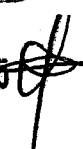


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**State Bar Court of California  
Hearing Department  
San Francisco  
REPROVAL**

<b>Counsel For The State Bar</b>  <b>Erica L. M. Dennings</b> <b>Senior Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2285</b>  Bar # 145755	<b>Case Number(s):</b> <b>14-O-03901</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>JUN 09 2015</b>   <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>In Pro Per Respondent</b>  <b>Richard Lee Bobus</b> <b>1740 Santa Rosa Avenue</b> <b>Santa Rosa, CA 95404</b> <b>(707) 546-3809</b>  Bar # 250664	<b>Submitted to: Assigned Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</b>  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b>  <b>RICHARD LEE BOBUS</b>  Bar # 250664  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **September 15, 2007**.
- (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 11 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, 2014)



- (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):
- Costs are added to membership fee for calendar year following effective date of discipline (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (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.
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline

(Do not write above this line.)

- (e)  If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2)  **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation at p. 8.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 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 deemed serious.
- (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 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 with a good faith belief that was honestly held and reasonable.

(Do not write above this line.)

- (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 subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Record of discipline: See Attachment to Stipulation, p. 9.**

**Profiling Stipulation : See Attachment to Stipulation at p. 9.**

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproval for a period of **one (1) year**.
- (2)  During the condition period attached to the reproval, 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 condition period attached to the reprobation. 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 the reprobation during the preceding calendar quarter. Respondent must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reprobation.
- (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)  Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year of the effective date of the reprobation.

No MPRE recommended. Reason: .

- (11)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input type="checkbox"/> Financial Conditions             |

**F. Other Conditions Negotiated by the Parties:**



6. While at court on February 19, 2014, respondent met a local attorney, Cynthia Lopez ("Lopez"), and asked her to appear at the upcoming February 26, 2014 bond hearing for Mendoza since he was based in San Francisco. Lopez agreed to make the appearance. Lopez charged \$3,000 to appear for Mendoza. At all times, respondent remained attorney of record.

7. On February 25, 2014, respondent paid Lopez \$3,000 to appear at the hearing on February 26, 2014. Of the \$3,000 paid, Mejia initially paid \$1,000 and respondent paid \$2,000 since Mejia did not have the full \$3,000 at that time. Mejia later paid respondent the \$2,000. Respondent did not obtain Mendoza's informed written consent to accept fees from Mejia.

8. On February 26, 2014, Lopez appeared at Mendoza's bond hearing. The hearing was continued twice before being scheduled for March 26, 2014.

9. Respondent prepared an I-589 asylum application for Mendoza which he sent to Lopez for filing. The asylum application was filed on March 26, 2014.

10. Lopez appeared at the hearing on March 26, 2014 for Mendoza at which time Mendoza's bond motion was denied. The court issued a pretrial order which required respondent to file exhibits, documents, or witness statements on or before May 7, 2014 in Mendoza's case. Mendoza's individual hearing was scheduled for May 14, 2014.

11. Respondent learned from Mejia that Mendoza's mother was murdered in El Salvador on April 2, 2014. Mendoza's mother was murdered purportedly by the gangs that Mendoza claimed had been threatening her family, and was the reason Mendoza fled the country and was seeking asylum. Respondent did not inform Mendoza about her mother's murder because he did not want her to receive such news while in custody and without any support. Respondent believed Mendoza was entitled to a bond redetermination motion based on this development. Respondent asked Lopez to file a bond redetermination motion and to appear at the hearing which would be heard at the same time as the hearing on the asylum application, May 14, 2014. Respondent paid Lopez \$700 to file a bond redetermination motion. Respondent paid \$500 and Mejia paid \$200 of the \$700. Respondent did not obtain Mendoza's informed written consent to accept fees from Mejia.

12. On April 27, 2014, Lopez asked respondent to send documents to support the bond redetermination motion and asylum application, in particular documents corroborating the murder of Mendoza's mother, such as the certificate of translation for the death certificate. Respondent sent Lopez a signed copy of the bond redetermination motion with the requested documents approximately 30 minutes later via facsimile. Respondent did not take any steps to confirm that Lopez ever filed the bond motion or information concerning the death of Mendoza's mother. Neither the bond redetermination motion nor the documentation regarding Mendoza's mother's death was filed. Respondent did not confirm or take any steps to assure that Lopez or anyone would appear at the May 14, 2014 hearing.

13. On May 14, 2014, respondent called the court and requested a telephonic appearance, but his request was denied. Respondent sent a letter to the court after May 14, 2014 explaining why he did not appear at the hearing.

14. On May 14, 2014, the hearing took place and Mendoza appeared without representation. Mendoza testified at the hearing, but did not testify about the murder of her mother because she was unaware of it at that time. The court denied Mendoza's asylum application. In its Decision and Order,

the Immigration Judge ordered Mendoza removed to El Salvador. The judge found that respondent failed to appear on May 14, 2014 and did not timely request a continuance. Additionally, the Decision and Order stated that respondent failed to provide any documents to support the asylum application.

