


# PUBLIC MATTER


<p><b>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</b></p> <p>HEARING DEPARTMENT</p> <p>[X] LOS ANGELES      [ ] SAN FRANCISCO</p>	<p style="text-align: center; font-size: small;">FOR COURT USE ONLY</p> <div style="text-align: center; font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">F I L E D</div> <p style="text-align: center; font-weight: bold;">APR 28 1995</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>IN THE MATTER OF</p> <p><b>RUDY AGUIRRE,</b></p> <p>No. <b>85837,</b></p> <p>MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>CASE NO. <b>93-O-17950-DSW</b></p>   <p><b>ORDER REGARDING STIPULATION ([ ] FIRST AMENDED [ ] SECOND AMENDED) AS TO FACTS AND DISPOSITION</b></p>

A fully executed Stipulation as to Facts and Disposition pursuant to rule 133, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings consisting of 33 pages, approved by the parties, was submitted in the above-captioned case(s). Any stipulations submitted previously are rejected. The Stipulation is attached to this order and incorporated as though fully stated here. Unless a party withdraws or modifies the stipulation pursuant to rule 135(c), Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings, 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.
- [X] Modifications to the stipulation are attached:
- [ ] ~~the parties having no objection.~~
  - [ ] ~~the parties having agreed on the record on \_\_\_\_\_.~~
  - [X] 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. *JKR*
- [X] 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:
- [X] ordered. *JKR*
  - [ ] 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.
- [X] It is further [X] ordered [ ] recommended that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10. *JKR*

DATE: April 26, 1995

  
 JoAnne Earls Robbins, Judge of the State Bar Court

Within document forwarded to  
 Judge on 4/28/95 *JKR, DSW*  
 STATE BAR COURT CLERK'S OFFICE  
 By: 

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ATTACHMENT TO ORDER RE STIPULATION

In the Matter of	Case No. 93-O-17950-DSW
RUDY AGUIRRE, No. 85837	
A Member of the State Bar	

MODIFICATION TO STIPULATION

The Stipulation as to Facts and Disposition shall be modified as follows:

1. The Transitional Rules of Procedure of the State Bar of California were revised effective January 01, 1995. The new rules are hereby incorporated by reference and all rules referred to in this Stipulation are correlated to the "Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings." *DER*

2. Respondent has been advised that he has the option of retaining counsel at his own expense to represent him in this matter, and has chosen to represent himself (page 3, paragraph A.). *DER*

In the Matter of

Case No. 93-O-17950-DSW

RUDY AGUIRRE,  
No. 85837

A Member of the State Bar.

**PUBLIC REPROVAL**

Service upon the parties of this "Order Approving Stipulation As to Facts and Disposition" constitutes a letter of PUBLIC reproof in the name of the State Bar of California to the above named member of the State Bar pursuant to rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.



Conditions in the manner authorized by rule 956, California Rules of Court, are ordered to be attached to this reproof as set forth in the attached stipulation. *JKR*

[ ] ~~No conditions~~ are attached to this reproof.

This Public Reproof shall be effective upon expiration of the period provided by rule 135(c), Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings, unless a timely request for withdrawal or modification of the stipulation is filed.

[ ] ~~PRIVATE REPROVAL~~

Service upon the parties of this "Order Approving Stipulation As to Facts and Disposition" constitutes a letter of PRIVATE reproof in the name of the State Bar of California to the above named member of the State Bar pursuant to rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.

[ ] Conditions in the manner authorized by rule 956, California Rules of Court, are ordered to be attached to this reproof as set forth in the attached stipulation.

[ ] No conditions are attached to this reproof.

This PRIVATE Reproof shall be effective upon expiration of the period provided by rule 135(c), Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings, unless a timely request for withdrawal or modification of the stipulation is filed. (See rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.)

<b>COUNSEL FOR STATE BAR:</b> OFFICE OF THE CHIEF TRIAL COUNSEL THE STATE BAR OF CALIFORNIA TERESA SCHMID SUSAN J. JACKSON, No. 125042 1149 South Hill Street Los Angeles, California 90015-2299 Telephone: (213) 765-1000	<b>COUNSEL FOR RESPONDENT:</b> In Propria Persona  <div style="text-align: center;"> <b>RECEIVED</b>  <b>MAR 15 1995</b>          STATE BAR COURT          CLERKS OFFICE          LOS ANGELES       </div>
<b>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</b>  <b>HEARING DEPARTMENT</b>  <input checked="" type="checkbox"/> LOS ANGELES <input type="checkbox"/> SAN FRANCISCO	<b>FOR COURT USE ONLY</b>  <div style="text-align: center;"> <b>F I L E D</b>  <b>MAR 15 1995</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
<b>IN THE MATTER OF</b>  <u>RUDY AGUIRRE</u>  No. <u>85837</u>  <b>MEMBER OF THE STATE BAR OF CALIFORNIA.</b>	<b>CASE NO(S). 93-0-17950</b>   <b>STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407, TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA)</b> <input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED

