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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES</b>		
<b>Counsel For The State Bar</b>  Cydney Batchelor Deputy Trial Counsel 180 Howard St., 6 <sup>th</sup> Fl. San Francisco, CA 94105 Tele: 415/538-2204  Bar # 114637	<b>Case Number (s)</b> 05-O-02960-PEM 05-O-03417 05-O-03418 05-O-03655 05-O-04188 05-O-04824 05-O-04867	(for Court's use)  <b>CONFIDENTIAL</b>  <b>PUBLIC MATTER</b>  <b>LODGED</b>  OCT 29 2007 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  Susan L. Margolis Attorney at Law Margolis & Margolis LLP 2000 Riverside Dr. Los Angeles, CA 90039 Tele: 323/953-8996  Bar # 104629	<b>FILED</b> AUG 30 2010 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO	
<b>In the Matter Of:</b>  <b>PATRICK E. SAFFARIAN</b>  Bar # 217520  A Member of the State Bar of California (Respondent)	Submitted to: Program Judge  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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

#### A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 20, 2001.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 19 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1) ☐ Prior record of discipline [see standard 1.2(f)]
  - (a) ☐ State Bar Court case # of prior case
  - (b) ☐ Date prior discipline effective
  - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
  - (d) ☐ Degree of prior discipline
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☐ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attached
- (5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attached
- (8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

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**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. **See attached**
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances are involved.**

**Additional mitigating circumstances:**

**See attached**

**ATTACHMENT TO**  
**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

IN THE MATTER OF:      **PATRICK E. SAFFARIAN**

CASE NUMBERS:      **05-O-02960; 05-O-03417; 05-O-03418**  
                             **05-O-03655; 05-O-04188; 05-O-04824;**  
                             **05-O-04867**

**DISMISSAL.**

Upon the respondent's acceptance into the State Bar Court's alternative discipline program, the State Bar requests the Court to dismiss case number 05-O-04867, with prejudice (the allegations therein have been incorporated into case number 05-O-04188 below), and 05-O-03655, without prejudice (the case was referred to us by Santa Clara County Superior Court Judge Jacobs-May; despite numerous attempts by the State Bar to contact him, the real-party-in-interest, respondent's former client and former landlord Allen Mirzaei, has not responded).

**FACTS AND CONCLUSIONS OF LAW.**

**Case No. 05-O-02960 (Quesada)**

**Facts:**

1. On April 23, 2004, Karen Quesada ("Quesada") employed respondent to file a civil suit on her behalf. On that date, respondent requested and was paid \$3500.00 in advanced attorney's fees.
2. On August 4, 2004, respondent filed Quesada's civil suit, entitled *Quesada vs. Benny Rodriguez, dba Rodriguez Remodeling*, Case No. 104CV02411.
3. On November 30, 2004, respondent appeared on Quesada's behalf at a case management conference. Thereafter, respondent ceased to perform any significant legal services on Quesada's behalf. However, at no time after attending the November 30, 2004 case management conference did respondent inform Quesada that he intended to terminate the attorney-client relationship, or that he would provide no further legal services to her.

4. On December 2, 2004, the court issued an order setting another case management conference for February 1, 2005. Respondent was properly served with the court's order, and it was not returned as undeliverable.

5. On February 1, 2005, the court held the case management conference. Respondent failed to appear.

6. On February 2, 2005, the court issued an order to show cause why the case should not be dismissed for failure of all parties to appear at the case management conference. The OSC hearing was set for March 24, 2005. Respondent was properly served with the court's order, and it was not returned as undeliverable.

7. During February 2005, Quesada placed several phone calls to respondent's office seeking an appointment with respondent to discuss her matter. Quesada left messages for respondent, and respondent received the messages but did not return Quesada's calls.

8. On March 24, 2005, the Court held the OSC hearing. Respondent failed to appear, and the court dismissed Quesada's matter. On March 25, 2005, the court issued its dismissal order and properly served respondent; it was not returned as undeliverable.

9. Respondent failed to inform Quesada that her matter had been dismissed.

10. After March 24, 2005, Quesada placed several phone calls to respondent's new office, seeking a status update on her matter. Quesada also left messages for respondent on his answering service, requesting information on her matter and requesting that respondent return her calls. Respondent received Quesada's phone messages but did not respond.

