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<b>State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION</b>		
<p>Counsel For The State Bar</p> <p>Lara Bairamian Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 (213) 765-1338</p> <p>Bar # 253056</p>	<p>Case Number(s): 12-O-17923-DFM 12-O-18120</p>	<p>For Court use only</p> <p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;">AUG 26 2013 <i>Mc</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Arthur L. Margolis 2000 Riverside Drive Los Angeles, CA 90039 (323) 953-8996</p> <p>Bar # 57703</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: CESAR A. LOPEZ</p> <p>Bar # 195868</p> <p>A Member of the State Bar of California (Respondent)</p>	<p style="text-align: center;"><b>PUBLIC MATTER</b></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 June 5, 1998.
- (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."

(Effective January 1, 2011)



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: two (2) billing cycles following the effective date of the Supreme Court order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
  - (a)  State Bar Court case # of prior case 04-O-12830, 08-O-12071
  - (b)  Date prior discipline effective August 21, 2011
  - (c)  Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 3-110(A), 3-700(D)(2) and Business and Professions Code, sections 6068(i), 6068(m).
  - (d)  Degree of prior discipline One (1) year stayed suspension and two (2) years probation.
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.

See Attachment at page 11.

- (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. See Attachment at page 12.
- (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:**

See Attachment at page 12.

**D. Discipline:**

(1)  **Stayed Suspension:**

- (a)  Respondent must be suspended from the practice of law 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:
- (b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of two (2) 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 one (1) 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: pays restitution as set forth on page 6 of this stipulation.

**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: Respondent attended Ethics School on August 9, 2012, and passed the test given at the end of the session.
- (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 took and passed the MPRE on April 6, 2013.

- (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:** Financial Conditions

As a further condition of probation, Respondent must pay restitution to Santiago Nunez in the principal amount of \$4,000 plus interest accruing at 10% per annum from June 16, 2005. If the Client Security Fund ("CSF") has reimbursed Santiago Nunez for all or any portion of the principal amount, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs. Respondent must provide proof of payment of restitution satisfactory to the Office of Probation.

Respondent has recently begun to pay restitution to Santiago Nunez and CSF. Any restitution payments made to Santiago Nunez and to CSF before the effective date of the discipline to be imposed in this matter will be applied to the total amount of restitution owed as set forth above, provided that Respondent submits proof of such restitution payments satisfactory to the Office of Probation.

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In the Matter of: CESAR A. LOPEZ	Case Number(s): 12-O-17923-DFM 12-O-18120
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### Medical Conditions

- a.  Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition.
- b.  Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of \_\_\_\_\_ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for \_\_\_\_\_ days or \_\_\_\_\_ months or \_\_\_\_\_ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c.  Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

Other:

Respondent has been under the care of Dr. Elias Rodriguez ("physician") for anxiety and adjustment disorder since 2011. Respondent must obtain treatment from the physician at Respondent's own expense. Respondent has selected the physician for the purpose of submitting to an evaluation and treatment. The physician will determine the course of treatment including how many times per month Respondent is to obtain treatment. Respondent must comply with the treatment recommended by the physician and must furnish evidence to the Office of Probation that Respondent is so complying with each quarterly report. Help/treatment should commence and/or continue immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue as required by the physician for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

Within 45 days of signing this stipulation, Respondent shall provide a complete copy of this stipulation to the physician. Within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation an original, signed declaration from the physician acknowledging receipt of a complete copy of this stipulation.

Within 45 days of signing this stipulation, Respondent shall execute all necessary waivers of confidentiality with the physician.

Within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation a copy of the waiver provided to the physician. Also within 30 days of the effective date of the discipline in this matter, Respondent shall provide to the Office of Probation an original, signed declaration from the physician acknowledging receipt of the waiver.