### SCHEDULE OF ATTACHMENTS

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> SECTION ONE: | <input checked="" type="checkbox"/> FORM STIP 110: | STIPULATION FORM, INCLUDING<br>GENERAL AGREEMENTS AND<br>WAIVERS                                 |
|  | <input checked="" type="checkbox"/> FORM STIP 120: | AGREEMENTS AND WAIVERS   |
| <input checked="" type="checkbox"/> SECTION TWO: | <input checked="" type="checkbox"/> FORM STIP 130: | STATEMENT OF ACTS OR OMISSIONS<br>AND CONCLUSIONS OF LAW<br>WARRANTING THE AGREED<br>DISPOSITION |

Within document forwarded to  
 Judge on 3/16/95  
 STATE BAR COURT CLERK'S OFFICE  
 By: [Signature]

Parties'

Initials

*ra sg*

PAGE 2

- ☒ SECTION THREE: ☒ FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION
- ☒ SECTION FOUR: ☐ FORM DISP 200: STATEMENT SUPPORTING DISMISSAL OF ALL CHARGES
- ☐ FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES
- ☐ FORM DISP 210: ADMONITION
- ☐ FORM DISP 220: PRIVATE REPROVAL
- ☒ FORM DISP 230: PUBLIC REPROVAL
- ☐ FORM DISP 240: SUSPENSION, INCLUDES NO ACTUAL SUSPENSION
- ☐ FORM DISP 250: ACTUAL SUSPENSION
- ☒ FORM DISP 260: PROFESSIONAL RESPONSIBILITY EXAMINATION
- ☐ FORM DISP 270: REGARDING FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL
- ☒ FORM PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR
- ☐ FORM PROB 320: RESTITUTION
- ☐ FORM PROB 330: PROTECTION OF CLIENT FUNDS
- ☐ FORM PROB 340: MENTAL HEALTH TREATMENT
- ☐ FORM PROB 350: ALCOHOL/DRUG IMPAIRMENT
- ☐ FORM PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT
- ☐ FORM PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION
- ☐ FORM PROB 380: FURTHER CONDITIONS OF PROBATION
- ☒ SECTION FIVE: ☒ APPROVAL OF PARTIES

Parties' Initials

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PAGE 3

<p>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</p> <p>HEARING DEPARTMENT</p> <p><input checked="" type="checkbox"/> LOS ANGELES <input type="checkbox"/> SAN FRANCISCO</p>	<p>FOR COURT USE ONLY</p> <p><b>F I L E D</b></p> <p>MAR 15 1995</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>IN THE MATTER OF</p> <p><u>RUDY AGUIRRE</u></p> <p>No. <u>85837</u></p> <p>MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>CASE NO(S). 93-0-17950</p> <p>STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407, TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA)</p> <p><input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED</p>

## SECTION ONE. GENERAL AGREEMENTS AND WAIVERS.

### A. PARTIES.

1. The parties to this stipulation as to facts and disposition, entered into under rules 405-407, Transitional 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 May 31, 1979 and the Office of the Chief Trial Counsel, represented by the Deputy Trial Counsel of record whose name appears below.

2. If Respondent is represented by counsel, Respondent and his or her counsel have reviewed this stipulation, have approved it as to form and substance, and has signed FORM STIP 400 below.

3. If Respondent is appearing in propria persona, Respondent has received this stipulation, has approved it as to form and substance, and has signed FORM STIP 400 below.

B. JURISDICTION, SERVICE AND NOTICE OF CHARGE(S), AND ANSWER. The parties agree that the State Bar Court has jurisdiction over Respondent to take the action agreed upon within this stipulation. This stipulation is entered into pursuant to the provisions of rules 405-407, Rules of Procedure. No issue is raised over notice or service of any charge(s). The parties waive any variance between the basis for the action agreed to in this stipulation and any charge(s). As to any charge(s) not yet filed in any matter covered by this stipulation, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

C. AUTHORITY OF EXAMINER. Pursuant to rule 406, Rules of Procedure, the Chief Trial Counsel has delegated to this Deputy Trial Counsel the authority to enter into this stipulation.

