120(A)
	Nine	Rules of Professional Conduct, rule 3-700(D)(2)
	Ten	Rules of Professional Conduct, rule 1-300(A)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 20, 2009, the prosecution costs in this matter are \$4,273.00. 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.

AUTHORITIES SUPPORTING DISCIPLINE.

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgement of a member's professional misconduct 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. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of the rehabilitative sanctions is consistent with the above stated primary purpose of sanctions for professional conduct. Standard 1.3.

Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client. Standard 2.4(b).

Culpability of a member of a violation of the Business and Professions Code, section 6068 shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3. Standard 2.6.

See *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 715, wherein the Court confronted with Respondent's failure to return an unearned legal fee promptly and failure to take steps to avoid foreseeable prejudice to the clients, assessed a public reproof with conditions.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Although the conduct herein is serious, Respondent has had no prior record of discipline since being admitted to practice on November 15, 2002.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Within six months from the effective date of discipline in this matter, respondent must make restitution to Jose Hernandez or the Client Security Fund if it has paid, in the principal amount of \$1,000.00 plus interest at the rate of 10% per annum from March 2, 2006 and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him or her during that reporting period.

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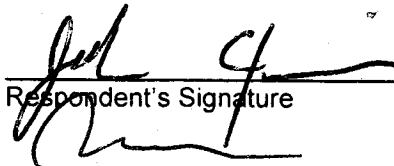
In the Matter of John Paul Garcia	Case number(s): 06-O-13226 06-O-14809
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SIGNATURE OF THE PARTIES

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 Fact, Conclusions of Law and Disposition.

9/9/09

Date



Respondent's Signature

John Paul Garcia

Print Name

9/16/09

Date

Respondent's Counsel Signature

Robert G. Berke

Print Name

September 18 '09

Date


Deputy Trial Counsel's Signature

Hugh G. Radigan

Print Name

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In the Matter Of John Paul Garcia	Case Number(s): 06-O-13226 06-O-14809
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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:

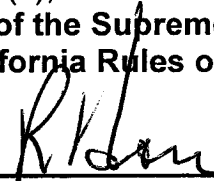
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

1. At page 2, section A.(8), the "X" in the first box is deleted; and
2. At page 2, section A.(8), lines 4 – 5, "membership years: 2010 and 2011" deleted, and replaced with "membership years: 2011 and 2012."

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 135(b), 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.)**

10/6/09

Date



Richard A. Honn
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 7, 2009, 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:

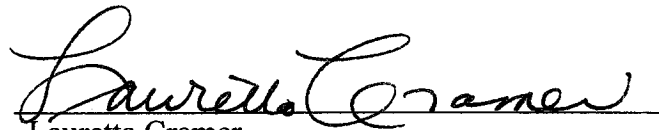
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**ROBERT G. BERKE
BERKE LAW OFCS
7236 OWENSMOUTH AVE STE D
CANOGA PARK, CA 91303**

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

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 7, 2009.


Laretta Cramer
Case Administrator
State Bar Court