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State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION

<p>Counsel For The State Bar</p> <p><b>Diane J. Meyers</b> Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1496</p> <p>Bar # 146643</p>	<p>Case Number(s):</p> <p>11-C-16667-YDR 14-O-02859 (Inv.)</p>	<p>For Court use only</p> <p><b>FILED</b></p> <p>OCT 26 2015 <i>[Signature]</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p><b>PUBLIC MATTER</b></p>
<p>In Pro Per Respondent</p> <p><b>Sergio J. Lopez</b> 7056 Archibald Avenue, Suite #102-143 Eastvale, CA 92880 (714) 550-9380</p> <p>Bar # 259288</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p><b>SERGIO J. LOPEZ</b></p> <p>Bar # 259288</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 2, 2008**.
- (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."



*FK*  
*10/15/15*  
*[Signature]*

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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: **the two billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case **12-O-11661 (See Attachment to Stipulation at p. 11.)**
  - (b)  Date prior discipline effective **June 12, 2013**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rules 3-310(F), 3-700(D)(1), and 3-700(D)(2)**
  - (d)  Degree of prior discipline **public reproof**
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
    - (a) State Bar case # of prior case: **12-C-10338 (See Attachment to Stipulation at p. 11.)**
    - (b) Date prior discipline effective: **April 1, 2014**
    - (c) Rules of Professional Conduct/State Bar Act violations: **proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code not involving moral turpitude but involving other misconduct warranting discipline**
    - (d) Degree of prior discipline: **30-day actual suspension, two-year stayed suspension and probation.**
    - (a) State Bar case # of prior case: **13-O-13886 (See Attachment to Stipulation at p. 11.)**
    - (b) Date prior discipline effective: **February 21, 2015**
    - (c) Rules of Professional Conduct/State Bar Act violations: **Business and Professions Code section 6103**

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(d) Degree of prior discipline: 60-day actual suspension, one-year stayed suspension and two-year probation.

- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See Attachment to Stipulation at p. 11.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution. See Attachment to Stipulation at pp. 11-12.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.

- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**See Attachment to Stipulation at pp. 12-13 (good character, financial and emotional hardship, pretrial and prefiling stipulations).**

**D. Discipline:**

- (1)  **Stayed Suspension:**
  - (a)  Respondent must be suspended from the practice of law for a period of **two years**.
    - i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
    - ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
    - iii.  and until Respondent does the following:

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

**E. Additional Conditions of Probation:**

- (1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance.

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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: **Respondent attended Ethics School on May 1, 2014, and passed the test given at the end of the session. (Rules Proc. of the State Bar, rule 5.135).**
- (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: **Respondent passed the MPRE on August 8, 2014 in connection with case no. 12-O-11661. (In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 181, 183 [protection of the public and the interests of the attorney do not require passage of the MPRE in this case].)**
- (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: <b>SERGIO J. LOPEZ</b>	Case Number(s): <b>11-C-16667</b> <b>14-O-02859 (Inv.)</b>
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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
Susan Noe	\$25,000	May 1, 2014
Gail Hickman	\$11,137.50	June 30, 2014

- 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
Susan Noe	\$300	Monthly, commencing 30 days after the effective date of discipline
Gail Hickman	\$300	Monthly, commencing 30 days after the effective date of discipline

- 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:



completion of probation); and obey all laws and orders of the court, including a modified protective order.

7. On May 16, 2013, the Court of Appeal, Second Appellate District, affirmed the order granting a new trial as to, and reversed the order dismissing, the charge that respondent violated Penal Code section 136.1(a)(2).

8. On June 20, 2013, the Review Department of the State Bar Court issued an order referring respondent's conviction of Penal Code section 166(a)(4) to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department found that the facts and circumstances surrounding the offenses for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

9. On May 29, 2013 and May 31, 2013, respondent's counsel and the People, respectively, filed a petition for a rehearing with the Court of Appeal, Second Appellate District, which were granted on June 11, 2013.

10. On August 1, 2013, the Court of Appeal, Second Appellate District, issued another order affirming the order granting a new trial as to, and reversing the order dismissing, the charge that respondent violated Penal Code section 136.1(a)(2).

11. On February 18, 2015, the People announced that they were unable to proceed as to the charge that respondent violated Penal Code section 136.1(a)(2) and the court ordered the case dismissed pursuant to Penal Code section 1382.