Parties'  
Initials

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PAGE 4

D. PROCEDURES AND TRIAL.

In order to accomplish the objectives of this stipulation, the parties waive all State Bar Court procedures regarding formal discovery as well as hearing or trial. Instead, the parties agree to submit this stipulation to a judge of the State Bar Court.

E. PENDING PROCEEDINGS.

Except as specified in subsection I, all pending investigations and matters included in this stipulation are listed by case number in the caption above.

F. EFFECT OF THIS STIPULATION.

1. The parties agree that this stipulation includes this form and all attachments.
2. 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.
3. 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.
4. The parties agree that stipulations as to proposed discipline involving suspension, are not binding on the Supreme Court of California. Pursuant to Business and Professions Code sections 6078, 6083-6084, and 6100, the Supreme Court must enter an order effectuating the terms and conditions of this stipulation before any stipulation for suspension, actual or stayed, will be effective.

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

Unless disclosed by the parties in subsection I, there have been no previously rejected or withdrawn stipulations in matters or investigations covered by this stipulation.

H. COSTS OF DISCIPLINARY PROCEEDINGS. (Check appropriate paragraph(s).)

- X 1. The agreed disposition is eligible for costs to be awarded the State Bar. (Bus. & Prof. Code, §§ 6086.10 and 6140.7.) Respondent has been notified of his or her duty to pay costs. The amount of costs assessed by the Office of Chief Trial Counsel will be disclosed in a separate cost certificate submitted following approval of this stipulation by a hearing judge. The amount of costs assessed by the State Bar Court will be disclosed in a separate cost certificate submitted upon finalization of this matter.
2. The agreed disposition is not eligible for costs to be awarded the State Bar.

I. SPECIAL OR ADDITIONAL AGREEMENTS AS TO SECTION ONE.

- X Respondent has been advised of pending investigations, if any, which are not included in this stipulation.
- X FORM STIP 120 is attached, stating further general agreements and waivers.



Parties'

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PAGE 5

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

- ☒ The parties have attached FORM STIP 130 and agree that the same warrants the disposition set forth in this stipulation.

**SECTION THREE. STATEMENT OF FACTS, FACTORS OR CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION.**

The parties agree that the following attachment(s) constitute the facts and circumstances considered mitigating, aggravating or otherwise bearing on the agreed disposition:

- ☒ FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

**SECTION FOUR. AGREED DISPOSITION**

Based on the foregoing and all attachments, the parties agree that the appropriate disposition of all matters covered by this stipulation is [Check appropriate disposition(s); attach schedule(s) if indicated]:

- ☐ DISMISSAL OF ALL CHARGES [FORM DISP 200]
- ☐ DISMISSAL OF CERTAIN CHARGES [Attach FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES]
- ☐ ADMONITION [Attach FORM DISP 210: ADMONITION]
- ☐ PRIVATE REPROVAL [Attach FORM DISP 220: PRIVATE REPROVAL]
- ☒ PUBLIC REPROVAL [Attach FORM DISP 230: PUBLIC REPROVAL]
- ☐ SUSPENSION ENTIRELY STAYED [Attach FORM DISP 240: RECOMMENDATIONS FOR STAYED SUSPENSION]
- ☐ ACTUAL SUSPENSION [Attach FORM DISP 250: RECOMMENDATIONS FOR ACTUAL SUSPENSION]
- ☒ ADDITIONAL PROVISIONS:
- ☒ FORM DISP 260: CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION
- ☐ FORM DISP 270: FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL



Parties'  
Initials

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PAGE

6

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IN THE MATTER OF

Case No. 93-0-17950

RUDY AGUIRRE,

A Member of the State Bar.

#### DISCLOSURE OF PENDING INVESTIGATIONS

X

Respondent has been advised in writing of any pending investigations or proceedings not resolved by this Stipulation, identified by investigation case number and complaining witness name, if any. All such information has been provided to the Respondent in a separate document as of March 13, 1995. This date is no more than thirty (30) days prior to the date the Stipulation is filed.

Parties

Initials

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PAGE

7

IN THE MATTER OF

RUDY AGUIRRE

CASE NO(S). 93-0-17950

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

### ADDITIONAL AGREEMENTS AND WAIVERS

- ☒ FORM TRI 121: WAIVER OF RIGHT TO PETITION FOR RELIEF FROM ASSESSED COSTS
- ☐ FORM TRI 122: WAIVER OF ISSUANCE OF NOTICE OF DISCIPLINARY CHARGES
- ☐ FORM TRI 123: STATEMENT OF AUTHORITIES SUPPORTING DISCIPLINE
- ☐ FORM TRI 124: PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING
- ☐ FORM TRI 125: ADDITIONAL AGREEMENTS AND WAIVERS PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6049.1
- ☐ FORM TRI 126: RESOLUTION OF PROCEEDING
- ☐ FORM TRI 127: ESTIMATION OF COSTS
- ☐ FORM TRI 128: WAIVER OF REVIEW

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IN THE MATTER OF

Case No(s). 93-O-17950

RUDY AGUIRRE,

A Member of the State Bar.

