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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel for the State Bar Scott D. Karpf Deputy Trial Counsel 845 S. Figueroa Ave. Los Angeles, CA 90017 (213) 765-1161 Bar # 274682	Case Number(s): 17-O-05036	For Court use only FILED E.A. OCT 17 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Kevin Gang Long 223 E. Garvey Ave., Ste. 208 Monterey Park, CA 91755 (626) 572-3889 Bar # 195523	<h1 style="margin: 0;">PUBLIC MATTER</h1>	
In the Matter of: KEVIN GANG LONG Bar # 195523 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 4, 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 16 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(Effective July 1, 2016)

Actual Suspension



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- (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. It is recommended that (check one option only):
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.
- Costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. **SELECT ONE** of the costs must be paid with Respondent's membership fees for each of the following years:
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be 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: 14-O-01271. See page 12, and Exhibit 1, 13 pages.
- (b) Date prior discipline effective: January 16, 2015
- (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rule 3-700(A)(2)
- (d) Degree of prior discipline: Private reproof
- (e) If Respondent has two or more incidents of prior discipline, use space provided below.
State Bar Court case # of prior case: 16-H-11300. See page 12, and Exhibit 2, 14 pages.
Date prior discipline effective: July 29, 2016
Rules of Professional Conduct/State Bar Act violations: Rules of Professional Conduct, rule 1-110
Degree of prior discipline: Public reproof
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.

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- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct. See page 12.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (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 [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 Respondent's 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 Respondent's misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.

(Effective July 1, 2018)

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- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced Respondent.
- (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 Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's 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:

D. Recommended Discipline:

- (1) **Actual Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for the first _____ of the period of Respondent's probation.

- (2) **Actual Suspension "And Until" Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation and until Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

- (3) **Actual Suspension "And Until" Restitution (Single Payee) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

(Effective July 1, 2018)

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent makes restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____ (or reimburses the Client Security Fund to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(4) **Actual Suspension "And Until" Restitution (Multiple Payees) and Rehabilitation:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum of the first _____ of Respondent's probation, and Respondent will remain suspended until both of the following requirements are satisfied:
 - a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. Respondent provides proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(5) **Actual Suspension "And Until" Restitution (Single Payee) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for one year, the execution of that suspension is stayed, and Respondent is placed on probation for two years with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first 90 days of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:
 - a. Respondent makes restitution to Yuxia Chen in the amount of \$ 2,000 plus 10 percent interest per year from April 16, 2016 (or reimburses the Client Security Fund to the extent of any

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payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and,

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(6) **Actual Suspension "And Until" Restitution (Multiple Payees) with Conditional Std. 1.2(c)(1) Requirement:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent must be suspended from the practice of law for a minimum for the first _____ of Respondent's probation, and Respondent will remain suspended until the following requirements are satisfied:

- a. Respondent must make restitution, including the principal amount plus 10 percent interest per year (and furnish satisfactory proof of such restitution to the Office of Probation), to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

<i>Payee</i>	<i>Principal Amount</i>	<i>Interest Accrues From</i>

- b. If Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and

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6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

- (2) **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) **Quarterly and Final Reports:**
- a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.
- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as

Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

- (7) **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because
- (9) **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete _____ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (11) **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

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- (12) **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete _____ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE _____ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (13) **Other:** Respondent must also comply with the following additional conditions of probation:
- (14) **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) **The following conditions are attached hereto and incorporated:**
- Financial Conditions Medical Conditions
- Substance Abuse Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1) **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter or during the period of Respondent's actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.
- (2) **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because _____.
- (3) **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

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For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Atheam v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (4) **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with the requirements of California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. Failure to do so may result in disbarment or suspension.

For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Atheam v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

- (5) **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because
- (6) **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KEVIN GANG LONG

CASE NUMBER: 17-O-05036

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 17-O-05036 (Complainant: Yuxia Chen)

FACTS:

1. On April 14, 2016, Yuxia Chen hired respondent to file an application for citizenship for a fee of \$2,000. At the time of hire, Ms. Chen had been waiting for a green card (permanent resident status) as an asylee for more than five years.