11. Respondent did not refund any portion of the \$3500.00 in unearned attorney's fees to Quesada after he ceased to perform legal services on her behalf.

12. In June 2005, the State Bar opened case number 05-O-02960 pursuant to a complaint made by Quesada.

13. On September 20, 2005, State Bar Investigator Michael Maacks ("Maacks") wrote to respondent regarding the Quesada matter. Maacks' letter requested that respondent reply in writing to specified allegations of misconduct being investigated by the State Bar in the case. Maacks' letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the

United States Postal Service in the ordinary course of business. The United States Postal Service did not return Maacks' letter as undeliverable or for any other reason.

14. On January 9, 2006, respondent changed his membership records address to 2292 Elkhorn Court, San Jose, CA 95125. On January 19, 2006, Maacks again wrote to respondent regarding the Quesada matter. Maacks' letter again requested that respondent respond in writing to specified allegations of misconduct. Maacks' letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return Maacks' letter as undeliverable or for any other reason.

15. Respondent never responded to the allegations in the Quesada matter.

Conclusions of Law: By repeatedly failing to appear at the case management conferences and the order to show cause hearing, and by recklessly failing to prosecute Quesada's matter, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to respond to Quesada's status inquiries, respondent failed to respond promptly to reasonable status inquiries of a client, in violation of Business and Professions Code section 6068(m). By willfully failing to inform Quesada that her matter had been dismissed, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in further violation of Business and Professions Code section 6068(m). By willfully failing to return to Quesada any portion of the \$3500.00 unearned attorney fees paid in advance, respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in violation of Rule of Professional Conduct 3-700(D)(2). By willfully not providing a written response to the allegations in the Quesada matter, or to otherwise cooperate in the investigation, respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

Case No. 05-O-03417 (Quinonez)

Facts:

1. On May 13, 2003, respondent was employed by Manuel Quinonez ("Quinonez") to represent him in a civil dispute.
2. From July 30, 2003 through December 2003, Quinonez paid respondent the sum of \$2526.00 in advanced attorney's fees.

3. On October 21, 2003, respondent filed a civil suit in Santa Clara Superior Court on behalf of Quinonez, entitled *Quinonez vs. Young*, Case No. 1-03-CV-007509.
4. On November 18, 2003, respondent and Quinonez executed a fee agreement.
5. On November 25, 2003, the attorney for opposing party Young filed a cross-complaint against Quinonez, and served respondent with it. Respondent failed ever to file a response to the cross-complaint.
6. On February 27, 2004, the court served notice on respondent that the Quinonez case was set for a case management conference on April 20, 2004, and it was not returned as undeliverable.
7. On April 20, 2004, respondent failed to appear at the case management conference on behalf of Quinonez.
8. On April 27, 2004, the court issued its order to show cause, setting the hearing for May 20, 2004, as to why sanctions should not be imposed and the Quinonez matter dismissed. Respondent was properly served with the court's order, and it was not returned as undeliverable.
9. After May 19, 2004, respondent ceased to perform any significant legal services on Quinonez's behalf. However, at no time after May 19, 2004 did respondent inform Quinonez that he intended to terminate the attorney-client relationship with Quinonez, or that he was not actively prosecuting Quinonez's matter.
10. On May 20, 2004, the court held the OSC. Respondent appeared at the OSC, at which time the court vacated the OSC and set the matter over for another case management conference to be held on July 27, 2004.
11. On July 30, 2004 the court issued an order setting the Quinonez case on calendar for September 21, 2004. Respondent was properly served with the court's notice of hearing, and it was not returned as undeliverable.
12. On August 2, 2004, Young's attorney served on respondent requests for production of documents and form interrogatories. Respondent failed to respond to the discovery requests by the September 7, 2004 due date, or to preserve Quinonez's objections to the discovery requests.
13. On September 21, 2004, Young's attorney wrote to respondent requesting a "meet and confer" to attempt to obtain responses to Young's previously propounded

discovery requests. Respondent received the letter, but failed to respond or to provide discovery responses on behalf of Quinonez.