ATTACHMENT TO: [X] STIPULATION [ ] DECISION

**WAIVER OF RIGHT TO PETITION FOR RELIEF  
FROM ASSESSED COSTS**

Respondent acknowledges that this Stipulation is a compromise of disputed allegations and that a petition for relief from costs pursuant to Transitional Rules of Procedure, rule 462, alleging special circumstances or other good cause shall not be based upon the timing of this Stipulation, any aspects of the negotiation process in this case, nor the degree of discipline agreed upon by the parties hereto.

Parties'  
Initials

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PAGE 9

IN THE MATTER OF

CASE NO(S). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 93-0-17950

COUNT One

See attached pages 10 through 15.

RUDY AGUIRRE

CASE NUMBERS: 93-O-17950

## STATEMENT OF ACTS OR OMISSIONS WARRANTING THE AGREED DISPOSITION

1. On January 5, 1989, Respondent was employed to represent Raymond Gonzales, Sr. (hereinafter "Gonzales") regarding a personal injury matter pertaining to an accident that occurred on December 30, 1988 (hereinafter, the "Accident"). The Accident occurred on the property of and as a result of the negligence of an employee of the Church of Scientology, a California corporation (hereinafter, "Church").

2. On January 5, 1989, Respondent and Gonzales met in person, at which time Gonzales advised Respondent that the Accident occurred during the course and scope of his employment, and entered into a written contingency fee agreement with Respondent.

3. Respondent represents that it was his understanding that Gonzales did not want to pursue a workers' compensation claim. In October 1990, Respondent ~~first~~ advised Gonzales to seek other counsel (and suggested attorney Antonio Borges), if he wished to pursue a workers' compensation action, because Respondent did not handle workers' compensation cases. Gonzales subsequently consulted with Borges.

4. On December 29, 1989, Respondent filed a complaint in the case entitled Raymond Gonzalez [sic] v. Church of Scientology et

al., Los Angeles County Municipal Court, Case No. 89K53220 (the "Gonzales matter"). The Complaint included a prayer for \$25,000.00 in compensatory damages.

5. California Code of Civil Procedure (hereinafter, "CCP") sections 583.210(a) and 583.250, last revised in 1984, provide that the summons and complaint in a civil action must be served within three (3) years from the date of filing of the complaint, in order to avoid mandatory dismissal of the case.

6. After unsuccessful efforts to serve by personal service, the process server hired by Respondent served the Gonzales Summons and Complaint (hereinafter, "Gonzales Summons and Complaint") on the Church by substitute service on May 1, 1990 and by mail on May 30, 1990. Respondent received the signed Proof of Service (hereinafter, the "Gonzales Proof of Service of Summons and Complaint") on or about May 30, 1990.

7. The last day on which the Gonzales summons and complaint could be served was December 29, 1992. Therefore, the Gonzales Summons and Complaint were timely served.

8. Defendant Church never filed or served any response to the Complaint, and never appeared in the action.

9. CCP sections 583.210(b) and 583.250, last revised in 1984, provide that proof of service of summons and complaint in a civil action must be filed with the court by three years and 60 days from commencement of the action, in order to avoid mandatory

dismissal. Therefore, the proof of service of summons and complaint in the Gonzales matter (hereinafter, "Proof of Service of Summons and Complaint") was required to be filed with the Municipal Court by February 28, 1993.

10. Respondent first attempted to file the Proof of Service of Summons and Complaint with the court on August 11, 1994. On that date, it was filed with the Los Angeles Superior Court, instead of the Municipal Court, by a process server hired by Respondent. While a conformed copy with the filing stamp was returned to Respondent, Respondent represents that he did not notice the error and made no attempt to re-file the Proof of Service of Summons and Complaint with the correct court.

11. Even if the Proof of Service of Summons and Complaint had been filed with the correct court, the filing would not have been timely. As a result, the Gonzales matter became subject to mandatory dismissal, pursuant to CCP sections 583.210 and 583.250. Respondent represents that he was not aware of the three year and 60 day filing requirement, until the Default Clerk of the Municipal Court so advised him in December 1994.

