

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 05-O-01086-RAH
)	05-O-02902; 05-O-04009
HARPREET SINGH BRAR,)	06-O-10063; 06-O-10507
)	06-O-11817; 06-O-14117 (Cons.)
Member No. 206460,)	DECISION INCLUDING DISBARMENT
)	RECOMMENDATION AND ORDER OF
A Member of the State Bar.)	INVOLUNTARY INACTIVE
)	ENROLLMENT

I. INTRODUCTION

In these disciplinary matters, Kristin L. Ritsema and Eli D. Morgenstern appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). Respondent Harpreet Singh Brar did not appear in person or by counsel at trial in case number 05-O-01086, et al., although he did participate in some status conferences while the proceedings were pending. He did appear and participate in case number 05-O-04009.

After considering the evidence and the law, the court recommends that respondent be disbarred.

II. SIGNIFICANT PROCEDURAL HISTORY

Case nos. 05-O-01086 and 05-O-02902

On April 3, 2006, respondent filed a response to the Notice of Disciplinary Charges (NDC) that was filed on March 1, 2006. By order of April 14, 2006, trial was set to commence on July 24, 2006, and the parties were ordered to appear at a settlement conference on or before June 19, 2006. On May 30, 2006, the State Bar filed an amended NDC.

On June 8, 2006, the settlement conference was scheduled. Respondent did not file a settlement conference statement, as ordered and did not appear at the settlement conference.

Rather, he called the court on the day of the conference and requested a continuance. The settlement judge ordered the matter referred back to this court.

On June 19, 2006, respondent requested a continuance of the trial, which was granted. At the same time, the court ordered respondent to file his response to the NDC by June 26, 2006 and ordered the parties back to a settlement conference, to be completed by August 31, 2006. On August 15, 2006, respondent appeared at a settlement conference, but the matter did not settle. New trial dates were set for October 2 and 3, 2006. At a status conference on September 14, 2006, respondent made a further motion for continuance of the trial due to a death in the family. This motion was granted, (as reflected in an order dated September 20, 2006) and the trial was again continued to November 20 and 21, 2006. Respondent was informed that the court would not consider any further requests for continuance. Respondent had not filed a pretrial statement at the time of the status conference, despite having been ordered to do so. Respondent was advised at the September 14, 2006 status conference and by the September 20 order that if he did not timely file a pretrial statement by September 22, the court might impose sanctions. The matter was again referred to the settlement judge for further settlement discussions. A settlement conference was set for October 23, 2006, but again respondent failed to appear.

A status conference was held on November 20, 2006, the day before the date set for trial. Respondent did not file a pretrial statement as earlier ordered. At that status conference, (as reflected in the order filed December 4, 2006), respondent was precluded from offering any evidence at trial except for his own testimony. Despite being ordered to do so by November 13, 2006, respondent did not file opposition to the motion by the State Bar to compel respondent to appear for his deposition and produce documents. By its December 4, 2006 order, the court granted the motion to compel and respondent was ordered to appear for his deposition on November 21, 2006, the date scheduled for the first day of trial. As a result of respondent's earlier failure to appear for his deposition, and in order to allow the deposition to occur prior to trial, the court was required again to continue the trial to February 27, 2007.

Although he had proper notice thereof, respondent did not appear in person at trial but called the court indicating that he had undergone dental surgery the day before.

Over the State Bar's objection, the court continued the trial until Monday, March 12, 2007. The continuance was conditioned upon the court's receipt by March 7, 2007, of a letter from respondent's dentist providing certain information as more fully set forth in the court's order filed March 5, 2007. Moreover, on the record on February 27, 2007, as well as in the March 5 order, respondent was advised that, if the dentist's letter was not received by March 7, 2007, the court would vacate the trial date, strike respondent's answer filed June 26, 2006, and enter his default.

The dentist's letter was not received by March 7, 2007. On March 9, 2007, the court filed an order striking respondent's answer to the NDC and ordering that his default be entered, among other things. This order was properly served on respondent and also sent via facsimile. An order entering his default for not appearing at trial and enrolling him inactive was filed and properly served on respondent at his official address by certified mail, return receipt requested on March 9, 2007.

Respondent's motions to set aside the default and for reconsideration of the court's order denying the setting aside of the default were denied by orders filed on March 16 and April 4, 2007, respectively.

On May 3, 2007, the court granted the State Bar's oral motion to dismiss count two of the NDC in the interests of justice. Count two alleged a violation of section 6068, subdivision (c).