Within 30 days of the effective date of the discipline in this matter, Respondent is to undergo an Evaluation with the physician. The Evaluation will be for the purposes of (a) determining whether Respondent has a current psychological diagnosis, (b) setting treatment conditions Respondent is to undertake as a result of the Evaluation, if any, and (c) obtaining a written report from the physician. Respondent shall bear all costs of the Evaluation, the resulting report, and any treatment conditions recommended by the physician. Respondent understands that his treatment conditions may change if the physician deems it necessary, and that he is to bear the cost of such treatment, which in some cases could include in-patient treatment. Respondent understands that (a) the treatment conditions, if any, shall become part of his probation conditions, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions is a violation of the probation conditions.

Within 60 days of the effective date of the discipline in this matter, Respondent is to provide a copy of the physician's written report to the Office of Probation. If the physician requires additional information in order to propose treatment conditions, including, but not limited to, interviewing third parties, Respondent will make good faith efforts to timely provide the additional information. Respondent will provide proof of such good faith efforts to the Office of Probation within 10 days of any request.

Within 10 days of any change in treatment conditions, Respondent is to provide written notice to the Office of Probation specifically setting forth the changes. With that written notice, Respondent is to provide an original, signed declaration from the physician acknowledging receipt of the written notice and agreement with its accuracy.

Respondent shall report compliance with the treatment conditions by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to the discipline in this matter.

Respondent shall have his physician submit to the Office of Probation an original, signed declaration that Respondent is in compliance with the treatment conditions by each January 10, April 10, July 10, and October 10 covered by this discipline. Respondent understands that the declarations and reports may be shared with the Office of the Chief Trial Counsel and the State Bar Court.

Respondent understands that treatment conditions associated with other issues or entities may not satisfy treatment conditions required by this section.



If treatment providers are added or changed, Respondent must notify the Office of Probation of the name, address, and telephone number of all such treatment providers within ten days of the retaining of each one. Within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an original signed declaration from the treatment provider stating that it received a complete copy of this stipulation. Also within 30 days of retaining each such treatment provider, Respondent must provide to the Office of Probation an executed waiver of confidentiality as well as an original, signed declaration from the treatment providers acknowledging receipt of the waiver.

If the treating physician determines that there has been a substantial change in Respondent's condition, Respondent or the Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the physician by affidavit under penalty of perjury, in support of the proposed modification.



to be paid in full including interest within ninety (90) days after the effective date of the Order, or by November 19, 2011. Respondent failed to pay the required restitution by the due date of November 19, 2011.

8. The State Bar's Client Security Fund ("CSF") made a payment of \$4,000 to Santiago Nunez. On July 15, 2013, Respondent made a payment to CSF in the amount of \$1,000 as partial reimbursement for the payment made by CSF to Santiago Nunez.

9. On July 15, 2013, Respondent made an interest payment to Santiago Nunez in the amount of \$1,000.

10. As a condition of probation, Respondent was required to provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School and passage of the test given at the end of that session, within one (1) year of the effective date of the Order, or by August 9, 2012. Respondent attended Ethics School on August 9, 2012 but did not provide proof of attendance and completion to the Office of Probation until October 10, 2012.

#### CONCLUSIONS OF LAW:

11. By failing to contact the Office of Probation within thirty (30) days from the effective date of the Order, failing to timely submit five (5) quarterly reports to the Office of Probation, failing to make restitution to Santiago Nunez within ninety (90) days of the effective date of the Order, and failing to provide proof of attendance and completion of Ethics School within one (1) year of the effective date of the Order, Respondent failed to comply with conditions attached to his discipline in wilful violation of Business and Professions Code section 6068(k).

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.2(b)(i)):** In State Bar case number 04-O-12830, Respondent was disciplined after stipulating to four (4) counts of misconduct in a probate matter. Respondent failed to perform legal services competently by failing to perform any services of value in violation of Rules of Professional Conduct, rule 3-110(A), failed to respond promptly to reasonable status inquiries in violation of Business and Professions Code, section 6068(m), failed to refund unearned fees in violation of Rules of Professional Conduct, rule 3-700(D)(2), and failed to release all the client papers in violation of Rules of Professional Conduct, rule 3-700(D)(1). The misconduct occurred between July 2002 and March 2004. Respondent received a private reproof with conditions effective March 31, 2005.