12. Pursuant to CCP sections 583.310 and 583.360, last revised in 1984, a civil action is subject to mandatory dismissal unless it is brought to trial within five years from filing of the complaint. Therefore, the Gonzales matter had to be brought to trial by December 29, 1994. Respondent knew of this requirement.



13. However, from May 30, 1990 to May 18, 1992, Respondent failed to take any action to prosecute the Gonzales matter.

14. Respondent represents that he believed that before he could request entry of the Church's default, he had to serve a statement of damages on the Church.

15. On May 19, 1992, Respondent prepared Plaintiff's Statement of Damages (hereinafter, "Statement of Damages"). On May 27, 1992, a process server hired by Respondent unsuccessfully attempted to personally serve the Statement of Damages on the Church and Respondent was so advised in writing on May 31, 1992. Thereafter, from May 27, 1992 through January 4, 1994, Respondent failed to take further action.

16. From January 5, 1994 to February 3, 1994, a process server hired by Respondent made approximately nine unsuccessful attempts to personally serve a copy of the Statement of Damages on the Church. From October 26, 1994 to November 1, 1994, another process server hired by Respondent made approximately three unsuccessful attempts to personally serve the Statement of Damages on the Church.

17. From May 27, 1992 through May 15, 1994, Respondent failed to attempt or instruct his process servers to attempt any alternative means for serving the Statement of Damages on the Church. On May 16, 1994, Respondent instructed a process server to serve the Statement of Damages on the California Secretary of

State, but such service could not be accomplished and Respondent was so advised on May 30, 1994, due to the failure to pay the \$50.00 fee and to obtain a court order permitting such service. No further action was taken for the next five months.

18. The Statement of Damages was served on the Church by substitute service and mailing on November 2, 1994, four years and 10 months after the Complaint was filed. On November 3, 1994, Respondent was provided with a signed proof of service (hereinafter, the "Gonzalez Proof of Service of Statement of Damages").

19. On December 7, 1994, which was four years and eleven months after the Complaint was filed, Respondent filed a Request for Entry of Default with the Municipal Court. On December 12, 1994, the court rejected Respondent's Request and refused to enter the default, because the Proof of Service of Summons and Complaint was not filed with the court within the three year and 60 day period required by law.

20. On December 16, 1994, Respondent filed a second Request for Entry of Default with the Municipal Court. On December 17, 1994, the court again rejected the Request and refused to enter the default, because the Proof of Service was not timely filed. Thereafter, Respondent took no further action with regard to prosecution of the Gonzales matter.

21. Respondent failed to obtain a default judgement or bring

the case to trial within five years.

22. From June 1992 to June 1993, Respondent failed to communicate with Gonzales and failed to keep him reasonably informed of significant developments in his case.

23. Until late December 1994, when Respondent spoke with Gonzales, he repeatedly reassured Gonzales that his case was being properly handled. In late December 1994, Respondent advised Gonzales that his attempts to enter default were unsuccessful and that due to the filing requirements of CCP sections 583.210(b) and 583.250, the case was subject to mandatory dismissal. Respondent represents that he believed he could obtain a default judgement before the expiration of the five year period, that is, by December 29, 1994, until he received the default reject notice from the Municipal Court in mid-December 1994.

#### CONCLUSIONS OF LAW

1. By failing to communicate with Gonzales and advise Gonzales of significant developments in his case, Respondent wilfully violated Section 6068(m) of the California Business and Professions Code.

2. By failing to competently perform the services for which he was employed by Gonzales, Respondent wilfully violated Rule 3-110(A) of the Rules of Professional Conduct of the State Bar of California.

Parties'  
Initials

*La* *SPJ*

PAGE 16

IN THE MATTER OF

CASE NO(S). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

**STATEMENT OF FACTS AND CIRCUMSTANCES  
BEARING ON THE AGREED DISPOSITION**

**A. AGGRAVATING CIRCUMSTANCES:**

☐ 1. Respondent has a record of prior discipline. (Std. 1.2 (b)(i).)<sup>1</sup> Supporting facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ 2. Respondent's misconduct evidences multiple acts of wrongdoing. (Std. 1.2 (b)(ii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ 3. Respondent's misconduct evidences\demonstrates a pattern of misconduct. (Std. 1.2 (b)(ii).) Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

☐ 4. Respondent's misconduct was surrounded or followed by bad faith, dishonesty, concealment, overreaching or other circumstances defined by Standard 1.2 (b)(iii). Supporting facts: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> References to "Standards" are to the "Standards for Attorney Sanctions for Professional Misconduct: (See Transitional Rules of Procedure of the State Bar of California, Division V.)

