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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

<p>Counsel For The State Bar</p> <p>Michael J. Glass Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1254</p> <p>Bar # 102700</p>	<p>Case Number(s): 10-O-02305</p> <p>PUBLIC MATTER</p>	<p>For Court use only</p> <p>FILED <i>MP</i></p> <p>JUN 28 2011</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Michael E. Wine 301 N. Lake Ave., Suite 800 Pasadena, CA 91101 (626) 796-6688</p> <p>Bar # 58657</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: JOSEPH ARTHUR BERNAL</p> <p>Bar # 119448</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 December 10, 1985.
- (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 13 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: prior to February 1 in three billing cycles following the effective date of discipline. (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 02-O-10801
 - (b) Date prior discipline effective October 22, 2003
 - (c) Rules of Professional Conduct/ State Bar Act violations: rule 4-100(A)
 - (d) Degree of prior discipline Public Reprimand
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.

(a) Case No. 05-H-00520; (b) March 19, 2006; (c) rule 1-110; (d) 9 month stayed suspension, 2 years probation with conditions;
- (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.

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- (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.

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- (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:

Respondent experienced marital problems during the period of the misconduct and ultimately his then wife filed for divorce on January 28, 2010.

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of three (3) years.
- 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 three (3) 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 two (2) years.
- 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
 - Medical Conditions
 - Law Office Management 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:**

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In the Matter of: JOSEPH ARTHUR BERNAL Member No.: 119448	Case Number(s): 10-O-02305
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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

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than _____.

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

- 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 certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent as 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";

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In the Matter of: JOSEPH ARTHUR BERNAL Member No.: 119448	Case Number(s): 10-O-02305
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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:	JOSEPH ARTHUR BERNAL
CASE NUMBER(S):	10-O-02305

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 10-O-02305 (Complainant: Dragoljub Jovanovic)

FACTS:

1. On December 7, 2006, Dragoljub Jovanovic ("Jovanovic") employed Respondent to represent him in a personal injury lawsuit pending in the Orange County Superior Court entitled *Dragoljub Jovanovic v. Robert Salas, et al.*, Case No. 06CC07096. Jovanovic was previously represented by Attorney Robert Vars ("Vars"), who filed the lawsuit on behalf of Jovanovic on June 14, 2006.
2. Under the terms of Respondent's contingency fee agreement with Jovanovic, Respondent was entitled to 33 1/3% of the gross recovery, unless a lawsuit or arbitration had been initiated, in which case Respondent was entitled to 40% of the gross recovery.
3. In or about March 2007, Respondent settled Jovanovic's claim for \$25,000 with State Farm Insurance Company ("State Farm").
4. On May 25, 2007, Respondent deposited a \$25,000 settlement draft from State Farm, payable to Jovanovic, Jovanovic's wife, Respondent, and Vars, into Respondent's client trust account at Wells Fargo Bank, account number xxxxxx1018 ("cta").¹
5. At the time of the settlement, Jovanovic's medical providers had liens totaling over \$36,000 against the settlement funds. Respondent was to withhold funds from the \$25,000 settlement and promptly resolve the liens for Jovanovich.
6. In or about December 2008, Jovanovic received notice that one of his medical providers, UCI Medical Physicians, obtained a judgement against him and was seeking to garnish his wages because Respondent had not resolved the lien. In or about December 2008, Jovanovic contacted Respondent about the outstanding lien and informed Respondent about the garnishment.

¹ The full account number is omitted for privacy purposes.

7. Beginning in April 2009, Jovanovic left telephone messages for Respondent about other collection notices he had received regarding other outstanding liens. Respondent did not respond to Jovanovic's messages, which prompted Jovanovic to submit a complaint to the State Bar of California ("State Bar") on or about November 6, 2009.

8. On or about December 29, 2009, Respondent sent a letter to the State Bar in which he stated that he had not provided an accounting of the \$25,000 settlement to Jovanovic because Respondent had not resolved all of the medical liens against the settlement. Respondent also stated that he had settled the lien of UCI Medical Physicians with its attorney in 2008. Respondent further stated that he could finalize all the liens once the lien of UCI Medical Center of \$27,765 was settled.

9. On or about July 2, 2010, Respondent sent another letter to the State Bar, in which Respondent stated that he had completed disbursement of the \$25,000 settlement as of January 12, 2010. In Respondent's letter, Respondent also provided an accounting for \$24,994 of the \$25,000 settlement. The accounting reflected that the medical liens were reduced to a total of \$8,327.61, that Respondent paid \$8,333.06 to Jovanovic, and that Respondent's attorney fees were \$8,333.33.

10. Respondent was entitled to 33 1/3% of the settlement (i.e. \$8,333.33) as Respondent had not filed the lawsuit or initiated arbitration in this matter. Respondent was also required to maintain \$16,666.67 (\$25,000-8,333.33) in his cta for Jovanovic and Jovanovic's medical providers.

11. Without resolving any of the medical liens or disbursing any of the \$25,000 settlement to Jovanovic or his medical providers, and not supervising the bookkeeping in Respondent's office with regard to reconciling the cta and reviewing bank statements, the balance in the cta repeatedly fell below \$16,666.67 between June 2007 and December 2009. The first dip in the cta occurred on June 21, 2007, when the balance fell to \$14,756.82. On March 28, 2008, the balance in the cta fell to \$586.50.

CONCLUSIONS OF LAW:

12. By not resolving all of the medical liens and not completing disbursement of \$16,666.67 from the \$25,000 settlement until January 2010, Respondent wilfully failed to pay promptly, as requested by the client, any funds in the Respondent's possession which the client was entitled to receive in violation of rule 4-100(B)(4) of the Rules of Professional Conduct.