The matter was submitted for decision on May 29, 2007.¹

Case nos. 05-O-04009; 06-O-10063; 06-O-10507; 06-O-11817; and 06-O-14117

The NDC was filed on February 26, 2007. On April 13, 2007, trial was set for August 6, 2007, the parties were ordered to a settlement conference by July 6, 2007², and respondent was ordered to file his answer to the NDC by April 16, 2007. An answer was not timely filed, and a motion for entry of default was filed on April 18, 2007. On May 3, 2007, respondent filed his

¹However, see below. The submission of this matter was later vacated to allow for consolidation with another pending matter involving respondent.

²The date of the settlement conference was later agreed by the parties and the settlement judge to be continued to July 25, 2007.

answer to the NDC. The State Bar filed a motion to continue the trial on May 22, 2007 on account of the unavailability of witnesses on the scheduled trial date. That motion was granted, and the trial date was advanced to July 30, 2007.

On July 11, 2007, respondent requested a referral to the Alternative Discipline Program (ADP), which was opposed by the State Bar on July 18, 2007. On July 13, 2007, the State Bar filed a motion to compel a response to interrogatories, to a demand for inspection, and the production of documents. On July 18, 2007, the court denied respondent's request for referral to the ADP, and ordered respondent to file his response to the July 13, 2007 motion to compel discovery prior to the scheduled pretrial conference on July 30, 2007. On July 19, 2007, the State Bar filed a motion to exclude respondent's witnesses and testimony based on his failure to timely file a pretrial statement and exchange exhibits. On July 25, 2007, a settlement conference occurred, but respondent did not appear.

At a status conference on July 30, 2007, the court granted the motion to compel and the motion to exclude evidence and testimony as a result of respondent's failure to file a pretrial statement. The court issued sanctions, precluding respondent from offering testimonial or documentary evidence. Trial commenced in the afternoon of July 30, and continued through July 31, 2007. The court ordered the matter to be taken under submission upon the filing of the briefs by the parties, but no later than August 27, 2007.

By order dated August 17, 2007, the submission order of case number 05-O-01086 was vacated, and that case was consolidated with this matter upon a finding that to do so would conserve court resources.³ The court then ordered all the consolidated cases submitted as of the filing of the briefs in 05-O-04009. All of the cases so consolidated were submitted for decision on September 5, 2007.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdiction

³The court provided the parties ten days to object to the order of consolidation. On August 29, 2007, the State Bar filed a notice indicating no opposition to the order. No opposition was filed by respondent.

Respondent was admitted to the practice of law in California on April 21, 2000, and has been a member of the State Bar at all times since.

B. Case nos. 05-O-01086 and 05-O-02902

The court's findings are based on the allegations contained in the amended NDC as they are deemed admitted and no further proof is required to establish the truth of those allegations. (Bus. & Prof. Code⁴, §6088; Rules of Proc. of State Bar⁵, rule 200(d)(1)(A).) The findings are also based on any evidence admitted.

It is the prosecution's burden to establish culpability of the charges by clear and convincing evidence. (*In the Matter of Glasser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163, 171.)

1. Case no. 05-O-01086 (The Immigration Lawsuit)

a. Facts

On August 25, 2004, respondent filed the matter entitled *Satinder D. Brar v. Amir Haghigat, dba Khadamat Institute, et al*, Los Angeles Superior Court case no. BC320557 (immigration lawsuit). The immigration lawsuit alleged that approximately 55 named defendants and 100 “Doe” defendants had violated section 22440, et. seq., the Immigration Consultants Act, by engaging in the immigration business without posting the bond required by the code.

Respondent joined separate and distinct businesses as defendants although there was no factual nexus among them other than they were all subject to regulation by the Department of Consumer Affairs. Respondent knew that joining these parties violated section 379 of the Code of Civil Procedure (CCP).⁶

⁴Future references to section are to this source.

⁵Future references to the Rules of Procedure are to this source.

⁶CCP section 379 states:

“(a) All persons may be joined in one action as defendants if there is asserted against them:

(1) Any right to relief jointly, severally, or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action; or

Respondent filed the immigration lawsuit for an improper purpose, namely to conduct volume litigation (involving at least 55 improperly joined defendants) with minimal overhead so as to maximize his profits from settlements.⁷

In September 2004, Norma Obergh, one of the named defendants in the immigration lawsuit, was served by mail with the summons and complaint in the lawsuit. The correspondence included a cover letter signed by respondent and a proposed notice of settlement and a discovery package. The latter consisted of requests for admissions and for production of documents and form and special interrogatories.

In the cover letter, respondent offered to settle the immigration lawsuit pursuant to the notice of settlement if Obergh agreed to pay him \$2,000 in four installments or to make one payment of \$1,500 by September 30, 2004. Respondent encouraged her to settle expeditiously by representing to her that she would not have to respond to the complaint or to discovery if the case was settled on his terms. He also warned her that the immigration lawsuit potentially could cost her tens of thousands of dollars in penalties and fees and costs awarded to respondent if it was not settled promptly.