14. Also on September 21, 2004, respondent failed to appear at the case management conference on Quinonez's behalf. On September 24, 2004, the court issued another OSC Re: Dismissal, for respondent's failure to appear. The matter was calendared for October 28, 2004. Respondent was properly served with the court's order, and it was not returned as undeliverable.

15. On October 28, 2004, respondent appeared at the OSC. The court vacated the OSC, and noted in its minute order that it was setting another OSC Re: Dismissal or new counsel for Quinonez to appear to take respondent's place on December 2, 2004.

16. On December 8, 2004, the court issued a notice of further case management conference setting the Quinonez case for January 25, 2005. Respondent was properly served with the court's order, and it was not returned as undeliverable.

17. On January 13, 2005, Young's attorney filed and served upon respondent a motion to compel responses to the previously propounded discovery requests. Respondent received the motion to compel, but failed to file a response on Quinonez's behalf.

18. On January 25, 2005, the court held the case management conference in the Quinonez case; respondent failed to appear.

19. On May 2, 2005, the court issued a sanction order against respondent in the sum of \$2622.50 for his multiple failures to appear at case management conferences. Respondent was ordered to pay the sanctions within (30) thirty days. Respondent was properly served with the court's order, and it was not returned as undeliverable.

20. Respondent failed to report the issuance of sanctions against him in excess of \$1000.00 to the State Bar, or to pay the sanctions as ordered by the due date. Quinonez paid the sanctions instead.

21. On June 7, 2005, respondent executed a substitution of counsel in the Quinonez matter.

22. On June 26, 2005, Quinonez wrote to respondent and requested the refund of his advanced attorney's fees. Quinonez sent the letter to respondent via certified mail, and respondent received it. On September 4, 2006, after the intervention of the State Bar,



respondent paid Quinonez \$6300.00 (representing \$2622.50 for reimbursement for the sanctions, \$2526.00 for reimbursement of unearned fees, and \$1151.50 in interest).

23. In April 2005, the State Bar opened case number 05-O-03417 pursuant to a complaint made by Quinonez.

24. On August 11, 2005, State Bar Investigator Michael Maacks ("Maacks") wrote to respondent regarding the Quinonez matter. Maacks' letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the case. Maacks' letter was placed in a sealed envelope correctly addressed to respondent's official membership records address, and to an alternate address located on King Road in San Jose, California. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

25. The United States Postal Service did not return the August 11, 2005 letter addressed to respondent's official membership records address for any reason. However, the Postal Service did return Maacks' August 11, 2005 letter addressed to the King Road address as undeliverable.

26. On September 19, 2005, State Bar Investigator Michael Maacks ("Maacks") again wrote to respondent regarding the Quinonez matter. Maacks' letter again requested that respondent respond in writing to specified allegations of misconduct. Maacks' letter was placed in a sealed envelope correctly addressed to respondent's official membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

27. The United States Postal Service did not return Maacks' September 19, 2005 letter for any reason.

28. Respondent never responded to the allegations in the Quinonez case.

Conclusions of Law: By repeatedly failing to file a response to the cross-complaint on Quinonez's behalf, failing to file responses to the discovery propounded by Young's attorney, failing to appear at the case management conferences on April 20, 2004, September 21, 2004, January 25, 2005, and failing to file a response to the motion to compel discovery responses on Quinonez's behalf, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to promptly provide Quinonez with a refund of unearned attorney fees, respondent failed to refund promptly

any part of a fee paid in advance that has not been earned, in violation of Rule of Professional Conduct 3-700(D)(2). By willfully failing to inform Quinonez that a default judgment had been entered against him, or that he was not actively pursuing Quinonez's litigation, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m). By willfully failing to pay the sanctions imposed on May 2, 2005 by the due date, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in violation of Business and Professions Code section 6103. By willfully failing to report to the State Bar, in writing, within 30 days of the time respondent had knowledge of the imposition of the \$2622.50 in sanctions, respondent willfully failed to report the imposition of judicial sanctions against him, in violation of Business and Professions Code section 6068(o)(3). By willfully failing to provide a written response to the allegations in the Quinonez matter, or otherwise to cooperate in the investigation, respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