Parties'

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PAGE

17

[ x ] 5. Respondent's misconduct harmed significantly client(s), the public or the administration of justice. (Std. 1.2 (b)(iv).) Supporting facts: \_\_\_\_\_  
As a result of Respondent's failure to competently perform the services  
for which he was hired, his client's personal injury matter now must be  
dismissed and cannot be re-filed.

[ ] 6. Respondent demonstrated indifference to rectifying the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 7. Respondent demonstrated indifference to atoning for the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 8. Respondent displayed a lack of candor and cooperation to any victim(s) of misconduct. (Std. 1.2 (b)(vi).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 9. Respondent displayed a lack of candor and cooperation to the State Bar during disciplinary investigation or proceedings. (Std. 1.2 (b)(vi).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Initials

PAGE 18

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Parties'  
Initials

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PAGE 19

B. MITIGATING CIRCUMSTANCES:

- [X ] 1. Respondent has no record of prior discipline over many years of practice, coupled with present misconduct not deemed serious. (Std. 1.2 (e)(i).) Supporting facts: Respondent was admitted to the practice of law in California in 1979, and has no prior record of discipline.
- [ ] 2. Respondent acted in good faith. (Std. 1.2 (e)(ii).) Supporting facts: \_\_\_\_\_
- [ ] 3. Respondent's misconduct did not result in harm to the client(s) or person(s) who were the objects of misconduct. (Std. 1.2 (e)(iii).) Supporting facts: \_\_\_\_\_
- [ ] 4. 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). Supporting facts: \_\_\_\_\_
- [ ] 5. 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). Supporting facts: \_\_\_\_\_
- [ ] 6. Respondent displayed spontaneous candor and cooperation to the victim(s) of misconduct. (Std. 1.2 (e)(v).) Supporting facts: \_\_\_\_\_



Parties'  
Initials

*fu*, *sgj*

PAGE 20

- ☒ 7. Respondent displayed spontaneous candor and cooperation to the State Bar during disciplinary investigation and proceedings. (Std. 1.2 (e)(v).) Supporting facts: Respondent has complied with the requests of the State Bar during the investigation and post-notice stages of the proceedings.
- ☐ 8. Respondent presented an extraordinary demonstration of good character as set forth in Standard 1.2 (e)(vi). Supporting facts: \_\_\_\_\_
- ☐ 9. Respondent promptly took objective steps to spontaneously demonstrate remorse which steps were designed to timely atone for any consequences of Respondent's misconduct. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_
- ☐ 10. 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. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_
- ☐ 11. Considerable time has passed since Respondent's misconduct, followed by convincing proof of subsequent rehabilitation (Std. 1.2 (e)(viii)). Supporting facts: \_\_\_\_\_
- ☐ 12. Excessive delay occurred in conducting this disciplinary proceeding, which delay is not attributable to Respondent and which delay was prejudicial to Respondent. (Std. 1.2 (e)(ix).) Supporting facts: \_\_\_\_\_

Parties'  
Initials

h, sgg

PAGE 21

- [ x ] 13. Additional circumstance(s) in mitigation or additional facts regarding the above paragraphs are stated as follows: \_\_\_\_\_

See attached page 22.

RUDY AGUIRRE

CASE NUMBER: 93-O-17950

STATEMENT OF ACTS AND CIRCUMSTANCES  
BEARING ON THE AGREED DISPOSITION

B. MITIGATING CIRCUMSTANCES:

- [X] 13. Additional circumstances(s) in mitigation or additional facts regarding the above paragraphs are stated as follows:

Respondent represents that since January 1995, he has been using a computer calendaring system in order to ensure the timely filing of documents with the courts. He further represents that in December 1994 and January 1995, he reviewed every open client file he was handling to determine whether proofs of service had been filed in each case, and immediately filed any proof of service not previously filed.

Respondent represents that from 1989 to the present, he has devoted a significant amount of time to activities of the ~~Los Angeles County~~ <sup>LA Local</sup> Bar Association and to pro bono work.

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Parties'  
Initials

*R. Aguirre*

PAGE 23

IN THE MATTER OF

Case No. 93-0-17950

RUDY AGUIRRE,

A Member of the State Bar.