2. In part, 8 U.S.C. 1427 states that "No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years...."

3. On May 4, 2016, respondent filed a Form N-400 application for naturalization, with the United States Citizenship and Immigration Services ("USCIS") on behalf of Ms. Chen despite his knowledge that Ms. Chen had not obtained her green card and would be ineligible for citizenship.

4. On June 6, 2017, when Ms. Chen appeared at an immigration office for her naturalization interview, an immigration officer told her that she was not eligible for citizenship because she did not have a green card. As a result, Ms. Chen withdrew her citizenship application. Ms. Chen subsequently asked respondent to refund the \$2,000 that she paid him, but respondent claimed that he had fully earned the fee.

5. On July 31, 2018, Ms. Chen filed a complaint against respondent with the State Bar.

6. On October 26, 2017, a State Bar Investigator mailed respondent an inquiry letter asking for respondent to respond to Ms. Chen's allegations of misconduct, including specifically that he filed a Form N-400 request for naturalization when he knew that Ms. Chen did not have her green card, which is a mandatory requirement.

7. On November 6, 2017, respondent responded to the inquiry letter and admitted that he prepared and submitted Ms. Chen's Form N-400 application for naturalization even thou she had not obtained a green card. Respondent also stated, "Ms. Chen enjoyed the benefit, opportunity and service of the application for [naturalization]..... Whether she qualified for [naturalization] ... is subject to the adjudication of the US government. The government most certainly would not return the filing fees

paid. It is not reasonable for Ms. Chen to demand the return of her money after she had already enjoyed the benefit, opportunity, and service of the application for citizenship.”

CONCLUSIONS OF LAW:

8. By not advising Ms. Chen that she was not eligible for naturalization because she did not have a green card, and by filing a Form N-400 application for naturalization anyway on her behalf when he knew or should have known that the application would not be granted, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

9. By filing a Form N-400 application for naturalization on Ms. Chen’s behalf with USCIS when respondent knew that Ms. Chen had not obtained her green card, which is a mandatory requirement for eligibility, respondent failed to counsel or maintain such action, proceedings, or defenses only as appear to respondent as legal or just, in willful violation of Business and Professions Code, section 6068(c).

AGGRAVATING CIRCUMSTANCES.

Prior Records of Discipline (Std. 1.5(a)): Respondent has two prior records of discipline.

In State Bar Court Case No. 16-H-11300, effective August 19, 2016, discipline was imposed against respondent consisting of a public reproof with conditions for one year. In that matter, respondent failed to comply with conditions attached to his private reproof including untimely scheduling a mandatory probation meeting and untimely reporting passage of the Multistate Professional Responsibility Examination, in willful violation of Rules of Professional Conduct, rule 1-110. The misconduct occurred in 2016. In aggravation, respondent had a prior record of discipline. In mitigation, respondent entered into a prefiling stipulation. Exhibit 1 is a certified copy of the prior discipline.

In State Bar Court Case No. 14-O-01271, effective February 6, 2015, discipline was imposed against respondent consisting of a private reproof with conditions for one year. In that matter, respondent constructively terminated representation of two clients, without notice, by failing to appear on behalf of his clients at their immigration hearings without taking any steps to prepare the clients for the hearings or arrange for another attorney to appear in his place, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2). The misconduct occurred in 2012. In aggravation, respondent’s misconduct caused harm to his former clients. In mitigation, respondent had no prior record of discipline and entered into a prefiling stipulation. Exhibit 2 is a certified copy of the prior discipline.

Indifference (Std. 1.5(k)): In his response to a State Bar Investigator’s inquiry letter, respondent stated that he should not have to refund Ms. Chen’s attorney fees for filing the N-400 application because she “enjoyed the benefit, opportunity and service of the application for citizenship.” When he made this statement, respondent knew or should have known that the application was frivolous and had no chance of being granted, and thus, this position was specious and unsupported by the facts. Making such a statement in an attempt to avoid a finding of culpability reveals a lack of appreciation for both his misconduct and his obligations as an attorney. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647.)

MITIGATING CIRCUMSTANCES.

None.

AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

Because respondent has two prior records of discipline, standard 1.8(b) must be addressed. Standard 1.8(b) provides that:

If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

The plain language of Standard 1.8(b) intuitively identifies an issue where the current misconduct is synchronous with misconduct from a prior discipline, formally discussed in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In *Sklar*, the Court declared:

“Since part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney’s inability to conform his or her conduct to ethical norms (*see In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 64), it is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case. We therefore consider the totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case.”

The misconduct in the present disciplinary matter occurred in May 2016. In respondent’s prior disciplinary action, which involved probation violations, the misconduct also took place in April of 2016. Accordingly, the reasoning and analysis in *Sklar* is applicable because the actions amounting to misconduct in this case and the prior case are contemporaneous to one another. Respondent did not have the benefit of learning from his most recent prior discipline, and therefore, the aggravating effect of the last prior discipline should be diminished. Accordingly, it is appropriate to consider the totality of the misconduct in the prior discipline and current matter combined to determine the appropriate level of discipline as if all the charged misconduct been considered collectively.

Nonetheless, Standard 1.8(a) applies, and the current sanction should be greater than the previously imposed sanction because respondent’s first record of discipline is not remote in time and was sufficiently serious in nature.

In this matter, respondent is alleged to have committed multiple acts of 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.” Standard 2.7(c) states that the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope and time, is suspension or reproof. The degree of the sanction depends on the extent of the misconduct and the degree of harm to the client or clients. Standard 2.9(b) also presumes that suspension or reproof is the appropriate sanction when a member counsels or maintains a frivolous claim or action for an improper purpose. Accordingly, either Standard is applicable here.

Respondent’s first discipline of a private reproof involved abandoning a client in an immigration matter. Respondent’s most recent prior discipline of a public reproof involved minor violations of reproof conditions. Respondent’s current matter again involves misconduct in handling an immigration matter and the misconduct occurred contemporaneously to when respondent should have been working towards rehabilitating himself. The successive misconduct suggests that respondent failed to learn from his first discipline, and thus, the level of discipline should be greater. Also, current misconduct reveals evidence of aggravation for demonstrating indifference. Accordingly, a discipline consisting of a one-year stayed suspension and two-year probation with conditions, including a 90-day actual suspension and remaining suspended until restitution is paid, is appropriate to protect the public, the courts, and the legal profession.

Case law supports this level of discipline. In *Bach vs. State Bar* (1991) 52 Cal.3d 1201, an attorney was hired to handle an uncontested dissolution of marriage case for his client. Two and one-

half years into the representation, the attorney withdrew without consent of the client or the court, failed to complete the dissolution, and failed to return any unearned fees. The attorney also failed to participate in the State Bar Investigation. Respondent failed to respond to two inquiry letters sent by the State Bar asking for a response to the client's allegations. In mitigation, respondent had no prior discipline over 26 years of law practice prior to the misconduct. In aggravation, the Court found that the attorney's feckless claims of mitigation, that were not at all supported by the facts, showed a highly unfavorable attitude towards the proceedings, and was further evidence of a need for actual suspension. Discipline was imposed as to the attorney consisting of a one year stayed suspension, one year probation with conditions including a 30-day actual suspension and payment of restitution.

Respondent's misconduct is similar to Bach's in that he failed to perform with competence by filing a frivolous application for citizenship when Ms. Chen had no possibility of receiving one, but differs in that he committed less acts misconduct and the period during which the misconduct took place is only a few weeks. Nonetheless, respondent's misconduct is aggravated by a showing of indifference and two prior records of discipline, and even giving less aggravation weight to the second discipline due to the contemporaneous timing of the misconducts, respondent was in the midst of the rehabilitative process from his first discipline so his misconduct in this matter displays recidivist tendencies that significantly aggravate the level of discipline. Given these factors, and that respondent has no mitigation, respondent should receive greater discipline than Bach. Accordingly, a discipline including a 90-day actual suspension and remaining suspended until restitution is paid, is warranted to protect 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 25, 2018, the discipline costs in this matter are \$3,215. 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 the State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: KEVIN GANG LONG	Case Number(s): 17-O-05036
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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.