**Case No. 05-O-03418 (Van Ness)**

**Facts:**

1. On November 18, 2002, respondent was employed by Elaine Van Ness ("Van Ness") to represent her in civil litigation. The parties executed a fee agreement on the same date.
2. Between January 2002 and February 2003, Van Ness paid respondent the sum of \$5500.00 in advanced attorney's fees.
3. On December 10, 2002, respondent filed a wrongful foreclosure action on Van Ness's behalf, entitled *Van Ness v. Sarver*, Case No. CV813246 ("wrongful foreclosure case").
4. On January 8, 2003, Sarver's attorney served respondent with a demurrer on the complaint in *Sarver II*. Respondent received the demurrer, but did not file a response.
5. On January 17, 2003, Sarver's attorney served respondent with a motion to expunge the lis pendens in the wrongful foreclosure case. Respondent received the motion, but did not file an opposition on Van Ness's behalf. Instead, respondent

persuaded Van Ness to allow him to dismiss the case, and to re-file it at a later time as a damages case. She consented to his strategy.

6. Respondent failed ever to re-file the case as he promised to do. After January 29, 2003, respondent ceased to perform any significant legal services on Van Ness' behalf. However, at no time did he inform Van Ness that he was terminating the attorney-client relationship in that matter, or that he would not perform any further legal services on it.

7. During April and May 2005, Van Ness placed daily telephone calls to respondent's office number and respondent's cell telephone number requesting that respondent inform her of the status of her matters. Respondent received Van Ness's requests for status updates, but did not respond to any of her telephone calls.

8. On June 1, 2005, Van Ness placed a telephone call to respondent's office telephone number and found that the number had been disconnected.

9. At no time after January 8, 2003 did respondent refund any of the \$5500.00 unearned attorney's fees he had been paid to represent Van Ness, although his services were of almost no value to her.

10. In June 2005, the State Bar opened case number 05-O-03418 pursuant to a complaint made by Van Ness.

11. On August 11, 2005, State Bar Investigator Michael Maacks ("Maacks") wrote to respondent regarding the Van Ness matter. Maacks' letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in that case. Maacks' letter was placed in a sealed envelope correctly addressed to respondent's official membership records address, and to an alternate address located on King Road in San Jose, California. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

12. The United States Postal Service did not return the August 11, 2005 letter addressed to respondent's official membership records address for any reason. However, on August 16, 2005, the United States Postal Service returned Maacks' August 11, 2005 letter addressed to the King Road address as undeliverable.

13. On September 19, 2005, State Bar Investigator Michael Maacks ("Maacks") wrote another letter to respondent regarding the Van Ness matter. Maacks' letter again requested that respondent respond in writing to specified allegations of misconduct.

Maacks' letter was placed in a sealed envelope correctly addressed to respondent's official membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business. The United States Postal Service did not return Maacks' September 19, 2005 letter for any reason.

14. Respondent never responded to the allegations in the Van Ness matter.

Conclusions of Law: By willfully convincing Van Ness to dismiss her case on the promise that he would re-file it in another form, and then failing to re-file it, and by willfully failing to perform any significant legal services on Van Ness's behalf after April 23, 2003, without telling Van Ness that he would not do so, respondent failed upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in violation of Rule of Professional Conduct 3-700(A)(2). By willfully failing to respond to Van Ness's numerous telephone calls, respondent failed to respond promptly to status inquiries from a client, in violation of Business and Professions Code section 6068(m). By willfully failing to provide Van Ness with a refund of any portion of the \$5500.00 in unearned attorney's fees, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in violation of Rule of Professional Conduct 3-700(D)(2). By willfully failing to provide a written response to the allegations in the Van Ness matter, or otherwise to cooperate in the investigation, respondent failed to cooperate in a disciplinary investigation, in violation of Business and Professions Code section 6068(i).

Case No. 05-O-04188 (Pittman)

Facts:

1. In November 2003, Bruce Pittman ("Pittman") employed respondent to represent him in a partition action.
2. On November 12, 2003, Pittman paid respondent the sum of \$3500.00 in advanced attorney's fees.
3. On March 23, 2004, respondent filed the civil complaint, entitled *Pittman vs. Rosso*, Santa Clara Superior Court Case No. 104 CV016593.
4. Respondent subsequently represented Pittman at a mediation in the case, but it did not settle.

