

NOT FOR PUBLICATION

<b>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</b>  HEARING DEPARTMENT  <input checked="" type="checkbox"/> LOS ANGELES <input type="checkbox"/> SAN FRANCISCO	FOR COURT USE ONLY  <b>FILED</b>  MAY 01 1997  STATE BAR COURT CLERK'S OFFICE LOS ANGELES
IN THE MATTER OF  <b>JOSEPH G. CAVALLO,</b>  No. <b>108210,</b>  MEMBER OF THE STATE BAR OF CALIFORNIA.	CASE NO(S). <b>95-O-13585-CEV et al.</b> (95-O-13588-CEV)  <b>ORDER REGARDING STIPULATION ( <input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED ) AS TO FACTS AND DISPOSITION</b>

A fully executed Stipulation as to Facts and Disposition pursuant to rules 130-135, Rules of Procedure of the State Bar of California, consisting of 22 pages, approved by the parties, was submitted to the State Bar Court in the above-captioned case(s). All stipulations submitted previously are rejected. The Stipulation is attached to this order and is incorporated by reference herein. Unless a party withdraws or modifies the stipulation pursuant to rule 135(c), Rules of Procedure of the State Bar of California, this order shall be effective 15 days from the service of this order. After consideration of this stipulation, the Court hereby orders:

- ☐ The above mentioned case numbers are hereby consolidated for the purposes of ruling upon this stipulation.
- ☐ The request for dismissal at page(s) \_\_\_\_\_ is granted without prejudice.
- ☒ Modifications to the stipulation are: **Counts 1,3,5, 11(6155(a)B&P), 11(6169 B&P) are dismissed.**  
☐ the parties having no objection.  
☐ the parties having agreed on the record on \_\_\_\_\_  
☒ any party must object within 15 days of the service of this order to the stipulation, as modified by the Court, or it shall become effective; if any party objects, the Stipulation shall be deemed rejected.
- ☒ It appearing that this stipulation and all attachments are fair to the parties and consistent with adequate protection of the public, the stipulation is approved and the disposition is:  
☒ ordered.  
☐ recommended to the California Supreme Court.  
☐ further discussion attached.
- ☐ After due consideration of this stipulation and all attachments, it is rejected:  
☐ for the reasons discussed with the parties in previous conference(s).  
☐ for the reasons attached to this order.
- ☐ It is further ☐ ordered ☐ recommended that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and that those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

DATE:

4/24/97

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Eugene E. Brott  
Judge of the State Bar Court

**ATTACHMENT TO ORDER REGARDING STIPULATION  
INCORPORATED BY REFERENCE**

In The Matter of **JOSEPH G. CAVALLO**

Case No: **95-O-13585-CEV et al**  
(95-O-13588-CEV)

Bar No. 108210

A Member of the State Bar.

**MODIFICATION OF STIPULATION**

At page 8 of the stipulation, under "SECTION FOUR. AGREED DISPOSITION", place an "X" in the box next to the paragraph that reads, "Pursuant to rule 956, paragraph (a), California Rules of Court, it is recommended that the following conditions be attached to the private reproof. The parties stipulated that protection of the public and the interests of respondent will be served thereby. **RESPONDENT ACKNOWLEDGES THAT THIS STIPULATION CONSTITUTES NOTICE THAT, PURSUANT TO RULE 956, CALIFORNIA RULES OF COURT, RESPONDENT'S FAILURE TO COMPLY WITH THE CONDITIONS ATTACHED TO ANY PRIVATE REPROVAL ADMINISTERED BY THE STATE BAR COURT MAY CONSTITUTE CAUSE FOR A SEPARATE ATTORNEY DISCIPLINARY PROCEEDING FOR WILFUL BREACH OF RULE 1-110, RULES OF PROFESSIONAL CONDUCT.**"

F R SETTLEMENT JUDGE  
EUGENE BROTT  
SAN FRANCISCO

Parties'  
Initials

PAGE 1

<b>COUNSEL FOR STATE BAR:</b> THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT MICHAEL G. GERNER DAVID C. CARR, No. 124510 1149 South Hill Street Los Angeles, CA 90015-2299 Telephone: (213) 765-1000	<b>COUNSEL FOR RESPONDENT:</b>  ELLEN A. PANSKY Pansky & Markle 333 South Grand Ave., #4050 Los Angeles, CA 90071 (213) 626-7300
THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA <b>RECEIVED</b> HEARING DEPARTMENT <b>APR 03 1997</b> <input checked="" type="checkbox"/> Los Angeles STATE BAR COURT CLERK'S OFFICE <input type="checkbox"/> San Francisco SAN FRANCISCO	<b>FOR COURT USE ONLY</b> <b>FILED</b> <b>MAY 01 1997</b> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
IN THE MATTER OF  JOSEPH G. CAVALLO  No. 108210  A MEMBER OF THE STATE BAR OF CALIFORNIA	CASE NO(S). 95-0-13584, et al. (95-0-13588)  STIPULATION AS TO FACTS AND DISPOSITION (RULE 133, RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA) - PRIVATE REPROVAL