However, on July 12, 2004, Obergh had filed her bond with the California Secretary of State as required by the Immigration Consultants Act. Respondent did not properly investigate and knew that he had not properly investigated the status of Obergh's bond before naming her as a defendant in the immigration lawsuit.

On March 2, 2005, the State Bar opened an investigation on case no. 05-O-01086

(2) A claim, right, or interest adverse to them in the property or controversy which is the subject of the action.

(b) It is not necessary that each defendant be interested as to every cause of action or as to all relief prayed for. Judgment may be given against one or more defendants according to their respective liabilities.

(c) Where the plaintiff is in doubt as to the person from whom he or she is entitled to redress, he or she may join two or more defendants, with the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined between the parties.”

⁷By improperly joining these defendants, respondent avoided payment of filing fees to conduct separate actions against each of them. On August 25, 2004, the filing fee for filing the first paper in a lawsuit was at least \$185.

pursuant to Obergh's complaint. On April 12, 2005, a State Bar investigator sent respondent a letter requesting that respondent answer in writing specific allegations of misconduct regarding Obergh's complaint. The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter or otherwise communicate with the investigator.

On April 28, 2005, respondent left a voicemail message for the investigator stating that he had received the April 12 letter. He also stated that he was very busy and explained how he thought the State Bar should investigate the matter before contacting him with any allegations.

On April 29, 2005, a State Bar investigator again sent respondent a letter requesting that respondent answer in writing specific allegations of misconduct regarding Obergh's complaint. The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter or otherwise communicate with the investigator.

b. Conclusions of Law

(1) Count One - Section 6068, subd. (c) (Maintaining Illegal Action)

Section 6068, subdivision (c) requires an attorney to counsel or maintain those actions, proceedings or defenses only as appear to him legal or just, except the defense of a person charged with a public offense.

By filing the immigration lawsuit in violation of CCP section 379 and for an improper purpose, respondent maintained an illegal action in wilful violation of section 6068, subdivision (c).

(2) Count Three - Section 6106 (Moral Turpitude)

Section 6106 makes it a cause for disbarment or suspension to commit any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not.

There is clear and convincing evidence that respondent violated section 6106 by abusing the judicial system. He did not properly investigate the status of Obergh's bond before naming

her as a defendant in the immigration lawsuit and tried to elicit a settlement from her even though she had filed the requisite bond. Accordingly, he committed an act of moral turpitude in wilful violation of section 6106.

(3) Count Four - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

Section 6068, subdivision (i) requires an attorney to participate and cooperate in any disciplinary investigation or other disciplinary or regulatory proceeding pending against him- or herself.

By not providing a written response to the allegations in the Obergh complaint as requested in the State Bar's letter of April 12 and 29, 2005, respondent did not participate in the investigation of the allegations of misconduct regarding the Obergh case in wilful violation of 6068, subdivision (i).

2. Case no. 05-O-02902 (The ATM Litigation)

a. Facts

On July 8, 2003, the California Attorney General filed a complaint for injunctive and other relief against respondent. (*People v. Harpreet Brar, et al*, Orange County Superior Court case no. 03CC08825.) The complaint sought civil penalties, restitution and an order prohibiting respondent from filing "shakedown" lawsuits against small businesses pursuant to the unfair competition law, section 17200, et seq.

Respondent was properly served with the complaint. He unsuccessfully demurred to the complaint and appealed the denial of his motion to strike it pursuant to the anti-SLAPP statute. Although he had actual knowledge about the complaint, he did not file an answer. On May 27, 2004, the Attorney General filed a request to enter respondent's default. On October 13, 2004, the court entered respondent's default and issued a final judgment and permanent injunction (judgment) against him.

Among other things, the judgment prohibited respondent from:

(1) Filing any case or bringing any action under the authority of section 17200, et. seq., without engaging in adequate investigation within the meaning of Civil Code section 128.7;

(2) Naming two or more parties as defendants or subsequently identifying any “Doe” defendant in any action unless all defendants meet the factual nexus test required by CCP section 379; and

(3) Receiving any money, other than as specified in the judgment, as the result of settling any dispute in which respondent filed or threatened to file a representative private attorney general action under the authority of section 17204 or 17535 without first filing the action and in a separate pleading disclosing all the terms of such settlement to the trial court where the action is filed and receiving the express approval of the court of each provision of the settlement.

On October 26, 2004, respondent filed a motion to set aside the default and the final judgment. He obtained a temporary stay of the judgment on October 28, 2004, pending a ruling on the motion.

