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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
<p>Counsel For The State Bar</p> <p>Michaela Carpio Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1338</p> <p>Bar # 304677</p>	<p>Case Number(s): 15-O-15736-CV</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">PUBLIC MATTER FILED</p> <p style="text-align: center;">SEP 14 2017 <i>df</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Mario G. Valencia Law Offices Mario Valencia 25350 Magic Mountain Parkway Suite 300 Valencia, CA 91355 (818) 507-8819</p> <p>Bar # 235749</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: MARIO G. VALENCIA</p> <p>Bar # 235749</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 **March 2, 2005**.
- (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 **14** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."



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

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- (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. **See attachment at pages 10-11.**
- (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 at page 10.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (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:

No Prior Discipline: See attachment at page 11.
Pretrial Stipulation: See attachment at page 11.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of **one year**.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and 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:
- (b) The above-referenced suspension is stayed.
- (2) **Probation:**
- Respondent must be placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of **30 days**.
- 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. 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: _____

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- (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:
- | | |
|---|---|
| <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:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: _____
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: _____
- (5) **Other Conditions:** _____

9. On October 28, 2013, Ms. Talley texted respondent, asking if he had filed the divorce paperwork yet. After no response from respondent, Ms. Talley texted respondent again, stating that respondent had not returned any of her calls, texts, or emails. Respondent received these texts.
10. On October 30, 2013, Ms. Talley and respondent exchanged texts, coordinating when and where to meet so that Ms. Talley could sign the judgment package.
11. On October 31, 2013, respondent filed a Request to Enter Default as the issues subject to disposition by the court were the subject of a written agreement. That same day, respondent also filed the judgment package with the court.
12. On December 3, 2013, the court rejected the Request to Enter Default because the proof of service was incomplete.
13. On March 27, 2014, the court rejected the judgment package because: (1) form FL-141 must be submitted; (2) form FL-170 was incomplete; (3) form FL-180 must be used as the first page; and (4) the forms lacked the correct jurisdiction date on the judgment.
14. On April 8, 2014, respondent texted Ms. Talley, informing her that he received a rejection notice from the court and indicated that he would refile the judgment package that Thursday.
15. On July 22, 2014, Ms. Talley texted respondent approximately two times, requesting an update on her case. Ms. Talley indicated that she sent forms back to respondent's assistant about a month ago, but when she checked with the court, she was informed that they have not received a filing. Respondent received these texts but failed to respond.
16. On July 22, 2014, respondent filed the judgment package with the court.
17. On July 28, 2014, the court rejected the judgment package because the entry of default must be entered before the submission of the judgment and a Request for Entry of Default had not been filed or received by the court.
18. On August 4, 2014, respondent filed a Request to Enter Default, which was entered on that same day.
19. On August 6, 2014, the court again rejected the judgment package because the Vehicle Identification Numbers (VIN) or license plate numbers for the motor vehicles listed in the judgment package were not included.
20. On September 24, 2014, Ms. Talley texted respondent, asking for an update on her case. Respondent received the text but failed to respond.
21. On June 19, 2015, respondent emailed Ms. Talley, informing her that he was shutting down his practice but would finalize her case. Respondent stated that he sent the judgment to the court but the court's website did not indicate that it was being processed. Respondent told Ms. Talley that he was going to pull her file and contact her that night with an update.

22. In July 2015, Ms. Talley texted respondent approximately four times, asking for an update on her case. Respondent received these texts but failed to respond.

23. On July 20, 2015, Ms. Talley emailed respondent, stating that it had been a month since she heard from respondent and requesting an update on her case. Respondent received the email but failed to respond.

24. On October 30, 2015, Ms. Talley texted respondent, requesting an update as her case was moved to Chatsworth. Respondent received the text but failed to respond.

25. On February 5, 2016, respondent filed the judgment package with the court.

26. On February 22, 2016, the court rejected the judgment package because the package was signed by the parties in 2013 and notarized on August 3, 2013. However, the notary's commission expired on May 9, 2014. The court indicated that it wanted to set the matter for a hearing.

27. On March 9, 2016, respondent called Ms. Talley and promised her that he would complete her divorce. Respondent told Ms. Talley that there were some forms that he never sent due to changes in procedures and the address on the forms needed to be updated. Respondent would overnight the papers for Ms. Talley to sign, and she should get them no later than Friday. Respondent failed to send the documents to Ms. Talley as promised.