**SECTION ONE. GENERAL AGREEMENTS AND WAIVERS.**

**A. PARTIES.** The parties to this stipulation as to facts and disposition, entered into under rule 133, Rules of Procedure of the State Bar of California (herein "Rules of Procedure"), are the member of the State Bar of California, captioned above (hereinafter "respondent"), who was admitted to practice law in the State of California on JUNE 3, 1983 and the Office of the Chief Trial Counsel.

**B. JURISDICTION, SERVICE AND NOTICE OF CHARGES.** The parties agree that the State Bar Court has jurisdiction over respondent to take the action agreed upon in this stipulation. No issue is raised over notice or service of any charge.

☒ The parties waive any variance between this stipulation and any charge.

**C. PROCEDURES AND TRIAL.** In order to accomplish the objectives of this stipulation, the parties waive all State Bar Court procedures regarding

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formal discovery, hearing or trial. Instead, the parties agree to submit this stipulation to a judge of the State Bar Court.

☐ **WAIVER OF ISSUANCE OF NOTICE OF DISCIPLINARY CHARGES** - It is agreed by the parties that investigative matters designated as \_\_\_\_\_ shall be incorporated into this stipulation. The parties waive the issuance of a Notice of Disciplinary Charges and the right to a formal hearing and any other procedures necessary with respect to these investigative matters in order to accomplish the objectives of this stipulation.

☐ **PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING** - This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court.

On \_\_\_\_\_, respondent, was convicted of violating \_\_\_\_\_. On \_\_\_\_\_, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department on the following issues:

☐ **AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1**

- a. Respondent's culpability determined in the disciplinary proceeding in \_\_\_\_\_ would warrant the imposition of discipline in the State of California under the laws or rules in effect in this State at the time the misconduct was committed; and
- b. The proceeding in the above jurisdiction provided respondent with fundamental constitutional protection.

**D. PENDING PROCEEDINGS.** All pending investigations and matters included in this stipulation are listed by case number in the caption above. Respondent has been advised in writing of the case numbers and complaining witness names of any pending investigations or proceedings not resolved by this stipulation, except for investigations, if any, related to investigations by criminal law enforcement agencies. All such information has been provided to the respondent in a separate document as of MARCH 19, 1997. This date is no more than thirty days prior to the date the stipulation is filed.

**E. EFFECT OF THIS STIPULATION.**

1. The parties agree that this stipulation is not binding unless and until approved by a judge of the State Bar Court. If approved, this stipulation shall bind the parties in all matters covered by this stipulation and the parties expressly waive review by the Review Department of the State Bar Court.

2. If the stipulation is not approved by a State Bar Court judge, the parties will be relieved of all effects of the stipulation and any proceedings covered by this stipulation will resume.

3. The parties agree that stipulations as to proposed discipline involving suspension are not binding on the Supreme Court of California.

4. This stipulation resolves the entire proceeding, except as expressly set forth in this stipulation.

☐ The parties agree that this stipulation, including the statement of facts and legal conclusions, is the full and complete resolution of this State Bar proceeding only.

5. This stipulation includes all language contained in this form, except provisions contained in paragraphs preceded by boxes that have not been checked.

**F. PREVIOUSLY REJECTED STIPULATIONS IN PROCEEDINGS OR INVESTIGATIONS COVERED BY THIS STIPULATION.**

☒ There have been no previously rejected or withdrawn stipulations in matters or investigations covered by this stipulation.

☐ Facts regarding previous stipulations:

**G. COSTS OF DISCIPLINARY PROCEEDINGS.**

The agreed disposition is not eligible for costs to be awarded the State Bar.

**SECTION TWO. STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION.**

Attached hereto as Exhibit "1" is a statement of (1) acts or omissions acknowledged by the respondent as cause or causes for discipline and (2) conclusions of law, drawn from and specifically referring to the facts admitted by respondent, regarding respondent's culpability of violating specified Statutes and/or Rules of Professional Conduct.