10/5/2018 [Signature] Kevin Gang Long
Date Respondent's Signature Print Name

10/5/2018 [Signature] Scott D. Karpf
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: KEVIN GANG LONG	Case Number(s): 17-O-05036
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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.

On page 2 of the Stipulation, at paragraph B.(1)(b), "January 16, 2015" is deleted, and in its place is inserted "February 6, 2015".

On page 2 of the Stipulation, at paragraph B.(1)(e), "July 29, 2016" is deleted, and in its place is inserted "August 19, 2016".

On page 12 of the Stipulation, first paragraph under "Prior Records of Discipline," line 7, "Exhibit 1" is deleted, and in its place is inserted "Exhibit 2".

On page 12 of the Stipulation, second paragraph under "Prior Records of Discipline," line 8, "Exhibit 2" is deleted, and in its place is inserted "Exhibit 1".

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the filed date of the Supreme Court order. (See Cal. Rules of Court, rule 9.18(a).)**

Oct 17, 2018
Date


LUCY ARMENDARIZ
Judge of the State Bar Court

(Do not write above this line.)

State Bar Court of California Hearing Department CONFIDENTIAL Los Angeles REPROVAL		
Counsel For The State Bar Sherell N. McFarlane Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1288 Bar # 217357	Case Number(s): 14-O-01271	For Court use only FILED JAN 16 2015 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Kevin Gang Long 223 E. Garvey Avenue, Suite 208 Monterey Park, CA 91755 (626) 572-3689 Bar # 195523	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PRIVATE REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: KEVIN GANG LONG Bar # 195523 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 June 4, 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 10 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."

(Do not write above this line.)

- (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
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."

(Do not write above this line.)

- (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. See Stipulation Attachment at page 7.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **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.
- (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

(Effective January 1, 2014)

(Do not write above this line.)

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 and Prefiling Stipulation. See Stipulation Attachment at pages 7-8.

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 reproof for a period of one (1) year.
- (2) During the condition period attached to the reproof, 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 reproof. 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 reproof during the preceding calendar quarter. Respondent

(Effective January 1, 2014)

Reproof

(Do not write above this line.)

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:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KEVIN GANG LONG

CASE NUMBER: 14-O-01271

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-O-01271 (Complainant: Jack W. Chao on behalf of Haixia Miao and Shaoqun Jiang)

FACTS:

1. Respondent's former clients, Haixia Miao and Shaoqun Jiang ("clients"), retained respondent on April 29, 2010 to represent them regarding their applications for voluntary departure, asylum and for withholding of removal from the United States pending before the United States Department of Justice, Executive Office for Immigration Review, United States Immigration Court in case numbers A#087-875-087 and A#087-875-088 ("court").

2. The clients' immigration merits hearing before the court was scheduled for May 3, 2012.

3. In March 2012, several weeks before the merits hearing, the clients obtained their file from respondent and took it to another attorney whom they sought to retain ("Attorney B"). Respondent did not formally withdraw from representation of the clients at that time.

4. Attorney B filed motions with the court seeking to substitute into the clients' cases and seeking a change of venue. The motion to substitute into the cases on behalf of the clients was made contingent upon the granting of the motion to change venue.

5. On April 30, 2012, the court denied Attorney B's motions because the merits hearing was already scheduled for May 3, 2012. The court denied the motion to change venue and then also denied the motion to substitute into the case as it was contingent on the granting of the motion to change venue.

6. On April 30, 2012, the court served respondent with a copy of the order denying Attorney B's motions.

7. Following the denial of Attorney B's motions, respondent spoke with a court clerk who also informed him that Attorney B's motions to substitute into the clients' cases and for change of venue were denied.

8. Respondent did not inform the clients that respondent would not appear on their behalf at the May 3, 2012, merits hearing. Nor did respondent take any steps to prepare the clients for the merits hearing.