13. By not maintaining \$16,666.67 in the cta for Jovanovich and his medical providers, Respondent wilfully failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labled "Trust Account," "Client's Funds Account," or words of similar import in violation of rule 4-100(A) of the Rules of Professional Conduct.

14. By failing to promptly resolve the medical liens or disbursing any of the \$25,000 settlement to Jovanovic or his medical providers, and not supervising the bookkeeping in Respondent's office with regard to reconciling the cta and reviewing bank statements, Respondent was grossly negligent and misappropriated \$16,080.17 in settlement funds, and Respondent committed an act of moral turpitude in violation of Business and Professions Code section 6106.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 26, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2(a) provides that, "Culpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances."

Standard 2.3 provides that, "Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of the misconduct and the degree to which it relates to the member's acts within the practice of law."

Although the standards are not binding, they are entitled to great weight. *In Re Silverton* 36 Cal. 4th 81, 92. The court is "not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, we are permitted to temper the letter of the law with considerations peculiar to the offense and the offender." *Howard v. State Bar* (1990) 51 Cal. 3d 215, 221-222.

Further, in regard to application of standard 2.2(a), the court has noted that "The standard's requirement of disbarment in the absence of compelling mitigating circumstances should be viewed as a guideline rather than an inflexible rule." *Edwards v. State Bar* (1990) 52 Cal. 3d 28, 38. Additionally, "The court has noted that even where the most compelling mitigating circumstances do not clearly predominate, we have recognized extenuating circumstances relating to facts of the misappropriation that render disbarment inappropriate...As the term is used in attorney discipline cases, 'willful misappropriation' covers a broad range of conduct varying significantly in the degree of culpability. An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception...Disbarment would rarely, if ever, be an appropriate discipline for an attorney whose only misconduct was a single act of misappropriation, unaccompanied by acts of deceit or other aggravating factors. *Edwards, id.* at 38.

In *Lipson v. State Bar* (1991) 53 Cal. 3d 1010, in two client matters, Respondent was found culpable of misappropriation of \$8,400 from one, and entering into an improper business transaction with both clients. The court did not impose discipline consisting of disbarment under standard 2.2(a) as the misappropriation by Respondent was found to be negligent due to "serious and inexcusable lapses in office procedure. The court did impose discipline consisting of a 5 year stayed suspension, 5 years probation with conditions, including a 2 year actual suspension and until Respondent complied with standard 1.4(c)(ii), and until restitution was paid. In mitigation, the court noted that Respondent had no prior record of discipline over 42 years of practice, Respondent was cooperative and candid with the

State Bar, and that the misconduct was aberrational. In aggravation, Respondent had engaged in multiple acts of misconduct.

In *In the Matter of Lily* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185, while acting a fiduciary of trust funds which were to be used for the partnership venture of his clients, the Respondent commingled \$20,000 of trust funds with his own, misappropriated those funds and misrepresented to a third party that the funds were in a trust account when the Respondent knew they were not. The court recommended discipline consisting of a 5 year stayed suspension, 5 years probation with conditions, including a 3 year actual suspension and until Respondent complies with standard 1.4(c)(ii). The court noted that the misconduct was serious. However, without diminishing the gravity of that misconduct, the court gave great weight to the unblemished 21 year prior record of the Respondent, and the narrow period of time over which the misconduct occurred.

In *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, Respondent misappropriated approximately \$25,000 from a client trust account in nineteen separate withdrawals over an eight month period of time. Respondent failed to complete work on the case, failed to communicate with the client, and failed to cooperate with the client's subsequent counsel. The court recommended discipline consisting of a 5 year stayed suspension, 5 years probation with conditions, including a 3 year actual suspension and until Respondent complied with standard 1.4(c)(ii), and until restitution is paid. In regard to mitigation, little weight was given to Respondent's 7 years of discipline free practice prior to the misconduct. Respondent did receive mitigation for his work on behalf of poor and disadvantaged clients.

In the instant case, the misappropriation by Respondent Bernal was due to Respondent's gross negligence in failing to supervise the bookkeeping in Respondent's office. As Respondent has paid Jovanovic's medical liens and paid Jovanovic his portion of the settlement proceeds, discipline consisting of a 3 year stayed suspension, 3 years probation with conditions, including a 2 year actual suspension and until Respondent complies with standard 1.4(c)(ii) is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

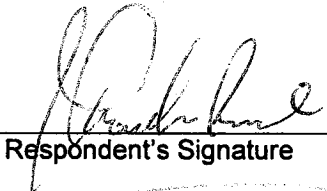

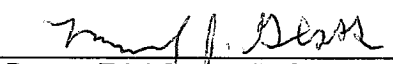
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 1, 2011, the prosecution costs in this matter are \$5,182.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of JOSEPH ARTHUR BERNAL Member # 119448	Case number(s): 10-O-02305
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>6/8</u> , 2011 Date	 Respondent's Signature	<u>Joseph A. Bernal</u> Print Name
<u>6/9</u> , 2011 Date	 Respondent's Counsel Signature	<u>Michael E. Wine</u> Print Name
<u>6/13</u> , 2011 Date	 Deputy Trial Counsel's Signature	<u>Michael J. Glass</u> Print Name

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In the Matter of JOSEPH ARTHUR BERNAL Member # 119448	Case number(s): 10-O-02305
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ACTUAL SUSPENSION ORDER

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

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

*PAGE 2-SECTION A.(8) - AT CONCLUSION OF 1ST SENTENCE
Add - "(2012, 2013, AND 2014)".*

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.)**

06-27-11
Date



Judge of the State Bar Court

RICHARD A. PLATEL

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 San Francisco, On June 28, 2011, 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:

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113

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

MICHAEL J. GLASS , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 28, 2011.



Laurette Cramer
Case Administrator
State Bar Court