On November 17, 2004, after a contested hearing, the court denied respondent’s motion to set aside the default and the final judgment and lifted the stay on enforcement of the judgment.

On November 18, 2004, respondent filed a notice of appeal. The injunctive provisions of the judgment were not stayed pending appeal, however.

On November 30, 2005, the Court of Appeal affirmed the order denying respondent’s motion to set aside the default and the final judgment and modifying the judgment to delete references to sections 17500 and 17535. (*People ex. rel. Lockyer v. Brar* (2005) 134 Cal.App.4th 659.)

On May 12, 2005, respondent filed a lawsuit signed by himself and two other attorneys alleging that approximately 58 identified defendants and 250 “Doe” defendants had violated section 17200, et seq., by not providing proper disclosures regarding fees charged for the use of “point of purchase” pay devices as required by the Financial Code. (*Satinder D. Brar v. Ed’s Liquor, et al*, Los Angeles Superior Court case no. VC044432 (ATM litigation).) The lawsuit purportedly sought injunctive relief as well as restitution of “ill-gotten” gains and attorney fees and costs.

Respondent violated CCP section 379 by improperly joining separate and distinct businesses who had no factual nexus among them in the ATM lawsuit. He knew that doing so

violated CCP section 379 and, therefore, violated the judgment entered against him in Orange County Superior Court.

On May 14, 2005, Hoalan Thi Vu, one of the named defendants in the ATM litigation, was personally served with a copy of the summons and complaint by respondent or his agent.

On May 20, 2005, Vu received a letter signed by respondent and dated May 18, 2005. A proposed notice of settlement was enclosed with the letter.

In the letter, respondent offered to settle pursuant to the terms in the proposed notice of settlement and \$750. He encouraged Vu to settle promptly before being forced to incur additional fees and costs. Neither the letter nor the proposed notice of settlement mentioned injunctive relief. Respondent sought to extract money from Vu.

The NDC alleges that, prior to being served with the ATM lawsuit, Hoalan Thi Vu had the proper disclosures in her store, and that respondent failed to properly investigate this fact before filing the ATM lawsuit. As a result, it is alleged, respondent “abused the judicial system and committed an act or acts of moral turpitude, corruption and/or dishonesty.” (Count 6, Paragraphs 38, 39 and 40 of the NDC.) Normally, in a default matter, such allegations are deemed true. However, in this case, there was contrary testimony received before respondent’s default was taken. Cuc Vu, the sister of the owner of the store, Hoalan Thi Vu, testified that there was no sign at the store prior to the entry of respondent (or his agent). In addition, Yoriko Erzelani King-Walker, a regular customer of the store, testified that she was familiar with the store and knew Cuc Vu. She stated that she knew the store had an ATM and that there was no sign when she first started going to the store, but that one appeared at some point. When the sign appeared, she asked Cuc Vu why the sign was posted, and Cuc Vu told her that a man came in and that there was an argument about the sign.

Respondent never filed a pleading with the Los Angeles Superior Court disclosing the terms of the settlement with Vu nor did he receive the express approval of the court to each provision of the settlement as ordered in the judgment entered against him in Orange County Superior Court.

Respondent filed the immigration lawsuit for an improper purpose, namely to conduct

volume litigation (at least 58 improperly joined defendants) with minimal overhead so as to maximize his profits from settlements. By improperly joining these defendants, respondent avoided payment of filing fees to conduct separate actions against each of them. On May 12, 2005, the filing fee for filing the first paper in a lawsuit was at least \$185.

As discussed in more detail *infra*, in February 2006, respondent was held in contempt for violating the *People v. Brar* injunction, in part, because he filed the ATM litigation.

b. Conclusions of Law

1. Count Five - Section 6103 (Violation of Court Order)

In relevant part, section 6103 makes it a cause for disbarment or suspension for an attorney to wilfully disobey or violate a court order requiring him to do or to forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear.

By filing the ATM litigation against multiple defendants with no factual nexus among them; not filing a separate pleading disclosing all of the terms of the settlement with Vu to the court; and not obtaining the court's approval of all of the settlement terms with Vu, respondent violated the judgment entered against him by the Orange County Superior Court and, therefore, disobeyed a court order in wilful violation of section 6103.

2. Count Six - Section 6068, subd. (c) (Maintaining Illegal or Unjust Action)

By filing the ATM litigation in violation of CCP section 379 and for an improper purpose, respondent maintained an illegal action in wilful violation of section 6068, subdivision (c).