9. On May 3, 2012, the clients appeared at the merits hearing. Respondent failed to appear and failed to arrange for another attorney to appear in his place. Accordingly, the clients appeared without counsel. At the merits hearing, and upon the court's inquiry, the clients represented that they last spoke with respondent more than one month prior to the hearing and did not meet with him to prepare their case in advance of the merits hearing. The court denied the clients' applications for voluntary departure, asylum, and withholding of removal, and reserved appeal on their behalf.

10. Respondent did not take any action on the clients' behalf so as to avoid reasonably foreseeable prejudice to them after failing to appear at their May 3, 2012 merits hearing.

11. Following the denial of their applications for voluntary departure, asylum, and withholding of removal, the clients retained another attorney ("Attorney C") who appealed the decision of the court denying the clients' applications for voluntary departure, asylum, and withholding of removal.

12. The Board of Immigration Appeals ("BIA") filed its Decision and Order ("Decision") regarding the clients' appeal filed by Attorney C on November 7, 2013. In the Decision, the BIA found that respondent provided ineffective assistance of counsel to the clients because he was required to be present at the clients' scheduled merits hearing on May 3, 2012 as the only attorney of record on that day, and respondent failed to appear at the merits hearing.

CONCLUSIONS OF LAW:

13. By constructively terminating respondent's employment prior to May 3, 2012, and thereafter by failing to appear on behalf of the clients at the merits hearings on May 3, 2012 in the matters pending before the United States Department of Justice, Executive Office for Immigration Review, United States Immigration Court in case numbers A#087-875-087 and A#087-875-088 despite the fact that respondent was the attorney of record in their matters, by failing to inform the clients that respondent would not appear on their behalf, by failing to take any steps to prepare the clients for the merits hearings, by failing to arrange for another attorney to appear in his place, by failing to take any action on the clients' behalf after failing to appear, and by failing to take any other steps to avoid reasonably foreseeable prejudice to the clients, respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent's misconduct caused harm to his former clients as his failure to appear at their merits hearing and improper withdrawal from representation unnecessarily delayed their immigration matters and resulted in the denial of their applications for voluntary departure, asylum and for withholding of removal from the United States. Furthermore, the clients had to hire new counsel to appeal the court's denial of their applications. (*In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126 [client was significantly harmed where she had to hire new counsel and expend significant amount of attorney's fees in an attempt to reclaim her property].)

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although respondent's misconduct is serious, he is entitled to significant mitigation for more than 12 years of practice without a prior record of discipline at the time of the misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal State Bar Ct. Rptr. 41 [attorney's many years in practice with no prior discipline considered mitigating even when misconduct at issue

was serious]; *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than ten years of discipline-free practice entitled to significant mitigation].)

Prefiling Stipulation: Respondent has stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings prior to the filing of formal disciplinary charges, thereby avoiding the necessity of a formal proceeding and resulting trial, and saving State Bar and State Bar Court time and resources. (*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].) By entering into this stipulation, respondent has accepted responsibility for his misconduct.

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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

Standard 2.15 applies to respondent’s violation of rule 3-700(A)(2), and provides as follows: “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.” The thrust of respondent’s misconduct in the present matter revolves around respondent’s failure to properly withdraw from the clients’ matter prior to the clients’ immigration merits hearing on May 3, 2012. Respondent failed to inform the clients that that he would not appear at their merits hearing on May 3, 2012. Respondent did not appear at the merits hearing on May 3, 2012, and did not arrange for someone else to appear in his place. After he failed to appear at the merits hearing on May 3, 2012, respondent did not take any steps to avoid reasonably foreseeable prejudice to the clients.

Although it appears that the clients were seeking other counsel several weeks before their May 3, 2012 merits hearing, respondent knew that he remained the clients’ attorney of record after the court denied

Attorney B's motions, and he knew or in the absence of gross negligence should have known that he was expected to appear on behalf of the clients on May 3, 2012 for the merits hearing.

Respondent is entitled to significant mitigation for no prior record of discipline even though his misconduct is serious, and for cooperating with the State Bar in entering into this Stipulation, saving State Bar resources and accepting responsibility for his misconduct. Although respondent's misconduct is aggravated by harm to the clients, respondent's misconduct in the instant case only involves a single client matter. The mitigating factors suggest that discipline at the low end of the range indicated by Standard 2.15 is appropriate. Therefore, in order to protect the public, the courts and the legal profession, to maintain the highest professional standards, and to preserve public confidence in the legal profession, a discipline consisting of private reproof with conditions for one year as set forth herein is appropriate.