- ☒ Based on further investigation, the parties respectfully request the Court to dismiss the following alleged violations in the interests of justice:

<u>Case No</u>	<u>Count</u>	<u>Alleged Violation</u>
95-0-13584,	One	Bus. & Prof. Code section 6157.1
et al.	Three	Bus. & Prof. Code section 6157.1
	Five	Bus. & Prof. Code section 6157.1
	Eleven	Bus. & Prof. Code section 6155(a)
	Eleven (sic)	Bus. & Prof. Code section 6159

- ☒ Authorities supporting discipline:

Leoni v. State Bar (1985) 39 Cal.3d 609

SECTION THREE. STATEMENT OF CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

The parties agree that the following mitigating, aggravating or other circumstances bear upon the agreed disposition:

**A. AGGRAVATING CIRCUMSTANCES:**

- ☐ Respondent has a record of prior discipline (Standard 1.2(B)(i) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☒ Respondent's misconduct evidences multiple acts of wrongdoing (Standard 1.2(b)(ii) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- By his one act, respondent put into motion a course of events which resulted in multiple violations of the applicable advertising statute.
- ☐ Respondent's misconduct evidences/demonstrates a pattern of misconduct (Standard 1.2(b)(iii) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent's misconduct was surrounded or followed by bad faith, dishonesty, concealment, overreaching or other circumstances defined by Standard 1.2 (b)(iii) Standards for Attorney Sanctions for Professional Misconduct), as follows:



- ☐ Respondent's misconduct harmed significantly client(s), the public or the administration of justice (Standard 1.2(b)(iv) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent demonstrated indifference to rectifying the consequences of misconduct (Standard 1.2(b)(v) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent demonstrated indifference to atoning for the consequences of misconduct (Standard 1.2(b)(v) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent displayed a lack of candor and cooperation to any victim(s) of misconduct (Standard 1.2(b)(vi) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent displayed a lack of candor and cooperation to the State Bar during disciplinary investigation or proceedings (Standard 1.2(b)(vi) Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Additional circumstance(s) in aggravation or additional facts regarding the above paragraphs are stated as follows:
- ☐ There are no aggravating factors.

**B. MITIGATING CIRCUMSTANCES:**

- ☒ Respondent has no record of prior discipline over many years of practice, coupled with present misconduct not deemed serious (Standard 1.2(e)(i) Standards for Attorney Sanctions for Professional Misconduct).

- ☐ Respondent has no prior record of discipline. However, Standard 1.2(e)(i), Standards for Attorney Sanctions for Professional Misconduct, does not apply because:

Nevertheless, the parties agree that the Court may consider respondent's lack of prior discipline in determining whether the recommended level of discipline is appropriate.

- ☒ Respondent acted in good faith (Standard 1.2 (e)(ii) Standards for Attorney Sanctions for Professional Misconduct), as follows:

Respondent consulted with counsel prior to entering into the advertising agreement.

- ☒ Respondent's misconduct did not result in harm to the client(s) or person(s) who were the objects of misconduct. (Standard 1.2(e)(iii) Standards for Attorney Sanctions for Professional Misconduct) as follows:

No clients have complained. Nobody has alleged that they were misled by any of the advertising.

- ☐ Respondent suffered extreme emotional difficulties at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2(e)(iv) Standards for Attorney Sanctions for Professional Misconduct, as follows:

- ☐ Respondent suffered extreme physical disabilities at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2(e)(iv), Standards for Attorney Sanctions for Professional Misconduct, as follows:

- ☐ Respondent displayed spontaneous candor and cooperation to the victim(s) of misconduct (Standard 1.2 (e)(v), Standards for Attorney Sanctions for Professional Misconduct), as follows:



- ☒ Respondent displayed spontaneous candor and cooperation to the State Bar during disciplinary investigation and proceedings (Standard 1.2(e)(v), Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent presented an extraordinary demonstration of good character as set forth in Standard 1.2(e)(vi), Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent promptly took objective steps to spontaneously demonstrate remorse which steps were designed to timely atone for any consequences of respondent's misconduct (Standard 1.2(e)(vii), Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Respondent promptly took objective steps to spontaneously demonstrate recognition of the wrongdoing acknowledged, which steps were designed to timely atone for any consequences of respondent's misconduct (Standard 1.2(e)(vii), Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Considerable time has passed since respondent's misconduct, followed by convincing proof of subsequent rehabilitation (Standard 1.2(e)(viii), Standards for Attorney Sanctions for Professional Misconduct), as follows:
- ☐ Excessive delay occurred in conducting this disciplinary proceeding, which delay is not attributable to respondent and which delay was prejudicial to respondent (Standard 1.2(e)(ix) Standards for Attorney Sanctions for Professional Misconduct), as follows:

- ☐ Additional circumstance(s) in mitigation or additional facts regarding the above paragraphs are stated as follows:
- ☐ There are no mitigating circumstances.