15. Between May 14, 2014 and August 21, 2014, Mendoza obtained a new attorney, Diego Vazquez, who appealed the Decision and Order based on respondent's ineffective assistance of counsel. On October 14, 2014, the appeal was sustained, the May 14, 2014 decision vacated, and the case remanded for further proceedings.

16. Respondent acknowledges that he did not follow through with attorney Lopez to determine if she would appear at the May 14, 2014 hearing, or verify that she had filed the documents in support of the asylum application and bond redetermination motion.

17. Respondent has been handling immigration matters for only 2 years. As a result of this case, respondent recognizes the practical difficulty in representing clients who are detained out of state. For that reason, he refers potential clients who are detained out of state to local counsel and does not begin representation until the client is released on bond and the venue is changed to San Francisco.

18. Additionally, although Mendoza's asylum application was initially denied and she was ordered removed, this order was vacated and Mendoza did not have to leave the United States after all.

#### CONCLUSIONS OF LAW:

19. By failing to appear on his client's behalf at the February 19, 2014 hearing, failing to file documents in support of Mendoza's asylum application and bond redetermination motion by May 7, 2014, and failing to appear at the hearing on May 14, 2014, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

20. By not informing Mendoza that her mother had been murdered prior to the May 14, 2014 hearing, respondent failed to communicate a significant development in a matter with regard to which he has agreed to provide legal services, in wilful violation of Business and Professions Code, section 6068(m).

21. By accepting fees from Sandra Mejia, a non client, to represent his client, Jenifer Mendoza, without obtaining Mendoza's informed written consent to receive such compensation, respondent wilfully violated Rules of Professional Conduct, rule 3-310(F).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed multiple acts of misconduct. Respondent failed to obtain his client's informed written consent to accept compensation from her aunt for representation, failed to appear at two court appearances, failed to inform his client that her mother had been murdered, and failed to submit documents in support of her asylum application



## MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent is entitled to some mitigation for being in practice for 7 years with no prior record of discipline. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49).

**Prefiling stipulation:** Respondent cooperated with the State Bar by entering into this stipulation at this early stage in the proceeding saving the State Bar resources and time. Respondent's stipulation to facts, culpability, and discipline is a mitigating circumstance. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079).

## 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 this matter, respondent admits to committing three acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in Standard 2.15 which applies to respondent's violation of Rules of Professional Conduct, Rule 3-310(F). Standard 2.15 provides that, "Suspension not to exceed three years or reproof is appropriate for a violation of a provision of the Business and Professions Code or the Rules of Professional Conduct not specified in these Standards."

Given the limited extent of the misconduct, the lack of client harm, and steps respondent has taken to assure this misconduct will not reoccur, application of the standards to the facts of this case demonstrates that a public reproof is the appropriate sanction for respondent's misconduct. A public reproof is adequate to protect the public, the courts, and the legal profession.

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

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 21, 2015, the prosecution costs in this matter are \$3,066. 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.

### **EXCLUSION FROM MCLE CREDIT**

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics School, (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: RICHARD LEE BOBUS	Case number(s): 14-O-03901
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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>5-28-2015</u> Date	<u><i>Richard L. Bobus</i></u> Respondent's Signature	<u>Richard Lee Bobus</u> Print Name
<u>29 May 2015</u> Date	<u><i>Erica L. M. Dennings</i></u> Deputy Trial Counsel's Signature	<u>Erica L. M. Dennings</u> Print Name

(Do not write above this line.)

In the Matter of: RICHARD LEE BOBUS	Case Number(s): 14-O-03901
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date June 9, 2015 Cat McElroy  
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 San Francisco, on June 9, 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 \_\_\_\_\_, California, addressed as follows:

RICHARD L. BOBUS  
ATTORNEY AT LAW  
1740 SANTA ROSA AVE  
SANTA ROSA, CA 95404

by certified mail, No. \_\_\_\_\_, with return receipt requested, through the United States Postal Service at \_\_\_\_\_, California, addressed as follows:

by overnight mail at \_\_\_\_\_, California, addressed as follows:

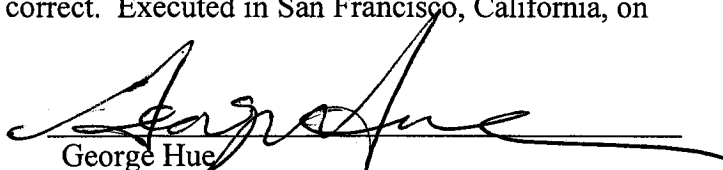
by fax transmission, at fax number \_\_\_\_\_. No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Erica L. M. Dennings, Enforcement, San Francisco  
Terrie L. Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 9, 2015.

  
George Hue  
Case Administrator  
State Bar Court