3. Count Seven - Section 6106 (Moral Turpitude)

Given the credible testimony of Cuc Vu and Yoriko Erzelani King-Walker, the State Bar has failed to meet its burden as to the failure to properly investigate whether a sign existed at the store before filing the action. However, respondent did seek and obtain settlement money from Vu in violation of the injunction. He never filed a pleading with the Los Angeles Superior Court disclosing the terms of the settlement with Vu nor did he receive the express approval of the court to each provision of the settlement as ordered. Accordingly, he abused the judicial system and committed an act of moral turpitude, corruption or dishonesty in wilful violation of section

6106.

C. Case nos. 05-O-004009; 06-O-10063; 06-O-10507; 06-O-11817; and 06-O-14117

1. Count One – Case no. 05-O-04009 (Khuu)

a. Facts

On August 31, 2005, the State Bar opened an investigation on case no. 05-O-04009 pursuant to a complaint filed by Ut Khuu regarding allegations of misconduct by respondent in this matter. On January 18, 2006 and again on February 10, 2006, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the complaint. Respondent received the letters but did not answer them or otherwise communicate with the investigator.

b. Conclusions of Law

(1) Count One - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not providing a written response to the allegations in case no. 05-O-04009 as requested in the State Bar's letters of January 18, 2006 and February 10, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the Khuu case in wilful violation of section 6068, subdivision (i).

2. Count Two – Case no. 06-O-10063 (Elias)

a. Facts

On January 19, 2006, the State Bar opened an investigation in case no. 06-O-10063 pursuant to a complaint filed by Ghassan Elias regarding allegations of misconduct by respondent in this matter. On February 10 and March 22, 2006, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the Elias complaint. Respondent received the letters but did not answer them or otherwise communicate with the investigator.

b. Conclusions of Law

(1) Count Two - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not providing a written response to the allegations in the Elias complaint as requested in the State Bar's letters of February 10 and March 22, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the Elias case in wilful violation of section 6068, subdivision (i).

3. Count Three – Case no. 06-O-10507 (People v. Brar)

a. Facts

As previously noted above in reference to State Bar Court case no. 05-O-02902 (the ATM litigation), on July 8, 2003, the California Attorney General filed and properly served a complaint for injunctive and other relief against respondent. (*People v. Harpreet Brar, et al.*, Orange County Superior Court case number 03CC08825.) On October 13, 2004, the court issued a final judgment and permanent injunction, prohibiting respondent from, among other things, naming as defendants, or subsequently identifying any “Doe” defendant, in any action two [sic] or more parties unless all defendants met the factual nexus test required by CCP section 379. That order further required respondent to pay sanctions to specified parties, as well as \$1,787,500.00 in civil penalties within thirty days of the date of entry of the judgment.

On April 20, 2005, respondent filed a lawsuit naming more than 70 unrelated defendants and 250 “Doe” defendants. (*Satinder D. Brar v. Rocky's Liquor, et al.*, Los Angeles Superior Court case no. KC046036.) Later, on July 29, 2005, respondent filed a lawsuit naming 109 unrelated defendants and 250 “Doe” defendants. (*Satinder D. Brar v. Saddleback Liquor, et al.*, Orange County Superior Court case number 05CC08759.)

None of the “Doe” defendants in either the *Rocky's Liquor* or the *Saddleback Liquor* actions met the factual nexus test of CCP section 379, as was ordered by the Orange County Superior Court in *People v. Brar*. That is, there was no relationship among any of the defendants, the right to relief alleged in the lawsuit did not arise out of the same transaction, occurrence, or series of transactions or occurrences, and there was no question of fact common to all these persons. Further, respondent did not timely pay the restitution to the specified parties in the cases, nor did he pay the \$1,787,500 in civil penalties.

On December 12, 2005, the Orange County Superior Court ordered respondent to appear

on January 9, 2006 on an Order to Show Cause re: Contempt (OSC). The order required respondent to show cause why he should not be held in contempt for violating the prior order requiring “Doe” defendants to have a factual nexus to each other, requiring respondent to pay restitution to specified parties, and requiring respondent to pay the \$1,787,500 in civil penalties. Respondent received timely notice of the OSC.

The hearing on the OSC was continued by the court to February 9, 2006. Respondent appeared at the hearing. Orange County Superior Court Judge Peter J. Polos ruled that there was sufficient evidence to establish beyond a reasonable doubt that a contempt of the court’s order had occurred, and respondent was remanded into custody to serve a 15-day jail sentence.

In the contempt hearing, respondent was also ordered to pay, within 30 days: (1) a fine, payable to the court, of \$3,000; (2) attorney’s fees of \$2,754 to Mohammad H. Kamyab and his clients; and (3) attorney’s fees of \$6,250 to Dilip Vithlani and his clients. None of these amounts was paid by respondent.