**SECTION FOUR. AGREED DISPOSITION**

Based on the foregoing, the parties agree that the appropriate disposition of all matters covered by this stipulation is that respondent be privately reprovved by the State Bar Court.

- ☒ The parties understand that although this reprovval is termed "private," it arises in a public proceeding. Although the State Bar of California will not affirmatively publicize the disposition, the file, the stipulation, or the order approving it, this case will remain public and will be available on any specific inquiry by a member of the public.
- ☐ The parties understand that this private reprovval is a result of a stipulation, entered into prior to the filing of a Notice of Disciplinary Charges. The file, the stipulation, the order thereon, and the record of a private reprovval, shall remain confidential unless it is used hereafter as a record of prior discipline within the meaning of standard 1.7, Standards for Attorney Sanctions for Professional Misconduct, or it is used for some other purpose in a future State Bar proceeding.
- ☐ There are no conditions to be attached to this private reprovval.
- ☐ Pursuant to rule 956, paragraph (a), California Rules of Court, it is recommended that the following conditions be attached to the private reprovval. The parties stipulated that protection of the public and the interests of respondent will be served thereby.

RESPONDENT ACKNOWLEDGES THAT THIS STIPULATION CONSTITUTES NOTICE THAT, PURSUANT TO RULE 956, CALIFORNIA RULES OF COURT, RESPONDENT'S FAILURE TO COMPLY WITH THE CONDITIONS ATTACHED TO ANY PRIVATE REPROVAL ADMINISTERED BY THE STATE BAR COURT MAY CONSTITUTE CAUSE FOR A SEPARATE ATTORNEY DISCIPLINARY PROCEEDING FOR WILFUL BREACH OF RULE 1-110, RULES OF PROFESSIONAL CONDUCT.

☐ **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION**

Respondent shall take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year of the effective date of the administration of the private reprovval and furnish satisfactory proof of such passage to the Probation Unit within said period.

☒ **STATE BAR ETHICS SCHOOL**

☒ Within one year from the date on which the disciplinary order in this matter becomes effective, respondent shall attend the State Bar Ethics School, which is held periodically at the State Bar of California offices in Los Angeles and San Francisco, and shall pass the test given at the end of such session. Because respondent has agreed to attend State Bar Ethics School as part of this Stipulation, Respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

☐ It is not recommended that respondent attend State Bar Ethics School since respondent attended Ethics School within the last two years in connection with case number \_\_\_\_\_.

☐ Respondent resides outside California and is unable to attend State Bar Ethics School. As an alternative to State Bar Ethics School, the parties agree that respondent will complete the following courses:

☐ **STATE BAR ETHICS SCHOOL CLIENT TRUST ACCOUNT RECORD-KEEPING COURSE**

☐ Within one year from the date on which the disciplinary order in this matter becomes effective, respondent shall attend the State Bar Ethics School Client Trust Account Record-Keeping Course, which is held periodically at the State Bar of California offices in Los Angeles and San Francisco, and shall take and pass the test given at the end of such session. Because respondent has agreed to attend State Bar Ethics School as part of this Stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

☐ It is not recommended that respondent attend Ethics School Client Trust Account Record-Keeping Course since respondent attended Ethics School within the last two years in connection with case number \_\_\_\_\_.

☐ Respondent resides outside California and is unable to attend State Bar Ethics School Client Trust Account Record-Keeping Course. As an alternative to State Bar Ethics School Client Trust Account Record-Keeping Course, the parties agree that respondent will complete the following courses:

☐ **RESTITUTION**

☐ That within \_\_\_\_\_ from the effective date of the Order approving this stipulation, respondent must make restitution to \_\_\_\_\_ or the Client Security Fund if it has paid, in the amount of \_\_\_\_\_

\$ \_\_\_\_\_ plus interest at the rate of 10% per annum from \_\_\_\_\_ until paid in full and furnish satisfactory evidence of restitution to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles; respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

☐ That within \_\_\_\_\_ from the effective date of the Order approving this stipulation, respondent must make restitution to \_\_\_\_\_ or the Client Security Fund if it has paid, in the amount of \$ \_\_\_\_\_ plus interest at the rate of 10% per annum from \_\_\_\_\_ in \_\_\_\_\_ installments until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles; respondent shall include in each quarterly report required herein satisfactory evidence of all restitution payments made by him or her during that reporting period.

☒ See attachment.