5. On June 5, 2004, Pittman paid respondent another \$3500.00 in advanced attorney's fees.

6. After June 5, 2004, respondent ceased to perform any legal services on Pittman's behalf. However, at no time after March 23, 2004 did respondent inform Pittman that he intended to terminate the attorney-client relationship or that he would perform no further legal services on the matter.

7. Respondent failed to file a response on Pittman's behalf to the cross-complaint that had been filed in the case. On July 6, 2004, opposing counsel filed a request for entry of default in the cross-complaint. Respondent failed to file any response to the request for entry of default on Pittman's behalf.

8. On July 20, 2004, respondent failed to appear at a case management conference, despite having proper notice of the conference.

9. On August 5, 2004, the court issued an OSC Re: Sanctions for non-compliance because respondent had failed to file the case management conference statement in the Pittman matter. Respondent was ordered to appear on September 9, 2004. Respondent was properly served with the court's order, and it was not returned as undeliverable.

10. On September 9, 2004, the court held the OSC and verbally awarded sanctions in the sum of \$150.00 against respondent. The case was continued until September 14, 2004 for a further case management conference. On September 14, 2004, the court issued its minute order imposing the \$150.00 sanctions on respondent.

11. Respondent was properly served with the September 14, 2004 order, and he received it. However, he failed to inform Pittman about the order although it required Pittman to appear at the October 14, 2004 court conference. Accordingly, Pittman did not appear at the conference.

12. In September 2004, respondent was notified by Pittman's replacement counsel that he was being substituted out of the case, and was provided with a substitution of attorney that Pittman signed on September 22, 2004. Respondent failed to return the signed substitution of counsel to subsequent counsel before the October 14, 2004 court conference, failed to notify subsequent counsel that he would not appear on Pittman's behalf at that conference, and failed to appear to tell the court that he was no longer representing Pittman. Accordingly, Pittman's interests were not represented in court on that date.

13. On October 14, 2004, the court held the scheduled conference. When respondent failed to appear, the court indicated that it intended to dismiss the matter. On October 21, 2004, Pittman's subsequent counsel filed the substitution of counsel. On November 1, 2004, the Court issued an order that dismissed the Pittman case.

14. On March 16, 2005, Pittman wrote to respondent via certified mail requesting the refund of his unearned advanced attorney fees. Respondent did not pick up the letter from the post office, and it was returned to Pittman as unclaimed on April 9, 2005. Respondent failed to refund any unearned fees to Pittman.

15. On April 1, 2005, respondent was ordered by the court to pay the sum of \$6315.85, as follows \$4112.50 in attorney's fees to Joanne Rosso, \$1000.00 in sanctions to Joanne Rosso, and \$1203.35 to Kenneth Prochnow.

16. Respondent was properly served with the court's order, and it was not returned as undeliverable. However, respondent failed to pay the sanctions, or any part of them, in a timely manner.

Conclusions of Law: By repeatedly failing to file a response to the cross-complaint, failing to file a response to the request for entry of default, and failing to appear at scheduled court dates, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to inform Pittman about the requirement that he appear at the October 14 court conference, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent agreed to provide legal services, in violation of Business and Professions Code section 6068(m). By willfully failing to provide Pittman with a refund of any portion of the \$7000.00 in advanced attorney's fees that were unearned, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in violation of Rule of Professional Conduct 3-700(D)(2). By willfully failing to pay any portion of the sanctions ordered against him on April 1, respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear, in violation of Business and Professions Code section 6103.

Case No. 05-O-04824 (Overall)

Facts:

1. Beginning on or before September 30, 2004, respondent was employed to represent Dwane and Jeanne Overall ("the Overalls") in a breach of contract/fraud matter.

2. On September 30, 2004, respondent filed a lawsuit on behalf of the Overalls, entitled *Dwane Overall and Jeanne Overall vs. Lynn Knee*, in the Santa Clara County Superior Court.

3. Between the date of filing the complaint and July 25, 2005, respondent worked on a settlement with opposing counsel on Overalls' behalf.