ATTACHMENT TO: [X] STIPULATION [ ] DECISION

**DISMISSAL OF CERTAIN ALLEGED VIOLATIONS**

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>
93-0-17950	One	Rule 3-500 of the Rules of Professional Conduct
93-0-17950	One	Rule 3-700(A)(2) of the Rules of Professional Conduct

Parties'  
Initials

*KA, sg*

PAGE 24

IN THE MATTER OF

CASE NO(S). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

### PUBLIC REPROVAL

[Fill in the blanks as appropriate and initial left margin for all language that is intended to be included in the stipulation, deleting words or phrases that are not appropriate. When designating numbers for the amount of suspension or probation, please spell out the number and include the arabic numeral in the parentheses provided.]

- ☒ It is recommended that Respondent be publicly reproved by the State Bar Court.
- ☐ There are no conditions to be attached to this public reproof.
- ☒ Pursuant to rule 956, paragraph (a), California Rules of Court, it is recommended that the following conditions be attached to the public reproof, based upon a finding that protection of the public and the interests of respondent will be served thereby:
- ☒ DISP 260: CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION
  - ☐ DISP 270: ADDITIONAL \_\_\_\_ PAGE(S) REGARDING FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL
  - ☒ PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR
  - ☐ PROB 320: RESTITUTION
  - ☐ PROB 330: PROTECTION OF CLIENT FUNDS
  - ☐ PROB 340: MENTAL HEALTH TREATMENT
  - ☐ PROB 350: ALCOHOL/DRUG IMPAIRMENT
  - ☐ PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT
  - ☐ PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION

Parties'  
Initials

km / sgg /

PAGE 25

- ☒ That the conditions attached to the public reproval shall commence to be effective upon the effective date of the order approving stipulation or decision and shall remain in effect for a period of eighteen <sup>(18 XXXX)</sup> days / months / <sup>XXXXXX</sup> years, unless otherwise specifically designated herein.

**NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH CONDITIONS  
ATTACHED TO PUBLIC REPROVAL**

- ☒ 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 PUBLIC 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.

Parties'  
Initials

*Ra* / *sgg*

PAGE 26

IN THE MATTER OF

CASE NO(S). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

## CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION

[Fill in the blanks as appropriate and check the boxes at left for all language that is intended to be included in the stipulation, deleting words or phrases that are not appropriate. When designating numbers for the amount of suspension or probation, please spell out the number and include the arabic numeral in parenthesis provided.]

- ☒ It is recommended that the State Bar Court order Respondent to take and pass the California Professional Responsibility Examination administered by the Committee of Bar Examiners of the State Bar of California within one (1) ~~days/months~~/year(s) of the effective date of the administration of the public ~~reproval~~ and furnish satisfactory proof of such passage to the Probation Unit within said period.



Parties' Initials

*R. Aguirre*

PAGE 27

IN THE MATTER OF

CASE NO(S). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

### STANDARD CONDITIONS OF PROBATION<sup>1</sup> - GENERAL

- ☒ COND. 310. That during the period of probation, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California;
- ☒ COND. 410. That during the period of probation, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the probation is in effect, in writing, to the Probation Unit, Office of Trials, 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 probation;
  - (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;
  - (c) provided, however, that a final report shall be filed covering the remaining portion of the period of probation following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof;

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

Parties'

Initials

*Ly, Sgg*

PAGE 28

COND. 600. MAINTENANCE OF OFFICIAL MEMBERSHIP ADDRESS.

- [ X ] COND. 610. 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 Trials, 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;

**STANDARD CONDITIONS OF PROBATION:**

**~~ASSIGNMENT OF PROBATION MONITOR~~**

AUTHORITY OF PROBATION UNIT

COND. 510. ASSIGNMENT OF PROBATION MONITOR:

- [ ] That Respondent shall be referred to the Probation Unit, Office of Trials, for assignment of a probation monitor. Respondent shall promptly review the terms and conditions of Respondent's probation 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 to enable him/her to discharge Respondent's duties pursuant to rule 611, Rules of Procedure of the State Bar;

COND. 550. AUTHORITY OF PROBATION <sup>UNIT</sup>~~MONITOR~~ TO QUESTION RESPONDENT:

- [ X ] That subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit, Office of Trials, ~~and any probation monitor assigned under these conditions of probation~~ which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with these terms of probation;

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Parties'  
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*Rg* *syf*

PAGE 29

IN THE MATTER OF

Case No. 93-0-17950

RUDY AGUIRRE,

A Member of the State Bar.

ATTACHMENT TO: [X] STIPULATION [ ] DECISION

**PROBATION FINAL REPORT**

Respondent shall file his/her final report no earlier than twenty (20) days before the date on which the term of probation expires and no later than the date on which probation expires.