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: Kevin Gang Long	Case number(s): 14-O-01271
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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.

12/17/2014
Date


Respondent's Signature

Kevin Gang Long
Print Name

December 29, 2014
Date


Respondent's Counsel Signature

Print Name

December 29, 2014
Date

Deputy Trial Counsel's Signature

Sherell N. McFarlane
Print Name

(Do not write above this line.)

In the Matter of: Kevin Gang Long	Case Number(s): 14-O-01271
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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

1-15-15


GEORGE E. SCOTT, JUDGE PRO TEM
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 16, 2015, I deposited a true copy of the following document(s):

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

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

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


**KEVIN G. LONG
223 E GARVEY AVE STE 208
MONTEREY PARK, CA 91755**

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

Sherell N. McFarlane, Enforcement, Los Angeles

Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 16, 2015.



Paul Barona
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST September 10, 2018
State Bar Court, State Bar of California,
Los Angeles

By 
Clerk

(Do not write above this line.)

State Bar Court of California		ORIGINAL
Hearing Department		
Los Angeles		
REPROVAL		
Counsel For The State Bar Jamie Kim Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1182 Bar # 281574	Case Number(s): 16-H-11300	For Court use only PUBLIC MATTER FILED JUL 29 2016 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Kevin Gang Long 223 E. Garvey Ave., Ste. 208 Monterey Park, CA 91755 (626) 572-3689 Bar # 195523	Submitted to: Settlement Judge	
In the Matter of: KEVIN GANG LONG Bar # 195523 A Member of the State Bar of California (Respondent)	STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING PUBLIC REPROVAL <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 4, 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 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."

(Do not write above this line.)

- (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: **three billing cycles following the effective date of discipline.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (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(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case **14-O-01271**
 - (b) Date prior discipline effective **February 6, 2015**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **3-700(A)(2)**
 - (d) Degree of prior discipline **private reproof.**
See attachment, page 8.

(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) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (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 investigation and proceedings.

(Do not write above this line.)

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

Additional mitigating circumstances:

Prefiling Stipulation, see attachment, page 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 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.

(Do not write above this line.)

- (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 reprobation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the reprobation conditions period, 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 reprobation with the probation monitor to establish a manner and schedule of compliance. During the reprobation conditions period, 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: Respondent completed Ethics School on August 20, 2015.
- (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: Respondent passed the MPRE on March 19, 2016.

- (11) The following conditions are attached hereto and incorporated:

Substance Abuse Conditions

Law Office Management Conditions

(Effective April 1, 2016)

Reprobation

(Do not write above this line.)

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: KEVIN GANG LONG

CASE NUMBER: 16-H-11300

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 16-H-11300 (State Bar Investigation)

FACTS:

1. On December 17, 2014, in case no. 14-O-01271, Kevin Gang Long ("respondent") entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") for a private reproof, with the State Bar of California.
2. On January 16, 2015, the Hearing Department of the State Bar Court filed an Order approving the Stipulation for private reproof with conditions attached for a period of one year ("Reproof Order").
3. On January 16, 2015, the Hearing Department's Reproof Order was properly served by mail to respondent's membership records address, 223 E. Garvey Ave., Ste. 208, Monterey Park, CA 91755. Respondent received the Reproof Order.
4. The Reproof Order became effective on February 6, 2015.
5. Pursuant to the Reproof Order, respondent was ordered to comply with the following relevant terms and conditions of reproof, among others:
 - a. contact the Office of Probation of the State Bar of California ("OP") within thirty (30) days from the effective date of discipline and schedule a meeting with respondent's assigned probation deputy to discuss the terms and conditions of the reproof; and
 - b. provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), to OP within one year of the effective date of the reproof.
6. On January 28, 2015, Probation Deputy Teresa Laubscher of OP mailed a letter to respondent at his membership records address, 223 E. Garvey Ave., Ste. 208, Monterey Park, CA 91755, reminding him of his reproof conditions. This letter was not returned as undeliverable or for any other reason.
7. Respondent did not contact OP to schedule a meeting with his probation deputy, by the due date of March 8, 2015.