In February 2006, the State Bar opened an investigation, case no. 06-O-10507, concerning respondent’s contempt of the final order and judgment filed on October 13, 2004, in the *People v. Brar* matter. On both March 22 and April 7, 2006, an investigator wrote to respondent regarding his failure to obey the court’s sanction orders. These letters were received by respondent. Despite these letters requesting that respondent respond in writing to the allegations of misconduct therein contained, he did not do so, nor did he otherwise communicate with the investigator or the State Bar regarding the investigation.

b. Conclusions of Law

(1) Counts Three, Four and Five - Section 6103 (Violation of Court Order)

By filing the Rocky’s Liquor and Saddleback Liquor lawsuits, respondent wilfully disobeyed a court order in wilful violation of section 6103. Further, by failing to pay the restitution ordered by Judge Polos to the specified parties in the lawsuits, and the civil penalties in the amount of \$1,787,500, respondent wilfully disobeyed a court order in wilful violation of section 6103. Finally, by failing to pay the \$3,000 fine to the court, and the attorneys fees to

Mohammad H. Kamyab and Dilip Vithlani, respondent wilfully disobeyed a court order in wilful violation of section 6103.

(2) Count Six - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not providing a written response to the allegations set forth in case no. 06-O-10507, as requested in the letters dated March 22, 2006 and April 7, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the *People v. Harpreet Brar* matter in wilful violation of 6068, subdivision (i).

4. Count Seven – Case no. 06-O-11817 (Asiaban)

a. Facts

In March 2006, the State Bar opened an investigation, case no. 06-O-11817, concerning a complaint filed by Isaac Asiaban. On both September 1 and 26, 2006 and on October 13, 2006, an investigator wrote to respondent regarding his failure to obey the court’s sanction orders. These letters were received by respondent. Despite these letters requesting that respondent respond in writing to the allegations of misconduct therein contained, he did not do so, nor did he otherwise communicate with the investigator or the State Bar regarding the investigation.

b. Conclusions of Law

By not providing a written response to the allegations in the Asiaban complaint as requested in the State Bar’s letters of September 1, September 26, and October 13, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the Asiaban case in wilful violation of 6068, subdivision (i).

5. Counts Eight, Nine, Ten and Eleven – Case no. 06-O-14117 (Court-Ordered Sanctions and Failure to Cooperate.)

a. Facts

On August 25, 2004, respondent filed a lawsuit in the Los Angeles County Superior Court, case number BC320557, entitled *Satinder D. Brar v. Amir Haghigat, et al.* In addition to the named defendant, respondent also named 55 additional defendants and 100 “Doe” defendants.

(1) Count Eight – Daneshi Sanctions

During the litigation of this lawsuit, the attorney for defendant Hamid Daneshi served discovery in the form of interrogatories and a notice to produce documents. Respondent did not respond to this discovery. After an unsuccessful attempt by Daneshi’s counsel to meet and confer with respondent, motions were filed with the court hearing the matter requesting compliance with the discovery and sanctions. After a hearing at which neither respondent nor his client appeared, sanctions were awarded against respondent and the plaintiff, his client,⁸ in the amount of \$1,750 for both the interrogatories and the demand for production of documents, or a total of \$3,500. Respondent was duly served with this order by the court. Despite being properly served with this order, neither respondent nor his client have paid the amounts ordered by the court, or any other amount whatsoever.

(2) Count Nine – Haghigat, Morad, and Bejian Sanctions.

During the litigation of the *Haghigat* matter, the attorney for Amir Haghigat, Morad Morad, and Gevork Bejian, served discovery on respondent. After an unsuccessful attempt by Daneshi’s counsel to meet and confer with respondent, motions were filed with the court hearing the matter requesting compliance with the discovery and sanctions. After a hearing at which neither respondent nor his client appeared, sanctions were awarded against him and his client in the amount of \$1,286.30. Respondent was duly served with this March 23, 2005, order by the court. Despite being properly served with this order, neither respondent nor his client have paid the amount ordered by the court, or any other amount whatsoever.

(3) Count Ten – Urbina, Farias, Lopez, Argueta, Urzua, and Harding Sanctions.

During the litigation of the *Haghigat* matter, the attorney for Cecelia E. Urbina, d.b.a. A&C International Services; Silvia Farias, d.b.a. Farias Services; Paula Lopez, d.b.a. Salazar Services, Sarah R. Argueta, d.b.a. Latin American Immigration Services; Blanca Urzua, d.b.a. Latin American Immigration Service; and Gladys Harding, d.b.a. Immigration Multi Services

⁸Satinder Brar, the plaintiff and respondent’s client, is respondent’s spouse.

served discovery on respondent. After an unsuccessful attempt by Daneshi's counsel to meet and confer with respondent, motions were filed with the court hearing the matter requesting compliance with the discovery and sanctions. After a hearing at which neither respondent nor his client appeared, sanctions were awarded against respondent and/or his client in the amount of \$1,700.30. Respondent was duly served with this April 11, 2005, order by the court. Despite being properly served with this order, neither respondent nor his client have paid the amount ordered by the court, or any other amount whatsoever.