In State Bar case number 08-O-12071, Respondent was disciplined after stipulating to four (4) counts of misconduct in a criminal matter. Respondent failed to perform legal services competently by failing to perform any services of value and substitute in as counsel in violation of Rules of Professional Conduct, rule 3-110(A), failed to communicate significant developments to his client by failing to advise his client that he did not substitute in as counsel and would not pursue the appeal or any writ in violation of Business and Professions Code, section 6068(m), failed to refund unearned fees in violation of Rules of Professional Conduct, rule 3-700(D)(2), and failed to cooperate with the State Bar investigation in violation of Business and Professions Code, section 6068(i). The misconduct occurred between June 2005 and June 2008. Respondent was suspended from the practice of law for one year, stayed, with a two-year period of probation with conditions effective August 21, 2011.

**Multiple Acts of Misconduct (Std. 1.2(b)(ii)):** Respondent engaged in multiple acts of misconduct by failing to timely contact the Office of Probation, timely submit five (5) quarterly reports to the Office of Probation, timely make restitution payments to his client and timely provide proof of attendance and completion of Ethics School.

#### **ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

**Personal Problems:** In September 2009, Respondent's father suffered a stroke that left him bedridden and unable to talk or move his right side. During the period of misconduct, Respondent's father was diagnosed with stomach and colon cancer. Respondent's father was placed under hospice care in Salinas, California. Respondent repeatedly traveled to Salinas to help care for his father, until his passing in September 2012. Respondent reported experiencing anxiety and depression during this period.

Beginning in July 2011, Respondent sought the care of Elias Rodriguez, M.D., who diagnosed Respondent as suffering from anxiety and adjustment disorder caused by his father's deteriorating health condition. Among other things, Dr. Rodriguez prescribed medication to treat Respondent's mental health issues and recommended that Respondent reduce his workload if possible. Respondent limited his intake of cases in order to travel to Salinas and help care for his father and based on his doctor's recommendations. Because he was working less and accepting fewer cases, Respondent's financial condition deteriorated. Respondent's financial circumstances contributed to Respondent not being able to afford to pay restitution. Respondent remains under the care of Dr. Rodriguez.

Stressful emotional difficulties may be considered in mitigation. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 667.) By seeking treatment with Dr. Rodriguez, Respondent undertook a program of steady progress toward rehabilitation. Respondent's rehabilitation does not have to be complete to qualify as mitigating. (*In the Matter of John Deierling*, (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560-561.) Respondent is entitled to mitigation as his emotional and financial difficulties occurred at the same time as his misconduct and interfered with his ability to timely comply with probation conditions.

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby avoiding the necessity of a trial and saving the State Bar Court time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, 1079 [where mitigation credit was given for entering into a stipulation as to facts and culpability].)

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

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Because Respondent has two prior impositions of discipline, the most severe sanction applicable to Respondent's misconduct is found in standard 1.7(b). Standard 1.7(b) provides that if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

However, "merely declaring that an attorney has two impositions of discipline, without more analysis, may not adequately justify disbarment in every case." (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131,136.) In *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222, the Court opined that it "is not bound to follow the standards in a 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."

Upon consideration of the "offense and offender" in the instant case, it would be manifestly unjust to apply standard 1.7(b). Respondent's most recent prior record of discipline, involving a single client matter, resulted in a one-year stayed suspension. Respondent's first record of discipline, also involving only a single client matter, resulted in a private reproof. Although Respondent has been disciplined on two previous occasions, neither matter involved extensive misconduct. As a result, Respondent has never served a period of actual suspension. Both the nature and extent of Respondent's prior record lack the severity to warrant disbarment. (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 704.) Further, Respondent's personal and emotional difficulties mitigate the misconduct providing some explanation for why it occurred.