8. On March 18, 2015, respondent contacted OP to schedule a meeting with his probation deputy.
9. On March 20, 2015, respondent attended his required meeting with his probation deputy as scheduled on March 18, 2015.
10. On April 10, 2015, respondent timely submitted his first Quarterly Report to OP.
11. On July 6, 2015, respondent timely submitted his second Quarterly Report to OP.
12. On October 2, 2015, respondent timely submitted his third Quarterly Report to OP. Attached to the Quarterly Report was a State Bar Ethics School certificate of completion.
13. On October 2, 2015, respondent sent an e-mail to OP stating that he had received notice that he had failed the MPRE, which he had taken on August 15, 2015. Respondent also e-mailed OP a copy of his MPRE score report, which reflected a score of 74. Respondent represented that he believed that he had missed the deadline to register for the November 7, 2015 administration of the MPRE. The deadline to register for the November 7, 2015 administration of the MPRE was September 22, 2015.
14. On January 8, 2016, respondent timely submitted his fourth Quarterly Report to OP.
15. On February 6, 2016, respondent timely submitted his Final Report to OP.
16. On March 19, 2016, respondent took the MPRE.
17. In April 2016, respondent provided OP with his March 2016 MPRE score report, which reflected a passing score of 86.

CONCLUSIONS OF LAW:

18. By failing to timely contact OP to schedule a meeting with his probation deputy and timely submit proof of passage of the MPRE, respondent failed to comply with all the conditions attached to his disciplinary probation in willful violation of rule 1-110 of the Rules of Professional Conduct.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior record of discipline.

Effective February 6, 2015, in Case No. 14-O-01271, the Hearing Department ordered that respondent be privately reprimanded, subject to terms and conditions for one year. The violation of this order is the basis for this matter. In the prior matter, respondent constructively terminated representation of two clients, without notice, by failing to appear on behalf of his clients at their immigration hearings without taking any steps to prepare the clients for the hearings or arrange for another attorney to appear in his place, in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct. The misconduct occurred in 2012. The harm caused to respondent's former clients was stipulated to as an aggravating factor and his lack of prior discipline and pre-filing stipulation as mitigating factors.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: By entering into this stipulation prior to the filing of a Notice of Disciplinary Charges, respondent has acknowledged his 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. 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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

Standard 1.8(a) provides that, "If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous discipline was not serious enough that imposing greater discipline would be manifestly unjust." Pursuant to Standard 1.8(a), the discipline in this matter can be greater than respondent's prior private reproof, which was not remote in time and imposed for respondent's serious prior misconduct.

The most severe sanction applicable in this matter is Standard 2.14, which provides that actual suspension is the presumed sanction for failing to comply with a condition of discipline. The degree of sanction under Standard 2.14 depends on the nature of the violation and the member's unwillingness or inability to comply with disciplinary orders.

Standard 1.7(c) provides that, "If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future."

Pursuant to Standard 1.7(c) a lesser sanction is appropriate here. Respondent violated two conditions of his reproof by scheduling a required meeting with his probation deputy 10 days after the due date and by submitting proof of passage of the MPRE two months after the due date. However, respondent has not shown an unwillingness or inability to comply with disciplinary orders as he attempted to comply with his reproof condition by first taking the MPRE on August 15, 2015. Respondent did not pass the MPRE on this first attempt. When respondent received his score in October 2015, registration for the November 2015 administration of the MPRE had closed the month prior. Respondent also exhibited a willingness to comply with his reproof conditions by timely submitting four quarterly reports, timely submitting his final report, timely meeting with his probation deputy and timely attending State Bar Ethics School and passing the test administered at the end of the session. During the investigation of this matter, respondent acknowledged to the State Bar his failure to comply with his reproof conditions. Accordingly a deviation from Standard 2.14 is appropriate in light of respondent's belated compliance and participation in this matter. Therefore, a public reproof, under Standard 1.7(c) is appropriate to serve the purposes of discipline.

