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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

ORIGINAL

<p>Counsel for the State Bar</p> <p>Cindy Chan Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 (213) 765-1292</p> <p>Bar # 247495</p>	<p>Case Number(s): 18-O-11391-YDR</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED <i>V.P.S.</i> OCT 26 2018</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Marcelo Reyes 1050 E Whittier Boulevard, 2nd Floor, Suite A La Habra, California 90631 (626) 826-3706</p> <p>Bar # 202731</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: MARCELO REYES</p> <p>Bar # 202731</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 2, 1999**.
- (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 17 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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(Effective July 1, 2018)

Actual Suspension

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. 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. One-half of the costs must be paid with Respondent's membership fees for each of the following years: two billing cycles following the effective date of discipline.
- 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:
- (b) Date prior discipline effective:
- (c) Rules of Professional Conduct/ State Bar Act violations:
- (d) Degree of prior discipline:
- (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.

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- (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.
- (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. **See page 13.**
- (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.
- (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:

No Prior Record of Discipline - see page 13.

Good Character - see page 13.

Community Service - see page 13.

Pretrial Stipulation - see page 13.

D. Recommended Discipline:

- (1) **Actual Suspension:**

Respondent is suspended from the practice of law for **1 year**, the execution of that suspension is stayed, and Respondent is placed on probation for **1 year** with the following conditions.

 - Respondent must be suspended from the practice of law for the first **90 days** 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.

- 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 _____, 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:

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- 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. 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

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Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 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

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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 one (1) year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete six (6) hour(s) of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics 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.

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. (*Athearn 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. (*Athearn 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:

7. Respondent was not actually aware of his ineligible status until early December 2017, when he was informed by another attorney of same. Respondent was diagnosed with gastroparesis about 10 years ago. At or around the time the notices were sent to respondent, he had been experiencing severe discomfort resulting from the gastroparesis and was often at home or in the hospital. As a result, respondent did not regularly retrieve his mail and he did not review the noncompliance notices that were delivered to respondent.

8. On December 14, 2017, respondent appeared in the courtroom for defendant's preliminary hearing in the criminal action and was seated in the attorney section. Respondent, aware of his inactive status, informed the court that another attorney would be making a "special appearance" on his behalf, but did not explain why or inform the court of his inactive status. The attorney thereafter made a special appearance on behalf of respondent and requested that the court continue the preliminary hearing to January 9, 2018, which the court granted.

9. On January 9, 2018, the court called the matter for a preliminary hearing, but neither respondent nor anyone else appeared on behalf of the defendant, who remained in custody. Because the court was not able to get in touch with respondent, the court trailed the matter on its own motion to January 10, 2018.

10. On January 10, 2018, respondent appeared at the preliminary hearing in the criminal action where he informed the court of his inactive status. Consequently, the court relieved respondent as counsel of record in the matter and appointed a public defender. Up until this date, respondent had not notified either the court or defendant that he was not entitled to practice law.

CONCLUSIONS OF LAW:

11. By representing a defendant in the criminal action between November 1, 2017 and January 10, 2018 and making appearances in the criminal action on November 1, 2017, November 3, 2017, and on December 1, 2017 when respondent was not an active member of the State Bar, respondent held himself out as entitled to practice law and actually practiced law in willful violation of Business and Professions Code, section 6068(a).

12. By representing a defendant in the criminal action between November 1, 2017 and January 10, 2018 and making appearances in the criminal action on November 1, 2017, November 3, 2017, and on December 1, 2017 when respondent was grossly negligent in not knowing that he was not an active member of the State Bar, because he did not regularly retrieve his mail and he did not review the noncompliance notices that were delivered to him, respondent committed acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

13. By sitting in the attorney section of the courtroom while court was in session in the criminal action on December 14, 2017 and informing the court that another attorney was making a "special appearance" on his behalf while concealing from the court his inactive status, respondent held himself out as entitled to practice law in willful violation of Business and Professions Code, section 6068(a).