(4) Count Eleven – Not Participating in Disciplinary Investigation.

In August 2006, the State Bar opened an investigation, case no. 06-O-11817, concerning respondent's failure to pay court-ordered sanctions in the *Haghigat* matter. On both October 4 and 24, 2006, an investigator wrote to respondent regarding his failure to obey the court's sanction orders. These letters were received by respondent. Despite these letters requesting that respondent respond in writing to the allegations of misconduct therein contained, he did not do so, nor did he otherwise communicate with the investigator or the State Bar regarding the investigation.

b. Conclusions of Law

(1) Counts Eight, Nine and Ten - Section 6103 (Violation of Court Order)

By failing to pay the sanctions ordered in the *Haghigat* matter, respondent wilfully disobeyed three court orders in wilful violation of section 6103.

(2) Count Eleven - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not providing a written response to the allegations set forth in case no. 06-O-11817, as requested in the letters dated October 4 and 24, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the *Haghigat* matter in wilful violation of 6068, subdivision (i).

IV. LEVEL OF DISCIPLINE

A. Aggravating Circumstances

It is the prosecution's burden to establish aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct⁹, std. 1.2(b).)

Respondent has one prior instance of discipline. (Std. 1.2(b)(i).) In State Bar Court case no. S140112 (State Bar Court case nos. 04-O-11096; 04-O-12135 (Cons.)), filed March 17, 2006, discipline was imposed consisting of one years' stayed suspension; two years' probation; and 30 days' actual suspension, among other things, for improperly filing an anti-SLAPP motion in *People v. Harpreet Brar, et al, supra*, Orange County Superior Court case no. 03CC08825,¹⁰ and for client trust account problems in violation of sections 6068, subdivisions (c) and (g), 6106 and rule 4-100(A) of the Rules of Professional Conduct. The misconduct took place between September and November 2003 (anti-SLAPP motion) and May to December 2002 (trust account problems). Aggravating factors included multiple acts of misconduct; bad faith for filing a frivolous motion and appeal and for misrepresenting the holding of a case; harm to the administration of justice and the public by wasting judicial resources and by interfering with the Attorney General's duty to protect consumers.

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).) Moreover, respondent has demonstrated a pattern of misconduct with regard to violations of section 6068, subdivision (i) (six instances) and 6103 (seven instances). He continued to engage in misconduct even after the NDC in the prior disciplinary case, S140112, was filed on July 12,

⁹Future references to standard or std. are to this source.

¹⁰The court notes that the judgment in this lawsuit figures as the basis for culpability in case nos. 05-O-02902 and 06-O-10507 as set forth above. Moreover, the court notes the similarity in the nature of the misconduct in the present case and in the prior disciplinary record. And further, and most importantly, the court notes that respondent, who has been admitted to the practice of law only since April 2000, has been engaged in a continuous course of misconduct from 2002 until about February 2007.

2004.¹¹

Respondent's misconduct significantly harmed the public and the administration of justice. (Std. 1.2(b)(iv).) Respondent's noncompliance with the judgment and permanent injunction issued in October 2004 caused the superior court to hold an OSC hearing which resulted in respondent being found in contempt of court. He improperly included defendants in prohibited lawsuits.

Respondent displayed a lack of cooperation to the victims of his misconduct and during the State Bar Court proceedings. (Std. 1.2(b)(vi).) As noted more extensively above, respondent was ordered to respond to discovery motions, file pretrial statements and participate in a settlement conference. All of these orders he ignored. He has demonstrated a contemptuous attitude toward disciplinary proceedings as well as a failure to comprehend the duty of an officer of the court to participate therein, a serious aggravating factor. (Std. 1.2(b)(vi); *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 104, 109.)

B. Mitigating Circumstances

Respondent bears the burden of establishing mitigation by clear and convincing evidence. (Std. 1.2(e).) Because respondent did not participate in case number 05-O-01086, the court has been provided no basis for finding mitigating factors in that matter. Further, because respondent received evidentiary sanctions in case number 05-O-04009, et al., he did not offer any testimony in mitigation.

C. Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of

¹¹The misconduct in the present case commenced in August 2004.

imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).)

Standards 2.3 and 2.6(a) and (b) apply in this matter. The most severe sanction is found at standard 2.3 which recommends actual suspension or disbarment for culpability of an act of moral turpitude, fraud, intentional dishonesty or of concealment of a material fact from a court, client or other person, depending on the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the attorney's acts within the practice of law.