#### FACTS AND CIRCUMSTANCES SURROUNDING THE CONVICTION:

12. On September 20, 2011, a felony complaint was filed against respondent in the Los Angeles County Superior Court, case no. KA095567, regarding an altercation on September 15, 2011 between respondent and the alleged victim, respondent's girlfriend. On September 20, 2011, respondent was arraigned on the complaint and the court issued a written protective order requiring respondent not to have personal, electronic, telephonic or written contact with the alleged victim; not to have contact with the alleged victim through a third party, except an attorney of record; and not to come within 100 yards of the alleged victim. Respondent was served with a copy of the protective order in court.

13. On September 21, 2011, Deputy S., who was assigned to investigate the felony complaint, met with the alleged victim at her house, but she refused to speak with him.

14. Between September 25 and 29, 2011, while Deputy S. was trying to find the alleged victim, respondent and the alleged victim stayed in the same hotel room. Respondent signed the hotel receipt and paid for the room with his law office's credit card. According to the alleged victim, it was her idea to stay at the hotel and respondent had told her that, "he couldn't see [her] because of the restraining order." The alleged victim responded, "We'll stay at a hotel and nobody will know." The alleged victim later acknowledged that she had respondent help her not to be found by law enforcement by staying at a hotel with him.

15. On October 4, 2011, Deputy S. arrested respondent while he was driving the alleged victim's daughter home from school. The alleged victim then sent a text message to a paralegal for respondent, which read, "They arrested [respondent] again. Please call me back. Respondent's paralegal texted back to the alleged victim, "Don't leave your house." The alleged victim texted to respondent's paralegal, "Okay. I'm afraid they [the police] are tracking me."

CONCLUSION OF LAW:

16. The facts and circumstances surrounding the above-described violation did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 14-O-02859 (State Bar Investigation)

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.

FACTS:

1. On April 15, 2014, in respondent's personal, child support matter entitled, *County of Orange v. Sergio Jose Lopez*, Orange County Superior Court, case no. 12FL103911, the court issued an order requiring respondent to pay a non-discovery sanction in the amount of \$25,000 to the other parent, Susan Noe ("Noe"), at the rate of \$1,000 a month starting May 1, 2014 or in full, plus interest accrued at the legal rate, if any monthly payment was more than 10 days late, and an order to pay fees to a court-appointed expert, Commissioner Gail Hickman (Ret.) ("Hickman"), in the amount of \$11,137.50 on or before June 30, 2014, plus interest accrued on \$11,137.50 at the legal rate if not paid by June 30, 2014.

2. By April 25, 2014, respondent had received notice of the court's orders, but did not report the imposition of the \$25,000 sanction against him to the State Bar of California ("State Bar") within 30 days after he had knowledge of the sanction.

3. Respondent did not timely pay any of the \$25,000 due to Noe or the \$11,137.50 due to Hickman.

4. Respondent did not timely obtain a modification of the order to pay \$25,000 to Noe or the order to pay \$11,137.50 to Hickman, including a modification of the date or amount of the payments based on respondent's financial inability to make timely payments.

5. To date, respondent has not paid any of the \$25,000 due to Noe or the \$11,137.50 due to Hickman.

CONCLUSIONS OF LAW:

6. By not timely paying any of the \$25,000 due to Noe pursuant to the court's order and by not timely obtaining a modification of the order to pay Noe, respondent failed to maintain the respect due to a court of justice and judicial officers, in willful violation of Business and Professions Code, section 6068(b).

7. By not timely paying any of the \$11,137.50 due to Hickman pursuant to the court's order and by not timely obtaining a modification of the order to pay Hickman, respondent failed to maintain the respect due to a court of justice and judicial officers, in willful violation of Business and Professions Code, section 6068(b).

8. By not reporting the \$25,000 sanction to the State Bar at any time, respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of a judicial sanction against respondent, in willful violation of Business and Professions Code section, 6068(o)(3).

## **AGGRAVATING CIRCUMSTANCES.**

### **Prior Record of Discipline [Std. 1.5(a)]:**

Case No. 12-O-11661: Effective June 12, 2013, a public reproof for a period of one year was imposed on respondent for violating Rules of Professional Conduct, rules 3-310(F), 3-700(D)(1), and 3-700(D)(2) in one client matter. In April 2013, respondent stipulated to the misconduct which occurred between April 2011 and March 2013. Respondent's multiple acts of misconduct was an aggravating factor and respondent's pre-trial stipulation to facts and culpability was a mitigating factor.