4. At a status conference on July 25, 2005, respondent reported to the court that the matter had settled, and read the general terms into the record. The court continued the matter to September 15, 2005, and said that if the matter had settled and the dismissals were timely filed, neither the parties nor their attorneys were required to appear in court.

5. For a time after the hearing, respondent attempted to finalize the settlement with opposing counsel; however, the settlement was never finalized. Respondent ceased to perform any further legal services, to withdraw properly as attorney of record, or to notify his clients that they needed to appear in court on September 15, 2005.

6. On September 15, 2005, the status conference was held. Respondent failed to appear at the hearing, either by phone or in person, and his clients were not present at the hearing. The court issued a minute order which included an OSC Re: Dismissal for respondent and the Overalls' failures to appear. The court set the OSC for October 20, 2005.

7. On September 19, 2005, the court properly served respondent with the OSC; it was not returned as undeliverable.

8. On October 20, 2005, the court held the OSC hearing re: dismissal for the Overalls' prior failure to appear on September 15, 2005. Ms. Overall appeared at the hearing after learning about it independently of respondent. Respondent did not appear. The court then vacated the OSC hearing and set the matter over for further case management conference to be held on November 29, 2005.

9. After the hearing on October 20, 2005, Ms. Overall sent a draft modification to the settlement agreement to respondent for his legal advice. It was not returned to her as undeliverable; however, respondent never responded.

10. On October 24, 2005, the court's October 20, 2005 order was properly served on respondent; it was not returned as undeliverable.

11. On November 29, 2005, the court held the case management conference, but respondent did not appear at the conference.

Conclusions of Law: By repeatedly failing to appear at the hearing on September 15, 2005, failing to appear at the OSC on October 20, 2005, and failing to appear at the case management conference on November 29, 2005 case, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in violation of Rule of Professional Conduct 3-110(A). By willfully failing to finalize the settlement or inform the Overalls that he was unable to do so, and failing to tell them that he could no longer represent them, respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the rights of his clients, in violation of Rule of Professional Conduct 3-700(A)(2). By willfully failing to inform the Overalls of the September 15, 2005 court date, respondent failed to keep these clients reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in violation of Business and Professions Code section 6068(m).

### PENDING PROCEEDINGS.

The disclosure date referred to on page one, paragraph A.(6), was September 7, 2007.

### AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct: The stipulated misconduct involves multiple acts of misconduct to six different clients.

Significant Harm: Respondent caused significant harm to the civil courts by his repeated failure to appear in the cases set forth herein. In addition, the clients in each of the following cases suffered harm: in the *Quesada* case, the civil case was dismissed and Quesada still has not received a refund of the \$3500.00 in unearned attorney fees; in the *Van Ness* case, respondent convinced Ms. Van Ness to dismiss her case on the promise that the case would be filed, but it never was, and Van Ness still has not received a refund of any portion of the ~~\$8000.00~~ <sup>5500.00</sup> in unearned advanced attorney fees; and in the *Pittman* case, none of the people to whom respondent was ordered to pay a portion of the \$6315.85 in sanctions in the *Pittman* case has been paid, and Pittman has not received a refund of any portion of the \$7000.00 in unearned advanced attorney fees.

### MITIGATING FACTOR.

Candor and Cooperation: Through his counsel, respondent has been candid and cooperative in resolving the above cases.



**ADDITIONAL MITIGATING FACTORS.**

Participation in Lawyer's Assistance Program. On February 15, 2006, respondent contacted the State Bar Lawyer Assistance Program ("LAP") and completed the intake process. On February 21, 2006, respondent signed a pre-enrollment assessment agreement with LAP. Respondent was then assessed and monitored for a period for time by the LAP. At the conclusion of the process, respondent signed a long-term participation plan on August 16, 2006.

Delayed Restitution: Although he did not do so until after the intervention of the State Bar, respondent repaid Quinonez the entire amount of the sanctions, the entire advanced attorney fees, and approximately \$1500.00 in interest.