This level of discipline is consistent with case law. In *Conroy v. State Bar* (1990) 51 Cal.3d 799, the attorney had received a private reproof with conditions, one of which was that he take and pass the Professional Responsibility Examination (hereinafter "PRE") within one year of the effective date of the reproof. The attorney failed to timely take and pass the PRE. However, he did tardily take and pass the PRE at the next opportunity, which was found to be mitigating. The attorney defaulted at the Hearing Department. The misconduct was aggravated by the attorney's prior record of discipline, failure to cooperate in a State Bar Court proceeding and failure to appreciate the seriousness of the charges and reproof conditions. The Supreme Court ordered that the attorney be suspended for one year, stayed, and that he be placed on probation for one year with conditions, including 60 days actual suspension.

Like the attorney in *Conroy*, respondent failed to comply with conditions attached to a prior private reproof by failing to timely take the MPRE. Respondent has the additional act of misconduct by failing to timely schedule a meeting with his probation deputy. Unlike the attorney in *Conroy*, respondent attempted to take the MPRE prior to the date on which proof of passage was due. Respondent's misconduct is aggravated by his prior private reproof, but respondent has not exhibited the additional aggravation of failing to participate in a State Bar Court proceeding or failing to appreciate the seriousness of his misconduct. In light of *Conroy*, the level of discipline in this matter should be less severe than that in *Conroy*.

COSTS OF DISCIPLINARY PROCEEDINGS.

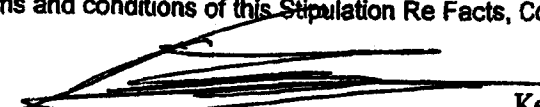
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 29, 2016, the prosecution costs in this matter are \$3,139. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

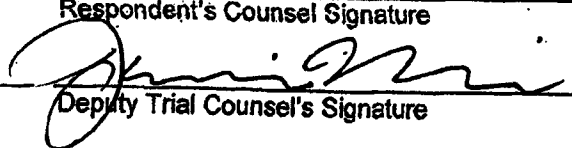
(Do not write above this line.)

In the Matter of: KEVIN GANG LONG	Case number(s): 16-H-11300
---	--------------------------------------

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.

6-30-2016  Kevin Gang Long
Date Respondent's Signature Print Name

7/6/2016  Jamie Kim
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: KEVIN GANG LONG	Case Number(s): 16-H-11300
--------------------------------------	-------------------------------

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.

1. On page 2 of the stipulation, an "X" is inserted in the box preceding paragraph (9) (c).
2. On page 2, paragraph (8), third box,
 - a. delete the first and insert the following:

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One third of the costs must be paid with Kevin Gang Long's membership fees for each of the years 2018, 2019, and 2020.

- b. delete the third sentence and insert the following:

If Kevin Gang Long 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.

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

July 29, 2016

W. Kearse McGill
W. KEARSE MCGILL
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 July 29, 2016, 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:

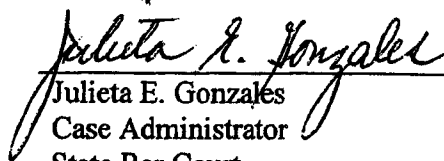
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN G. LONG
223 E GARVEY AVE STE 208
MONTEREY PARK, CA 91755

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

Jamie J. Kim, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 29, 2016.



Julieta E. Gonzales
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST September 10, 2018
State Bar Court, State Bar of California,
Los Angeles

By *Jan Head*
Clerk

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 17, 2018, 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:

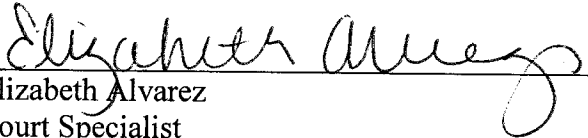
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN G. LONG
223 E GARVEY AVE STE 208
MONTEREY PARK, CA 91755 - 1863

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

Scott D. Karpf, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 17, 2018.


Elizabeth Alvarez
Court Specialist
State Bar Court