#### STANDARD CONDITIONS OF REPROVAL

A. For TWO [ ] ~~months~~ [2] years following the effective date of the order approving this stipulation (hereinafter "the reporting period"):

☒ GENERAL CONDITIONS OF PROBATION - Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California;

☒ REPORTING REQUIREMENTS - Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during the reporting period, in writing to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or under penalty of perjury (provided, however, that if the effective date of probation is less than 30 days preceding any of said dates, respondent shall file said report on the due date next following the due date after said effective date):

(a) in respondent's first report, that respondent has complied with all provisions of the State Bar Act, and Rules of Professional Conduct since the effective date of said Order approving stipulation.

(b) in each subsequent report, that respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;

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(c) provided, however, that a final report shall be filed covering the remaining portion of the period following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof; respondent shall file this report no earlier than twenty days before the end of the reporting period and before the expiration of said period.

☒ **CHANGES OF ADDRESS** - That respondent shall promptly report, and in no event in more than ten days, to the membership records office of the State Bar and to the Probation Unit, Office of the Chief Trial Counsel, all changes of information including current office or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code;

☒ **DUTY TO RESPOND TO INQUIRIES** - That subject to assertion of applicable privileges, respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit, Office of the Chief Trial Counsel, and any probation monitor assigned pursuant to this stipulation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the requirements set forth herein.

☐ **COMPLIANCE WITH CONDITIONS OF PROBATION/PAROLE IN UNDERLYING CRIMINAL MATTER** - Respondent shall comply with all conditions of ☐ Probation ☐ Parole imposed upon respondent in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any report required to be filed with the Probation Unit, Office of the Chief Trial Counsel.

☐ **PROBATION MONITOR** - That respondent shall be referred to the Probation Unit, Office of the Chief Trial Counsel, for assignment of a probation monitor. Respondent shall promptly review the terms and conditions of this stipulation with the probation monitor to establish a manner and schedule of compliance consistent with these terms of probation. During the period of probation, respondent shall furnish such reports concerning respondent's compliance as may be requested by the probation monitor. Respondent shall cooperate fully with the probation monitor in the performance of his or her duties pursuant to rule 2702, Rules of Procedure of the State Bar;

☐ **PROTECTION OF CLIENT FUNDS**

(a) That if respondent is in possession of client funds, or has come into possession thereof during the period covered by each quarterly report, respondent shall file with each report a certificate from a Certified Public Accountant or Public Accountant certifying:

(1) That respondent has kept and maintained such books or other permanent accounting records in connection with respondent's practice as are necessary to show and distinguish between:



- (A) Money received for the account of a client and money received for the attorney's own account;  
(B) Money paid to or on behalf of a client and money paid for the attorney's own account;  
(C) The amount of money held in trust for each client;
- (2) That respondent has maintained a bank account in a bank authorized to do business in the State of California at a branch within the State of California and that such account is designated as a "trust account" or "clients' funds account";
- (3) That respondent has maintained a permanent record showing:
- (A) A statement of all trust account transactions sufficient to identify the client in whose behalf the transaction occurred and the date and amount thereof;  
(B) Monthly total balances held in a bank account or bank accounts designated "trust account" or "clients' funds account" as appears in monthly bank statement of said accounts;  
(C) Monthly listings showing the amount of trust money held for each client and identifying each client for whom trust money is held;  
(D) Monthly reconciliations of any differences as may exist between said monthly total balances and said monthly listings, together with the reasons for any differences;
- (4) That respondent has maintained a listing or other permanent record showing all specifically identified property held in trust for clients.

(b) In the event that respondent did not possess any clients' funds during the period covered by each quarterly report, respondent shall so state under penalty of perjury in each quarterly report required by these conditions to be filed with the Probation Unit, Office of the Chief Trial Counsel.



**ALCOHOL/DRUG ABUSE CONDITIONS OF PROBATION**

**CURRENT ADDRESS AND TELEPHONE NUMBER** - That respondent maintain with the Probation Unit, Office of the Chief Trial Counsel, a current address and a current telephone number at which respondent can be reached and respond within twelve hours.

**ABSTINENCE** - That respondent shall abstain from the use of any alcoholic beverages, and shall not use or possess narcotics, dangerous or restricted drugs or associated paraphernalia except with a valid prescription.

**SUBSTANCE ABUSE TREATMENT PROGRAM** - That within thirty days of the effective date of the discipline ordered herein, the respondent shall provide evidence to the Probation Unit, Office of the Chief Trial Counsel, of enrollment in a program of substance abuse recovery which meets with the approval of the Probation Unit, Office of the Chief Trial Counsel. The respondent must provide

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satisfactory evidence of compliance with such program with each report required under these conditions.