**RESTITUTION.**

Respondent waives any objection to immediate payment by the State Bar Client Security Fund upon a claim or claims for the principal amounts of restitution set forth below:

In accordance with the timetable set forth in the in the State Bar Court Program to be executed between the State Bar Court and respondent on the captioned case, Respondent must make restitution as follows:

Karen Ouesada, or the Client Security Fund if it has paid on respondent's behalf, in the principal amount of \$3500.00, plus interest at the rate of 10% per annum from December 1, 2004, until paid in full and furnish satisfactory evidence of restitution to the State Bar Office of Probation.

Alaine Van Ness, or the Client Security Fund if it has paid on respondent's behalf, in the principal amount of \$5500.00, plus interest at the rate of 10% per annum from May 1, 2003, until paid in full and furnish satisfactory evidence of restitution to the State Bar Office of Probation.

Joanne Rosso, or the Client Security Fund if it has paid on respondent's behalf, in the principal amount of \$5112.50, plus interest at the rate of 10% per annum from April 1, 2005, until paid in full and furnish satisfactory evidence of restitution to the State Bar Office of Probation.

Kenneth Prochnow, or the Client Security Fund if it has paid on respondent's behalf, in the principal amount of \$1203.35, plus interest at the rate of 10% per annum from April 1,

2005, until paid in full and furnish satisfactory evidence of restitution to the State Bar Office of Probation.

#### CONDITIONAL RESTITUTION.

05-Q-04188 (Pittman): Respondent hereby agrees to send a letter to Pittman, by overnight courier and in a manner that provides proof of receipt, within 30 days from the date he signs this stipulation, and therein offer to initiate and participate in fee arbitration upon Pittman's request regarding Pittman's outstanding dispute with respondent over \$7000.00 in advanced fees. Respondent further agrees to initiate and participate in fee arbitration upon Pittman's request, and to abide by the final order if any there be. Respondent further agrees to provide proof of sending the Pittman letter to the State Bar Office of Probation, within 10 days from the date of transmission. Respondent further agrees to provide the Office of Probation with proof that Pittman received the order, and that he has initiated fee arbitration, and received a final fee arbitration order, within 30 days of the date of any of those occurrences. Respondent understands and agrees that his failure to send the letter or confirm that Pittman received it, or to initiate or participate in fee arbitration upon Pittman's request, to abide by the final order, if any there be, or to provide proof of those occurrences to the Office of Probation may constitute a violation of this stipulation and may lead to termination from the Alternative Discipline Program.

(Do not write above this line.)

In the Matter of  
PATRICK E. SAFFARIANCase number(s):  
05-O-02960-PEM**SIGNATURE OF THE PARTIES**

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

September 9, 2007  
Date

  
Respondent's Signature

PATRICK E. SAFFARIAN  
Print Name

September 11, 2007  
Date

  
Respondent's Counsel Signature

SUSAN L. MARGOLIS  
Print Name

9/12/07  
Date

  
Deputy Trial Counsel's Signature

CYDNEY BATCHELOR  
Print Name

(Do not write above this line.)

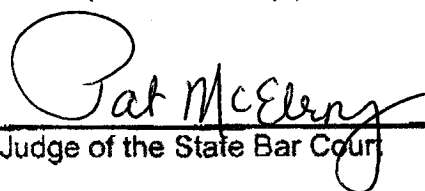
In the Matter Of  
PATRICK E. SAFFARIANCase Number(s):  
05-O-02960-PEM**ORDER**

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

- ☒ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

Date

October 29, 2007  
Judge of the State Bar Court

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

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 29, 2007, I deposited a true copy of the following document(s):

**CONFIDENTIAL STATEMENT OF ALTERNATIVE DISPOSITIONS AND ORDERS**

**CONTRACT AND WAIVER FOR PARTICIPATION IN THE STATE BAR COURT'S ALTERNATIVE DISCIPLINE PROGRAM**

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

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

☒ By personally delivering such documents to the following individuals:

**PATRICK E. SAFFARIAN**  
**180 HOWARD STREET, 6<sup>TH</sup> FLR**  
**SAN FRANCISCO, CA 94105**

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

**SUSAN LYNN MARGOLIS**  
**MARGOLIS & MARGOLIS LLP**  
**2000 RIVERSIDE DR**  
**LOS ANGELES CA 90039**

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

**CYDNEY BATCHELOR, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 29, 2007**.



**George Hue**  
Case Administrator  
State Bar Court