14. By sitting in the attorney section of the courtroom while court was in session in the criminal action on December 14, 2017 and informing the court that another attorney was making a "special appearance" on his behalf while concealing from the court his inactive status, respondent committed an act of moral turpitude and dishonesty in willful violation of Business and Professions Code, section 6106.

15. By failing to inform his client in the criminal action that respondent was not eligible to practice law between November 1, 2017 and January 10, 2018, respondent failed to keep his client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent committed at least four acts of the unauthorized practice of law (“UPL”) involving moral turpitude when he appeared in court on November 1, 2017, November 3, 2017, December 1, 2017, and December 14, 2017 in the criminal action. (See *In the Matter of Bach* (1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) Furthermore, respondent failed to take adequate steps in informing his client of his inactive status in violation of section 6068(m), and thus his client, a criminal defendant in custody, was deprived of effective assistance of counsel for over two months.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to the State Bar on November 22, 1999. Thus, he had over 17 years of discipline free practice prior to being placed on inactive status due to MCLE non-compliance. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [significant weight in mitigation for over 10 years of practice].)

Good Character: Respondent has submitted character letters from five (5) witnesses, three of which are licensed attorneys, who have been acquainted with respondent in a personal and/or professional context anywhere from 4 to over 20 years. At least four of these witnesses have demonstrated an understanding of the alleged misconduct and still believe respondent to be an honest and ethical person. Many attest to his devotion to servicing the community. (*Morgan v. State Bar* (1990) 51 Cal.3d 598 [mitigation for five good character witnesses]; *In the Matter of Silver* (Rev. Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902 [“limited weight” in mitigation where respondent presented evidence of his good character (though not extraordinary) from five character witnesses].)

Community Service: According to respondent himself and one of the character witnesses, who is the founder of the Latina Golfers Association (LGA), respondent has volunteered and contributed to the LGA since its inception 10 years ago. Respondent’s volunteer activities extend beyond the LGA to voter education and providing free legal services to underserved and underrepresented communities. (*In the Matter of Reiss* (Rev. Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206 [modest mitigating weight based on respondent’s own testimony that he had volunteered 10 to 15 hours per week as a coach or administrator for youth sports programs and volunteered at various other community organizations]; *In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189, 193 [community service established only by respondent’s testimony entitled to “modest” mitigating weight]; *In the Matter of Mason* (Rev. Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639 [mitigation for work as a fee arbitrator and volunteering at a center to assist those affected by Los Angeles area earthquake and center for abused or disturbed women].)

Pretrial Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney’s stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. 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).)

In this matter, respondent admits to committing five (5) acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent’s misconduct is found in standards 2.11 and 2.12, which provide for disbarment or actual suspension, where respondent has violated Business and Professions Code section 6068(a) and section 6106.

Respondent here, engaged in UPL at least as early as November 1, 2017, when respondent made his first appearance in the criminal action, and up until January 10, 2018, when he finally informed the court and his client that he was not entitled to practice law. At least one of these appearances, which took place on December 14, 2017, respondent knowingly engaged in UPL. Prior to that, respondent’s conduct was grossly negligent, in that he failed to check and review his mail for long periods of time, and thus was not made actually aware of his ineligible status until early December 2017.

In aggravation, respondent engaged in at least four (4) acts of UPL involving moral turpitude and failed to inform his client of his suspended status in violation of section 6068(m). (See *In the Matter of Bach* (1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) Instead of immediately informing his client and the court of his suspended status when he learned of it in December 2017 so that his client could secure new counsel, to which he had a constitutional right, respondent purposefully concealed the fact that he was not eligible to practice law from both his client and the court for over a month. (*Arm v. State Bar* (1990) 50 Cal.3d 763, 775-776.)