Given that the application of standard 1.7(b) would be unjust, standard 2.6(a) is the controlling standard. Standard 2.6(a) provides that Respondent's violation of Business and Professions Code, section 6068(k) shall result in suspension or disbarment depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standards.

With respect to the gravity of the offense, this is not a case in which Respondent ignored his probation obligations pursuant to the Order. Although untimely, Respondent made efforts to satisfy the terms of his discipline. Respondent belatedly met with his probation deputy, belatedly submitted written quarterly reports, and timely attended Ethics School though he belatedly reported that fact to the Office of Probation. To rectify his misconduct after the notice of disciplinary charges was filed, Respondent made a partial interest payment to Santiago Nunez and a partial reimbursement payment to CSF. Respondent participated in the proceedings and agreed to enter into a full stipulation prior to trial. Progressive discipline is warranted to fulfill the purposes of discipline. Based on the above-described standards and taking Respondent's history into consideration, a two (2) year stayed suspension accompanied by a two (2) year probationary period, conditioned on a one (1) year actual suspension and until restitution is paid serves the purpose of State Bar discipline.

Case law also supports the level of discipline. In *Conroy v. State Bar* (1990) 51 Cal. 3d 799, Conroy was publicly reprovved and then failed to take and pass the MPRE within one year as required. Conroy defaulted in the matter before the Hearing Department, but participated in the Review Department and Supreme Court proceedings. The Court found Conroy's subsequent passage of the MPRE was mitigating but was outweighed by aggravating factors. In aggravation, the Court considered Conroy's prior discipline, Conroy's default at the Hearing Department level and Conroy's lack of remorse for the present violation. The discipline imposed in light of the aggravation was a one-year suspension, stayed, a two-year probation and a sixty-day actual suspension. Similar to *Conroy*, Respondent belatedly complied with the conditions attached to his discipline. Unlike *Conroy*, Respondent participated in the disciplinary proceedings and has not displayed a lack of remorse during the proceedings. However, Respondent has two prior impositions of discipline, and the level of discipline in the underlying matter is more severe than the private reprovval received by *Conroy* in his underlying matter. Therefore, a longer period of actual suspension is warranted in this case.

**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>
12-O-18120	Two	Rule 3-310(E)

**COSTS OF DISCIPLINARY PROCEEDINGS.**


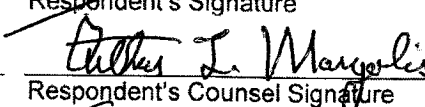
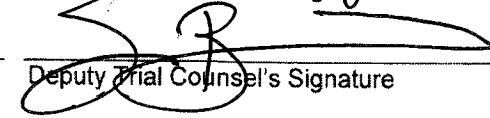
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 26, 2013, the prosecution costs in this matter are \$5,418. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: CESAR A. LOPEZ	Case number(s): 12-O-17923-DFM 12-O-18120
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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>08/03/13</u> Date	 Respondent's Signature	<u>Cesar A. Lopez</u> Print Name
<u>8/6/13</u> Date	 Respondent's Counsel Signature	<u>Arthur L. Margolis</u> Print Name
<u>8/7/13</u> Date	 Deputy Trial Counsel's Signature	<u>Lara Bairamian</u> Print Name

(Do not write above this line.)

In the Matter of: CESAR A. LOPEZ	Case Number(s): 12-O-17923-DFM 12-O-18120
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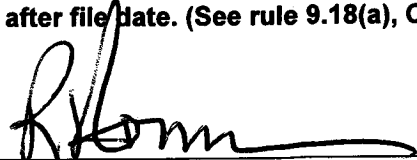
**ACTUAL SUSPENSION ORDER**

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.)**

Date 8/26/13

  
RICHARD A. HONN  
Judge of the State Bar Court



**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 26, 2013, I deposited a true copy of the following document(s):

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

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

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

**ARTHUR LEWIS MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039**

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

**LARA BAIRAMIAN, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 26, 2013.



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Tammy Cleaver  
Case Administrator  
State Bar Court