28. In March 2016, respondent and Ms. Talley exchanged emails regarding finalizing the forms for the judgment package. On June 2, 2016, respondent filed the judgment package with the court.

29. On June 29, 2016, the court rejected the judgment package because (1) the attached stipulation did not comply or properly address the waiver of spousal support; (2) the husband's signature needed to be notarized as he defaulted; (3) item 5 was incomplete; and (4) Marital Settlement Agreement must be attached to the Judgment and to the Notice of Rights and Responsibilities.

30. On July 22, 2016, respondent emailed Ms. Talley, informing her that the judgment package was returned to him. Respondent promised Ms. Talley that he would speak to the department supervisor about the judgment package next week.

31. On July 28, 2016, respondent emailed Ms. Talley, informing her that he was going to speak to the clerk's supervisor on August 1, 2016, to find out why the judgment package was rejected. That same day, Ms. Talley emailed respondent back, stating that the judgment package was rejected because it did not include a waiver of spousal support from each spouse.

32. On August 1, 2016, respondent emailed Ms. Talley, stating that he was going to redraft the judgment package to include the waiver of spousal support.

33. On August 11, 2016, Ms. Talley emailed respondent, requesting a status update. Respondent received the email but failed to respond.

34. On August 31, 2016, respondent emailed Ms. Talley, informing her that he was going to finalize the judgment package tonight and send it to her by 4:00 p.m. the next day. Respondent failed to send the draft judgment package to Ms. Talley as promised.

35. On September 23, 2016, Ms. Talley emailed respondent as she had not hear from him for almost one month. Respondent received the email.

36. Five days later, on September 28, 2016, respondent emailed Ms. Talley, informing her that he revised the judgment package and emailed it to her. Ms. Talley responded to the email, stating that she did not receive the revised judgment package. Respondent failed to respond to this email until December 2, 2016, when respondent sent Ms. Talley an email, stating that he would “have to check the file.”

37. On December 22, 2016, respondent and Ms. Talley exchanged emails regarding the filing for a Request for Order, asking the court to bifurcate the marital status from the judgment package.

38. On December 23, 2016, respondent emailed Ms. Talley, informing her that he filed the Request for Order.

39. On December 27, 2016, respondent and Ms. Talley exchanged emails regarding the court granting Ms. Talley’s Request for Order and scheduling a hearing on March 24, 2017, to determine the marital status of the parties.

40. On March 24, 2017, respondent appeared at the hearing, and the court finalized the marital status. Respondent informed Ms. Talley that he would submit the rest of the judgment package to the court the following week. Ms. Talley informed the State Bar that she received the paperwork from respondent confirming that she is legally divorced but still had not received the judgment package.

CONCLUSIONS OF LAW:

41. By failing to finalize Ms. Talley’s marital status for almost five years, including by repeatedly filing defective pleadings, and by failing to properly file the divorce judgment package to date, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

42. By failing to respond promptly to approximately ten emails, nine texts, and three phone calls requesting reasonable status inquiries made by Ms. Talley between February 28, 2013, and December 2, 2016, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated of Business and Professions Code, section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent failed to perform legal services competently for his client by failing to settle Ms. Talley’s divorce matter after almost five years and four attempts to file the judgment package. Respondent also failed to promptly communicate with Ms. Talley after she asked for status updates on her case, sometimes going months without responding to her. Consequently, Respondent’s conduct is aggravated by multiple acts of misconduct. (See *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555.)

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Due to his failure to competently perform legal services on behalf of Ms. Talley, she was still married four years after she and her husband reached a divorce settlement. Ms. Talley was personally and financially harmed as she was responsible for her husband’s medical bills, was suffering tax consequences from

filing married but filing separated, and was unable to get remarried. (See *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 283 [a delay of more than five years constitutes significant harm].)