**SUBSTANCE ABUSE TESTING** - That respondent shall employ, at respondent's own expense, a licensed medical laboratory facility or hospital capable of conducting tests and analysis of blood and/or urine, which is certified by the National Institute on Drug Abuse and which meets with the approval of the Probation Unit, Office of the Chief Trial Counsel.

That subject to the discretion of the Probation Unit, Office of the Chief Trial Counsel, respondent shall be contacted by telephone by a member of the Probation Unit staff, on a random basis, and directed to submit to an approved laboratory or hospital facility, screening of respondent's blood and/or urine within twelve hours of notification. Respondent shall provide the results from that approved laboratory or hospital facility screening within ten days of receipt. The blood and/or urine samples shall be furnished by respondent to the approved laboratory or hospital facility in such manner as may be specified by the laboratory to ensure specimen integrity.

That respondent shall provide the Probation Unit any and all waivers necessary to allow the Probation Unit to verify with the approved laboratory or hospital facility the accuracy of reports submitted by respondent.



#### **MENTAL HEALTH CONDITIONS OF PROBATION TREATMENT**

That respondent shall obtain psychiatric or psychological treatment from a duly licensed psychiatrist, clinical psychologist or clinical social worker, no less than two times per month and at the respondent's expense. Respondent shall commence treatment within forty-five days from the date on which the disciplinary order in this matter becomes effective or the execution date of the agreement in lieu of discipline, whichever is applicable. Respondent shall furnish to the Probation Unit, Office of the Chief Trial Counsel, at the time quarterly reports are required to be filed by the respondent with the Probation Unit, a written statement from the treating psychiatrist, clinical psychologist or clinical social worker, that respondent is complying with this condition of probation.

Upon a determination by the treating psychiatrist, clinical psychologist or clinical social worker that respondent is no longer in need of treatment, respondent shall provide, to the Probation Unit, Office of the Chief Trial Counsel, a written statement from the treating psychiatrist, clinical psychologist or clinical social worker verifying the conclusion of treatment. Upon acceptance by the Probation Unit, Office of the Chief Trial Counsel, no further reports under this condition will be required.

That respondent shall execute and provide the Probation Unit, Office of the Chief Trial Counsel, upon its request, a medical waiver which shall provide access to respondent's medical records relevant to this referral; failure to provide and/or revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Probation Unit, Office of the Chief Trial Counsel, under this paragraph, shall be confidential and shall not be disclosed except to personnel of the Office of the Chief Trial Counsel, the Probation Unit, and the State Bar Court, who are involved in maintaining and/or enforcing the terms and conditions of this stipulation.

☐ **LAW PRACTICE MANAGEMENT SECTION OF THE STATE BAR** - That respondent shall join the Law Practice Management Section of the State Bar of California and shall pay whatever dues and costs are associated with such enrollment for a period of one year. Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit, Office of the Chief Trial Counsel, in the first quarterly report required herein.

☐ **COURSES ON LAW OFFICE MANAGEMENT** - That respondent shall complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved course(s) on law office management within \_\_\_\_\_ from the date on which the disciplinary order in this matter becomes effective. Completion of the State Bar Ethics School course will not satisfy this requirement. Respondent shall furnish satisfactory evidence of completion of the course(s) to the Probation Unit, Office of the Chief Trial Counsel, in the next quarterly report that is due following completion of each course or prior to the expiration of the reporting period if no such report will become due prior to the expiration of said period. Respondent agrees that the course hours required by this condition are in addition to any requirement respondent must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

☐ **LAW OFFICE MANAGEMENT PLAN** - Respondent shall develop a law office management/organization plan that meets with the approval of the Probation Unit, Office of the Chief Trial Counsel, within \_\_\_\_\_ from the date on which the disciplinary order in this matter becomes effective. This plan will include procedures for sending periodic status reports to clients, documentation of telephone messages received and sent, file maintenance, meeting deadlines, calendaring appointments and deadlines, withdrawing as attorney whether of record or not when clients cannot be contacted or located, and training and supervising support personnel. Respondent shall state in each quarterly report that respondent has implemented the law office management plan and continues to follow the procedures set forth in the plan or that respondent was not engaged in the practice of law during the reporting period. Failure to so state in a quarterly report shall be a violation of probation.



**CONTINUING LEGAL EDUCATION COURSES** - That respondent shall complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved courses in attorney-client relations and/or legal ethics within \_\_\_\_\_ from the date on which the disciplinary order in this matter becomes effective. Completion of the State Bar Ethics School course will not satisfy this requirement. Respondent shall furnish satisfactory evidence of completion of the courses to the Probation Unit, Office of the Chief Trial Counsel, in the next quarterly report that is due following completion of each course or prior to the expiration of the reporting period if no such report will become due prior to the expiration of said period. Respondent agrees that the course hours required by this condition are in addition to any requirement respondent must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

**APPROVAL OF PARTIES**

The parties and all counsel of record hereby approve the foregoing stipulation and the parties agree to be bound by all terms and conditions stated and the agreed disposition.