Case No. 12-C-10338: Effective April 1, 2014, respondent was suspended for two years stayed and placed on probation for two years with conditions including 30 days actual suspension for violating Penal Code section 29825. Respondent, a former police officer, violated a criminal protective order by possessing a firearm. Respondent had placed the firearm in his briefcase, and then entered a courthouse. Respondent's misconduct occurred in January 2012. Respondent's prior record of discipline was an aggravating factor and respondent's cooperation in entering into a pre-trial stipulation to facts and admission of documents was a mitigating factor.

Case No. 13-O-13886: Effective February 21, 2015, respondent was suspended for one year stayed and placed on probation for two years with conditions including 60 days actual suspension for a violation of Business and Professions Code section 6103 by failing to fully pay a monetary sanction imposed by a court in March 2013. Respondent ceased making installment payments toward the sanction after May 8, 2013 and did not fully complete payment of the sanction until April 2014. Respondent's prior record of discipline was an aggravating factor. In mitigation, respondent entered into a stipulation to facts and culpability prior to pre-trial proceedings, and respondent had acknowledged his obligation to pay the sanction and attempted to atone for his misconduct by timely completing two installment payments but was unable to make further payments because of financial difficulties between June 2013 and March 2014.

### **Multiple Acts of Misconduct [Std. 1.5(b)]:**

Respondent's misconduct involves his failure to obey the court's protective order, to pay a court-ordered monetary sanction, to pay court-ordered fees, and to report the imposition of the monetary sanction to the State Bar of California.

### **Failure to Make Restitution [Std. 1.5(m)]:**

In case no. 14-O-02859, respondent has not paid any of the \$25,000 to Noe and the \$11,137.50 to Hickman and has not offered to make installment payments to date. However, respondent's present failure to make restitution is tempered by his financial inability to pay. Respondent also intends to seek modification of the court's orders based on his financial inability to pay, but must first obtain a modification of the child support order based on change of financial circumstances. On June 15, 2015 and July 21, 2015, respondent filed a motion for modification of the support order, but the hearing on

the motion was taken off calendar due to procedural deficiencies on July 20, 2015 and August 26, 2015, respectively. Respondent refiled his motion for modification of the support order on August 27, 2015, which is presently set for a hearing on November 2, 2015.

## **MITIGATING CIRCUMSTANCES.**

### **Additional Mitigating Factors:**

Good character: Four attorneys, a police officer, and a marriage and family therapist who have known respondent for a significant period of time, attested to respondent's traits of high morals, integrity and honesty, respondent's pro bono work for the Hispanic community in Orange County and active involvement with his church. These character references are aware of respondent's misconduct in case no. 14-O-02859, except for one of the attorneys who was aware of respondent's misconduct in case no. 11-C-16667. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [significant consideration given to attorney witnesses because they have "strong interest in maintaining the honest administration of justice"]; but see *In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 477; *In re Ford* (1988) 44 Cal.3d 810, 818 [limited weight in mitigation given when witnesses are not aware of the full extent of respondent's misconduct].)

### Financial and emotional hardship:

Respondent's character witnesses also attested to respondent's financial and emotional hardship following his arrest in 2011 for alleged domestic violence and his release from jail in mid-2012. Respondent's business and financial situation suffered while he was defending the criminal charges pending against him and attempting to regain visitation with his daughters. Respondent's financial inability to fully pay the sanction and fee ordered in case no. 14-O-02859, is supported by respondent's financial declarations with the State Bar Court showing that he has and continues to have insufficient income to meet his expenses and pay the sanction and fee. Those declarations also supported respondent's inability to pay disciplinary costs imposed against him. Particularly, on April 10, 2014, respondent filed a motion to reduce disciplinary costs in case no. 12-C-10338 based on a financial inability to pay. On April 25, 2014, the court granted respondent an extension of time to pay the costs. On May 29, 2014, respondent filed another motion to include costs from case no. 12-O-11661 in the existing payment plan in case no. 12-C-10338 which was granted on June 13, 2014 and on June 18, 2014 in an amended order. On April 29, 2015, respondent filed a motion to include disciplinary costs from case no. 13-O-13886 in the existing payment plan in case nos. 12-C-10338 and 12-O-11661 and extend the time to pay the costs based on a financial inability to pay. That motion was granted on June 1, 2015. (*Grim v. State Bar* (1991) 53 Cal.3d 21, 31 [mitigation appropriate where the respondent suffered financial difficulties which can be characterized as extreme and resulted from circumstances which were not reasonably foreseeable or that are beyond the attorney's control].)

In 2015, Respondent also applied for and began receiving public assistance through Medi-Cal and continues to receive these benefits.