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice on March 2, 2005, totaling 8 years of discipline-free practice at the time of the misconduct. However, respondent should be afforded only slight mitigation for this amount of time. (*In the Matter of Aguiluz*, (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32, 44 [gave only slight weight in mitigation to attorney practicing 7 years without discipline]; *Kelly v. State Bar* (1988) 45 Cal.3d 649, 657 [seven and a half years of discipline-free practice not especially commendable].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant 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]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

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; hereinafter “Standards.”) 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 Standard 1.1; see also *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to “great weight” and should be followed “wherever possible” in determining the 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, i.e., the imposition of similar attorney discipline for instances of similar attorney misconduct. (See *In re Naney* (1990) 51 Cal.3d 186, 190.) If a disciplinary recommendation deviates from that suggested by the relevant Standard or Standards, a clear explanation must be provided as to how the recommendation was determined. (See Standard 1.1; see also *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.) Further, if a disciplinary “recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached.” (Standard 1.1.)

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) & (c).)

In the present case, respondent has committed multiple acts of professional misconduct. Pursuant to Standard 1.7(a), 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.”

Here, the most severe sanction applicable to respondent’s misconduct is found in Standard 2.7(c), which applies to respondent’s violation of Rules of Professional Conduct, rule 3-110(A) [Failure to Perform with Competence] and Business and Professions Code section 6068(m) [Failure to Promptly Respond to Reasonable Client Inquiries].

Standard 2.7(c) provides that suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time. The degree of harm depends on the extent of the misconduct and the degree of harm to the client or clients. Here, although the violation is limited to one client matter, the fact that aggravation outweighs mitigation indicates that discipline should not be at the lower end of the scale.

Respondent engaged in two acts of misconduct by failing to perform with competence and failing to communicate with the client. Although respondent has no prior record of discipline, he has only been practicing since March 2, 2005, only eight years of discipline-free practice at the time of the misconduct, and thus, should be afforded only minimal weight. Considering, on balance with the mitigating circumstances, respondent’s multiple acts of misconduct caused significant harm to his client, a one-year stayed suspension and one year of probation with conditions, including 30 days of actual suspension is appropriate.

This level of discipline is also consistent with case law. In *Bach v. State Bar* (1991) 52 Cal.3d 1201, an attorney received discipline consisting of a 12-month stayed suspension and an actual suspension of 30 days and until he made restitution. The Supreme Court held that Bach failed to perform legal services in an uncontested marital dissolution matter, failed to communicate with his client for months at a time, withdrew from representation without the client’s consent or court approval, failed to refund only \$2,000 in unearned fees, and failed to cooperate in the State Bar’s investigation. In aggravation, Bach demonstrated a lack of insight into his wrongdoing. In mitigation, Bach had no record of prior discipline in 20 years of practice.

Here, respondent’s misconduct was slightly less egregious than Bach’s but warrants similar discipline. While Bach committed additional misconduct consisting of improperly withdrawing from employment, failing to refund unearned fees, and failing to cooperate in the State Bar’s investigation, Bach and respondent both failed to perform legal services with competence and failed to communicate with their clients. Moreover, respondent’s aggravation significantly outweighs his mitigation, while Bach was entitled to some mitigation for having 20 years of discipline-free practice.

In light of the foregoing, a one-year stayed suspension and one year of probation with conditions, including 30 days of actual suspension, will best serve the goals of protection of the public, the courts, and the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of September 1, 2017, the discipline costs in this matter are approximately \$3,758. 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 MINIMUM CONTINUING LEGAL EDUCATION (“MCLE”) CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics School to be ordered as a condition of his probation. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: MARIO G. VALENCIA	Case number(s): 15-O-15736-CV
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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>09-01-17</u> Date	<u><i>Mario Valencia</i></u> Respondent's Signature	<u>Mario G. Valencia</u> Print Name
<u>9/5/17</u> Date	<u><i>Michaela Carpio</i></u> Deputy Trial Counsel's Signature	<u>Michaela Carpio</u> Print Name

(Do not write above this line.)

In the Matter of:
MARIO G. VALENCIA

Case Number(s):
15-O-15736-CV

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.)**

Sept. 14, 2017

Date

Cynthia Valenzuela

CYNTHIA VALENZUELA
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 September 14, 2017, 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:

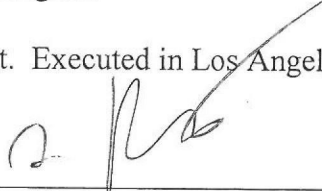
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARIO G. VALENCIA
LAW OFFICES MARIO VALENCIA
25350 MAGIC MOUNTAIN PKWY
STE 300
VALENCIA, CA 91355 - 1356

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

Michaela Carpio, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 14, 2017.



Stephen Peters
Case Administrator
State Bar Court