DATE: 4/2/97

David C. Carr  
DAVID C. CARR (Name Printed)  
Deputy Trial Counsel

DATE: 3-28-97

Joseph G. Cavallo  
JOSEPH G. CAVALLO (Name Printed)  
Respondent

DATE: 3-31-97

Ellen A. Pansky  
ELLEN A. PANSKY (Name Printed)  
Respondent's Counsel

*C. Espinoza* Page 16  
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**Exhibit 1**  
**Statement of Acts or Omissions**  
**Purnishing Causes for Discipline and Legal Conclusions**

**Background Facts**

1. In 1995, Tito A. Alvarez was president of Centro de Proteccion Legal, Inc. ("CPL"), a corporation which owned and operated a lawyer referral service. CPL was certified by the State Bar of California as a lawyer referral service between about August 14, 1991, and about May 18, 1995.
2. Between 1988 and 1995, Tito Alvarez had marketed the CPL legal referral service with an advertising campaign utilizing his likeness, the telephone number 222-2222 and the words "Centro de Proteccion Legal" in Southern California.
3. In or about February 1995, attorneys Attilio R. Regolo, Jr., John Shaffer Smith, Joseph Gerard Cavallo, William Harold Thomas, R. Lee Miller, Mabel N. Orue, William Elvin Parker and Robert Marshall French (hereafter collectively referred to as "Respondents") entered into an agreement ("the Agreement") with Tito Alvarez and related corporate entities (hereafter collectively referred to as "Alvarez").
4. The Agreement provided that Respondents would purchase the telephone number "222-2222" that had been used by CPL in area codes 213, 310, 818, 909, 714, and 805.
5. The Agreement provided that Respondents would jointly

employ Alvarez to produce and place advertising for Respondents.

6. The Agreement provided that Tito Alvarez's likeness would be used in the advertising.

7. The Agreement provided that Respondents would use the fictitious name "Centro" in the advertising.

8. With the knowledge and approval of Respondents, Alvarez caused a printed advertisement to be placed on Metropolitan Transit Authority ("MTA") buses in southern California between February 1995 and October 1995.

9. With the knowledge and approval of Respondents, Alvarez caused print advertisements to be produced and placed in Spanish language publications in southern California on behalf of Respondents between February 1995 and October 1995.

10. With the knowledge and approval of Respondents, Alvarez caused television and radio advertisements to be produced and aired on broadcast stations in southern California between February 1995 and October 1995.

11. Between February 1995 and October 1995, Respondents practiced law independently of each other.

#### **The Television Advertisements**

12. In or about February 1995, a television advertisement was produced by Alvarez, referenced as C-TV-95-2-28.

13. This television advertisement was broadcast between March 1995 and June 1995.

14. This advertisement included the following statements in Spanish, spoken by Alvarez:

"Centro's group of experienced attorneys in cases of automobile accidents offer you now the Immediate Assistance system. It will help you get your car repaired, and they will help you in your own home if necessary. That is why you need Immediate Assistance, and you will find it only at Centro. When you dial 2-22-22-22, you will be calling your attorney directly because we are not a referral service." "2-22-22-22."

15. Alvarez appeared as a spokesperson for Respondents in the television advertisement CTV-95-2-28. This television advertisement did not disclose Alvarez's title as spokesperson.

16. The word "spokesperson" in English was added to the television advertisement in or about May 1995. It was changed to Spanish in June 1995.

17. Television advertisement CTV-95-2-28 was broadcast between March 1995 and September 1995.

18. In or about July 1995, a television advertisement was produced by Alvarez, referenced as CTV 95-2-35.

19. This television advertisement included the following statements in Spanish, spoken by actors:

"[Centro's attorneys] are the ones who offered us Immediate Assistance for the first time."  
"I had a really bad personal injury accident. I called and recovered everything I lost."  
"In my case it was different. It was a single automobile accident..."

20. Television advertisement CTV 7-95-35 was broadcast between July 1995 and September 1995.

21. The television advertisement referenced as CTV 7-95-35 used actors who were not clients of Respondents. There was no disclosure in the television advertisement that the people portraying clients were actors.

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22. In or about July 1995, a television advertisement was produced by Alvarez, referenced as CTV 7-95-38.