After respondent was released from jail in mid to late May of 2012, he began seeing a therapist in late June or early July of 2012. His therapist provided counseling to respondent for depression and anxiety and referred respondent to a psychiatrist who prescribed medication to respondent for his condition, which he continues to take to control his condition. (*In re Brown* (1995) 12 Cal.4 th 205, 222 [some mitigation is afforded to evidence of attorney's illness despite lack of expert testimony]); and *In the*

*Matter of Deierling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-561 [mitigation given for difficulties/disabilities in the absence of complete rehabilitation finding that steady progress towards rehabilitation had been shown].)

Pretrial and prefiling stipulations: In case no. 11-C-16667, respondent has stipulated to facts and culpability prior to the commencement of trial, and in case no. 14-O-02859, respondent has stipulated to facts and culpability prior to the filing of formal charges, and thereby saved State Bar resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

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

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

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

Since this is respondent’s fourth disciplinary case, disbarment is the presumed sanction under standard 1.8(b). However, there is an exception to disbarment if “the misconduct underlying the prior discipline occurred during the same time period as the current misconduct . . . .” (Std. 1.8(b).) That is the case here. The misconduct in respondent’s three priors commenced between April 2011 to June 2013. The present misconduct in case number 11-C-16667 (violation of TRO in September 2011) took place within this same time period. Further, respondent’s misconduct in case no. 11-C-16667 occurred before any discipline had been imposed against respondent for his prior failures to comply with court orders in April 2014 (case no. 12-C-10338) and in February 2015 (case no. 13-O-13886). Respondent has not demonstrated an unwillingness or inability to conform to his ethical responsibilities as respondent was not provided the “opportunity to ‘heed the import of that discipline.’ [Citation.]” (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171.) Therefore, it is appropriate “to

consider the totality of the findings in [these] cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case.” (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619.)

The combined misconduct in the three prior matters and case no. 11-C-16667 involved a failure to return a client file and unearned fee, an improper conflict of interest and violations of a court protective order, sanction order, and a temporary restraining order. Since *Sklar* permits us to consider the totality of respondent’s contemporaneous misconduct as if it had been brought as one case, respondent’s priors can effectively be viewed as a single record of discipline. As such, the gravamen of respondent’s prior misconduct and present misconduct in case no. 11-C-16667 is violation of court orders. As a result, the dispositive standard in this case is standard 1.8(a) which requires progressive discipline. Respondent’s present misconduct in case number 14-O-02859 did not occur during the same time frame as his prior misconduct. A six-month period of actual suspension satisfies standard 1.8(a) since it is more severe than the discipline imposed in respondent’s priors. Furthermore, it is consistent with case law involving more egregious violations of multiple court orders. (*Maltaman v. State Bar* (1987 43 Cal.3d 924 [one-year actual suspension for deceitful acts demonstrating serious moral turpitude and bad faith disobedience of a series of court orders as a private litigant with no mitigation].)

Based on the misconduct here, the unique factors and sequence of respondent’s prior discipline, and the mitigating and aggravating factors present, discipline consisting of a six-month actual suspension is the appropriate discipline to fulfill the primary purposes of discipline.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 3, 2015, the prosecution costs in this matter are \$7,891. 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:  
**SERGIO J. LOPEZ**

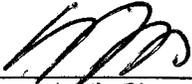
Case number(s):  
**11-C-16667-YDR**  
**14-O-02859 (inv.)**

### 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.

10/23/15

Date



Respondent's Signature

Sergio J. Lopez

Print Name

Date

Respondent's Counsel Signature

Print Name

Date

Deputy Trial Counsel's Signature

Diane J. Meyers

Print Name

(Do not write above this line.)

In the Matter of: SERGIO J. LOPEZ	Case Number(s): 11-C-16667-YDR 14-O-02859 (inv.)
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### ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

October 26, 2015  
Date

Rebecca Meyer Rosenberg  
REBECCA MEYER ROSENBERG, JUDGE PRO TEM  
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 October 26, 2015, I deposited a true copy of the following document(s):

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

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

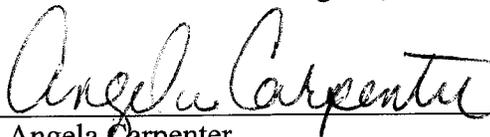
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SERGIO J. LOPEZ  
7056 ARCHIBALD AVE  
STE # 102-143  
EASTVALE, CA 92880

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

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 26, 2015.



Angela Carpenter  
Case Administrator  
State Bar Court