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PAGE 30

IN THE MATTER OF

Case No(s). 93-0-17950

RUDY AGUIRRE,

**A Member of the State Bar.**

ATTACHMENT TO: ☒ STIPULATION ☐ DECISION

**ADDITIONAL CONDITIONS OF PROBATION<sup>1</sup>**

**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 (1) year. Respondent shall furnish satisfactory evidence of membership in the section to the Probation Unit, Office of Trials, in the first quarterly report that is due.

**COURSES ON LAW OFFICE MANAGEMENT**

- ☒ That Respondent complete six (6) hours of California Minimum Continuing Legal Education-approved course(s) on law office management within one (1) ~~month(s)~~ /year(s) from the date on which the disciplinary order in this matter becomes effective. Completion of the State Bar Ethics School or an 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 Trials, in the next quarterly report that is due following completion of each course. Respondent agrees that the course hours required by this condition are in addition to any requirement he/she must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

<sup>1</sup>If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

*[Handwritten initials]*

**LAW OFFICE MANAGEMENT PLAN TO BE SUBMITTED TO PROBATION UNIT**

- ☒ Respondent shall develop a law office management/organization plan that meets with the approval of the Probation Unit, Office of Trials, within three (3) ~~days/weeks~~ months from the date on which the disciplinary order in this matter becomes effective. This plan will include procedures to send periodic status reports to clients, documentation of telephone messages received and sent, file maintenance, procedures for meeting deadlines, calendaring system, procedures to withdraw as attorney whether of record or not when clients cannot be contacted or located, and procedures for the training and supervision of support personnel. Respondent shall state in each quarterly probation report that he/she has implemented the law office management plan in his/her law practice and continues to follow the procedures set forth in the plan. Failure to so state in a quarterly report shall be a violation of probation and shall be excused only if Respondent was not engaged in the practice of law during the reporting period, in which case he/she shall so state in the quarterly probation report.

**CONTINUING LEGAL EDUCATION COURSES**

- ☐ That Respondent complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved courses in attorney-client relations and/or legal ethics within \_\_\_\_\_ month(s)/year(s) from the date on which the disciplinary order in this matter becomes effective. Completion of the State Bar Ethics School or an Ethics School course will not satisfy this requirement. Respondent shall furnish satisfactory evidence of completion of the courses to the Probation Unit, Office of Trials, in the next quarterly report that is due following completion of each course. Respondent agrees that the course hours required by this condition are in addition to any requirement he/she must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

**OTHER**

☐

Parties' Initials

*Ka* *JP*

PAGE 32

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IN THE MATTER OF

Case No(s). 93-0-17950

RUDY AGUIRRE

A Member of the State Bar.

ATTACHMENT TO: [X] STIPULATION [ ] DECISION

STATE BAR ETHICS SCHOOL

Within one (1) 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 (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

~~XXXX EXEMPTION XXX~~

~~It is not recommended that Respondent attend Ethics School since he/she attended Ethics School on [date] in connection with case number [ ]~~

~~It is not recommended that Respondent attend Ethics School since he/she is required to do so by [date] in connection with case number [ ]~~

Parties'  
Initials

*Ra / SJP*

PAGE 33

## SECTION FIVE. APPROVAL OF PARTIES.

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

DATE: March 15, 1995

*Susan J. Jackson*  
Deputy Trial Counsel SUSAN J. JACKSON

DATE: \_\_\_\_\_

Deputy Trial Counsel

DATE: \_\_\_\_\_

\_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_

DATE: March 15, 1995

*Rudy Aguirre*  
Respondent RUDY AGUIRRE

DATE: \_\_\_\_\_

Respondent

DATE: \_\_\_\_\_

Respondent's Counsel

DATE: \_\_\_\_\_

Respondent's Counsel



**DECLARATION OF SERVICE**

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

I am a Deputy Court Clerk 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 **April 28, 1995**, I deposited a true copy of the following document(s)

**ORDER REGARDING STIPULATION AS TO FACTS AND DISPOSITION**, filed April 28, 1995

in a sealed envelope as follows:

[XX] 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:


**RUDY AGUIRRE ESQ  
36 N GARFIELD AVE  
ALHAMBRA CA 91801**

[ ] 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:

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

**Susan J. Jackson, A/L, OFFICE OF TRIALS**

I hereby certify that the foregoing is true and correct.  
Executed in Los Angeles, California, on **April 28, 1995**.

  
\_\_\_\_\_  
**Rodney C. Wooton,**  
Deputy Court Clerk  
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 February 21, 2014

State Bar Court, State Bar of California,  
Los Angeles

By

  
Clerk Anna E. Mihaila