However, respondent's over 17 years of discipline free practice prior to being placed on inactive status due to MCLE non-compliance is entitled to significant mitigating weight (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [significant weight in mitigation for over 10 years of practice].) Respondent has also provided character letters from five (5) different witnesses, three of which are attorneys, who have all been acquainted with respondent for a significant period of time. At least four of these witnesses have demonstrated an understanding of the alleged misconduct and still believe respondent to be an honest and ethical person, and thus respondent will receive modest mitigating weight for good character. (*Morgan v. State Bar* (1990) 51 Cal.3d 598 [mitigation for five good character witnesses]; *In the Matter of Silver* (Rev. Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902 ["limited weight" in mitigation where respondent presented convincing evidence of his good character (though not extraordinary) from five character witnesses, even though they were unaware of respondent's misconduct until his counsel sent them copies of the parties' partial stipulation of facts and conclusions a few days before they testified].) Finally, many attest to his devotion to servicing the community. Respondent has volunteered and contributed to the Latina Golfers Association since its inception 10 years ago, and his volunteer activities extend to voter education and providing free legal services to underserved and underrepresented communities. (*In the Matter of Reiss* (Rev. Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206 [modest mitigating weight based on respondent's own testimony that he had volunteered 10 to 15 hours per week as a coach or administrator for youth sports programs and volunteered at various other community organizations]; *In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189, 193 [community service established only by respondent's testimony entitled to "modest" mitigating weight]; *In the Matter of Mason* (Rev. Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639 [mitigation for work as a fee arbitrator and volunteering at a center to assist those affected by Los Angeles area earthquake and center for abused or disturbed women].)

However, despite the mitigating circumstances, the seriousness of the misconduct and the aggravating circumstances do not justify a deviation from the Standards, and a one-year period of stayed suspension and one-year period of probation with conditions, including a 90-day period of actual suspension is appropriate in this matter to achieve the purposes of discipline expressed in standard 1.1, including protection of the public.

Case law supports the recommended level of discipline. Cases where the gravamen of the misconduct was UPL present a range of discipline from 30 days to six months of actual suspension. Since this case additionally involves acts of moral turpitude and the failure to inform the client of significant events in violation of section 6068(m), discipline at the higher end of the range is appropriate.

In *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, the attorney, who received a private reproof in her first disciplinary matter, received a six-month actual suspension in her second disciplinary proceeding for committing UPL (she practiced in another state without a license to practice there), collecting unconscionable fees, failing to refund fees, and committing an act of moral turpitude (unrelated to the UPL). Unlike the attorney in *Wells*, respondent's UPL involves concealment and gross negligence, which thus makes the misconduct surrounding respondent's UPL more serious than that surrounding the attorney's UPL in *Wells*. On the other hand, respondent is not culpable of collecting an unconscionable fee and failing to refund fees, nor is there evidence of concealment or dishonesty in respondent's communications with the State Bar in the course of the investigation in this matter as was found in *Wells*. Furthermore, respondent does not have a prior record of discipline like the attorney in *Wells* and respondent has offered more evidence of mitigation. Balancing the seriousness of the misconduct surrounding the UPL and the significant mitigation from his lack of a prior disciplinary record, evidence of good character, and community service, a lesser period of actual suspension (90 days) is appropriate here.

COSTS OF DISCIPLINARY PROCEEDINGS.

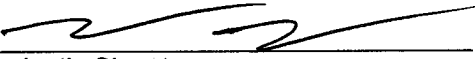
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 1, 2018, the discipline costs in this matter are \$7,998. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

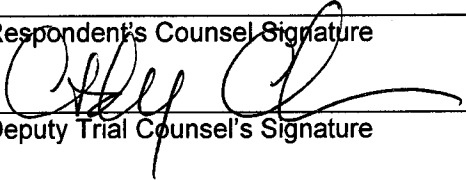
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In the Matter of: MARCELO REYES	Case Number(s): 18-O-11391-YDR
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SIGNATURE OF THE PARTIES

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.

10/10/18  MARCELO REYES
Date Respondent's Signature Print Name

Date Respondent's Counsel Signature Print Name
10/10/2018  CINDY CHAN
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: MARCELO REYES	Case Number(s): 18-O-11391-YDR
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ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See 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).)**

10/25/18
Date


DONALD F. MILES
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 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 26, 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:

MARCELO REYES
LAW OFFICE OF MARCELO REYES, JR.
1050 E WHITTIER BL 2N FL STE A
LA HABRA, CA 90631

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

CINDY CHAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 26, 2018.



Paul Songco
Court Specialist
State Bar Court