Standard 1.7(b), which provides that discipline is progressive, also applies.

The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91, 92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar seeks respondent’s disbarment. The court agrees.

Respondent has had a brief legal career, having been admitted to the practice of law in California in April 2001. In these nearly seven and one-half years at the time of trial, he has engaged in a nearly continuous course of serious misconduct commencing in May 2002, shortly after he was admitted to practice (addressed in his prior disciplinary case) and persisting until February 2007. He continued to engage in misconduct even after the NDC in the prior disciplinary case, S140112 (State Bar Court 04-O-11096), was filed on July 12, 2004.¹²

In the present case alone, he has been found culpable of violating sections 6106 (two instances); 6068, subdivision (c) (two instances); 6068, subdivision (i) (six instances); 6103 (seven instances). As to the latter two charges, the court finds a pattern of misconduct. He

¹²The misconduct in the present case commenced in August 2004.

habitually has disregarded his duties toward the discipline system as evidenced by violations of section 6068, subdivision (i) and his dilatory, disruptive and disrespectful behavior in this court during these proceedings. He habitually ignored or defied court orders as demonstrated by his repeated violations of section 6103 and also by his behavior during these proceedings, which, ultimately, led to the entry of his default. Respondent used the legal system as part of a scheme to extract settlements from small businesses for his own enrichment and in violation of court orders prohibiting him from doing so. These patterns of misbehavior are very serious breaches of fundamental ethical mores for attorneys, namely, respect for the law and for courts. This inability or unwillingness to conform to these ethical mores demonstrate the high risk of future misconduct and his unsuitability as a candidate for suspension or probation.

Substantial aggravating factors have been noted previously. No mitigating circumstances were found.

In consideration of these factors, the court recommends disbarment.

The court found instructive *Barnum v. State Bar* (1990) 52 Cal.3d 104 and *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179.

In *Varakin*, the attorney repeatedly filed frivolous motions and appeals in four different case for a dozen years for the purpose of delay and harassment of his ex-wife and others. He continued this pattern despite being sanctioned numerous times. Varakin greatly harmed the individuals involved and the administration of justice, lacked insight into his misconduct, expressed no remorse and refused to mend his ways. The Review Department stressed his serious abuse of the judicial system, lack of repentance and obdurate persistence in misconduct. He was disbarred.

In *Barnum*, the Supreme Court disbarred the attorney for collecting an unconscionable fee and disobeying court orders to return the fee and refusing to participate in the disciplinary proceeding. The court concluded that Barnum was not a good candidate for suspension and/or probation. He breached two separate terms of a prior disciplinary order, leading to the imposition of additional sanctions. He also defaulted before the State Bar in the present and in one other proceeding. Respondent had also been disciplined before for similar misconduct which

began only five years after he was admitted to the practice of law and ended only one year before the misconduct began in the case at hand. Similarly, in this court's proceeding, respondent Brar has repeatedly disregarded orders of the superior court and of the State Bar Court, leading to the impositions of sanctions and to the entry of default herein. He engaged in misconduct shortly after being admitted to the practice of law and continued down that path despite the pendency of his prior disciplinary case. He, too, is not a good candidate for suspension or probation.

Having considered the evidence and the law, the court believes that disbarment is the only means of protecting the public from further malfeasance by this respondent. He has been engaged in similar misconduct since shortly after he was admitted to the practice of law in April 2000 and has not shown that he is able or willing to modify his conduct. To the contrary, despite an injunction being issued against his filing certain types of cases, he proceeded to do so three times, resulting in his being found in contempt and ordered jailed for 15 days. Respondent has demonstrated a contempt for the law, both in his civil litigation and in these proceedings, which is completely unacceptable in an attorney. Given his refusal to comply with a court-ordered injunction, his complete lack of participation in case number 05-O-0186, et seq. in this court, and his repeated refusal to comply with court orders in case number 05-O-04009, it is clear to the court that the imposition of probation will be insufficient to monitor and modify his conduct. Accordingly, the court recommends that he be disbarred.

V. DISCIPLINE RECOMMENDATION

IT IS HEREBY RECOMMENDED that respondent Harpreet Singh Brar be DISBARRED from the practice of law in the State of California and that his name be stricken from the rolls of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with rule 9.20, paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph (c) within 40 days of the effective date of the order showing his compliance with said order.

VI. COSTS

It is recommended that 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.

VII. ORDER REGARDING INACTIVE ENROLLMENT

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007, subdivision (c)(4). The inactive enrollment shall become effective three days from the date of service of this order and shall terminate upon the effective date of the Supreme Court's order imposing discipline herein or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: January ____, 2008

RICHARD A. HONN
Judge of the State Bar Court