23. This television advertisement included the following statements in Spanish, spoken by actors:

"[Centro's attorneys] are the ones who offered us Immediate Assistance for the first time."  
 "I had a really bad personal injury accident. I called Centro and recovered everything I lost."  
 "In my case it was different. It was a single automobile accident..."

24. Television advertisement CTV 7-95-38 was broadcast between July 1995 and September 1995.

25. The television advertisement referenced as CTV 7-95-38, used actors who were not clients of Respondents. There was no disclosure in the television advertisement that the people portraying clients were actors.

#### The Busback Advertisements

26. Between February 1995 and October 1995, busback advertisements were produced by Alvarez.

27. The busback advertisements were placed on MTA buses in Southern California by Alvarez between March 1995 and October 1995.

28. The busback advertisements failed to identify the individual attorneys.

29. Alvarez appeared as a spokesperson in the busback advertisement. The busback advertisement did not disclose Alvarez's title.

#### The Print Advertisements

30. The print advertisements failed to identify the individual attorneys.

31. Alvarez appeared as a spokesperson in the print advertisements. The print advertisements did not disclose Alvarez's title.

Conclusions of Law Warranting the Agreed Disposition

The Television Advertisements

1. Respondents violated Bus. & Prof. Code section 6157.2(c)(3) because the television advertisement referenced as C-TV-95-2-28 did not initially disclose Alvarez's title as spokesman.

2. Respondents violated Bus. & Prof. Code section 6157.2(e)(2) because the television advertisement referenced as CTV 7-95-35 contained no disclosure of the impersonations of clients by actors.

3. Respondents violated Bus. & Prof. Code section 6157.2(c)(2) in that the television advertisement referenced as CTV 7-95-38 contained no disclosure of the impersonations of clients by actors.

The Busback Advertisements

4. Respondents violated Bus. & Prof. Code section Bus. & Prof. Code section 6157.1 because the busback advertisements failed to identify the individual attorneys.

5. Respondents violated Bus. & Prof. Code section Bus. & Prof. Code section 6157.2(c)(3) because the busback advertisements failed to identify Alvarez's title as spokesperson.

The Print Advertisements

6. Respondents violated Bus. & Prof. Code section 6157.1 because the print advertisements failed to identify the individual

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attorneys.

7. Respondents violated Bus. & Prof. Code section 6157.2(c)(3) because the print advertisements did not disclose Alvarez's title.

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Parties' Initials

*[Signature]*  
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**Further Conditions of Probation**

With each quarterly report to the Probation Unit, the Office of the Chief Trial Counsel, required by the Standard Conditions of Reproval, Respondent will supply true and correct copies of all advertising regarding his or her availability to provide legal services previously published or broadcast on his or her behalf in the applicable reporting period.

## DECLARATION OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Coordinator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. In the City and County of Los Angeles, on **May 1, 1997**, I deposited a true copy of the following document(s)

**ORDER REGARDING STIPULATION AS TO FACTS AND DISPOSITION  
FILED MAY 1, 1997; STIPULATION AS TO FACTS AND  
DISPOSITION FILED MAY 1, 1997**

in a sealed envelope as follows:

- [ X ] with first-class postage thereon fully prepaid in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

**JEROME FISHKIN  
473 JACKSON ST 2FL  
SAN FRANCISCO CA 94111**

**ELLEN A PANSKY  
PANSKY & MARKLE  
333 S GRAND AVE #4050  
LOS ANGELES CA 90071**

**ARTHUR MARGOLIS  
MARGOLIS & MARGOLIS  
2000 RIVERSIDE DRIVE  
LOS ANGELES CA 90039**

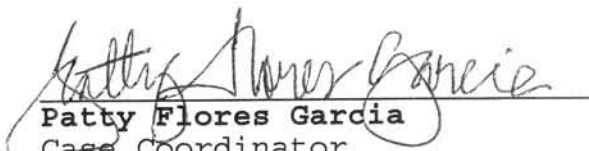
**ERICA TABACHNICK  
1200 WILSHIRE BLVD #400  
LOS ANGELES CA 90017**

- [ ] by certified mail, , with a return receipt requested, in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

- [ X ] in an interoffice mail facility regularly maintained by the State Bar of California addressed as follows:

**DAVID CARR, OFFICE OF TRIALS  
TERRIE GOLDADE, OFFICE OF TRIALS**

I hereby certify that the foregoing is true and correct.  
Executed in Los Angeles, California, on **May 1, 1997**.

  
**Patty Flores Garcia**  
Case Coordinator  
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 March 25, 2014

State Bar Court, State Bar of California,  
Los Angeles

By

Clerk