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**State Bar Court of California
Hearing Department
Los Angeles**

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| <p>Counsel For The State Bar</p> <p>Michael J. Glass 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1000</p> <p>Bar # 102700</p> | <p>Case Number (s)</p> <p>06-O-13025 06-O-14149 07-O-11399 07-O-11737 07-O-14003 08-O-13489 (inv)</p> | <p>(for Court's use)</p> <p align="center">PUBLIC MATTER</p> <p align="center">FILED</p> <p align="center">AUG 25 2009 <i>R</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> |
| <p>In Pro Per Respondent</p> <p>Mark H. Williams 4401 Atlantic Ave., #200 Long Beach, CA 90807 (562) 212-3947</p> | <p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>Bar # 220341</p> | <p>In the Matter Of: Mark H. Williams</p> | |
| <p>Bar # 220341</p> | <p>A Member of the State Bar of California (Respondent)</p> | |

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **July 2, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **32** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **2010 and 2011.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

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.
- (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. **Respondent engaged in the following multiple acts of misconduct: failed to perform in three client matters; failed to communicate with three clients; failed to release a client file; failed to account to a client; failed to refund unearned fees to two clients; failed to properly withdraw from employment in one client matter; counseled and**

maintained three unjust actions; failed to report a monetary sanction imposed against him; violated multiple court orders; engaged in the unauthorized practice of law, which amounted to acts of moral turpitude; failed to maintain a current address with the State Bar; and failed to cooperate in a State Bar investigation in five matters.

- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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.
- (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

Respondent has no prior record of discipline. However, he was admitted to the State Bar on July 2, 2002, and his misconduct commenced in June 2005, only three years after he was admitted. Thus his lack of prior discipline is entitled to no or little weight in mitigation. (*Gadda v. State Bar* (1990) 50 Cal.3d 344, 356, attorney's lack of prior record in five and one-half years of practice before his misconduct began not a mitigating factor; *Cannon v. State Bar* (1990) 51 Cal. 3d 1103, 1105, attorney's lack of a prior record of discipline entitled to little weight in mitigation as he had been in practice only six years before his first act of misconduct). The parties agree however that Respondent's limited professional experience contributed to his misconduct. (*Crawford v. State Bar* (1960) 54 Cal.2d 659, 669.) Respondent also has entered into stipulations of fact, thereby saving resources of the State Bar, and has agreed to make full restitution of the fees paid by his client, Araceli Pineda, despite performing some services for Pineda, thereby demonstrating his recognition of wrongdoing and remorse for his misconduct. (See In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788, 807.)

D. Discipline:

- (1) Stayed Suspension:

(a) Respondent must be suspended from the practice of law for a period of **two years**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

- (2) Probation:

Respondent must be placed on probation for a period of **four years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) Actual Suspension:

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **one year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 No Ethics School recommended. Reason: _____
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
 Substance Abuse Conditions Law Office Management Conditions

Medical Conditions

Financial Conditions

F. Other Conditions Negotiated by the Parties:

(1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

(2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

(5) **Other Conditions:**

G. DISMISSALS:

In the interest of justice, the parties agree to dismiss, with prejudice, Count Five of Case No. 06-O-14149 - Rules of Professional Conduct, rule 4-200(A); Count Seven of Case No. 07-O-11737 - Business and Professions Code section 6068(a); and Counts Nine, Eleven, and Thirteen of Case No. 07-O-11737 - Business and Professions Code section 6106 of the Notice of Disciplinary Charges filed on August 5, 2008.

H. SUPPORTING AUTHORITY:

The recommended discipline falls within the range of discipline of reproof to disbarment under the applicable Standards for Attorney Sanctions for Professional Misconduct, standards 2.2(b), 2.3, 2.4(b), 2.6, and 2.10.

Attachment language begins here (if any):

Respondent admits that the following facts are true and that he is culpable of the following violations:

Case No. 06-O-13025

I. A. FACTS:

1. On or about September 28, 2005, Araceli J. Pineda ("Pineda") hired Respondent to represent Pineda in her dissolution of marriage action. Respondent and Pineda agreed in writing that Pineda would pay Respondent \$4,000 for legal services and a \$336 court filing fee. The written agreement stated that the legal fees were "non-refundable"; however, the \$4,000 was to be applied to cover the first 20 hours of Respondent's time and thereafter Respondent's services were to be billed at \$250 per hour. Pineda paid Respondent \$4,000 as an advance fee and \$336 for the court filing fee.

2. On or about September 29, 2005, Respondent filed a Petition for Dissolution of Marriage in the Los Angeles County Superior Court entitled *In re Marriage of Pineda and Pineda*, case number ND053813.

3. On or about November 7, 2005, the defendant filed his response to the petition. Around this time, Pineda informed Respondent that she was attempting to reach an agreement regarding financial issues with her husband and that she was still residing with her husband, so Respondent did not need to take immediate action regarding support or child custody and visitation issues at the time, but Respondent understood that she ultimately needed these issues resolved by the time the dissolution was finalized.

4. In the latter half of April 2006, Pineda left messages for Respondent to return her calls regarding the status of her matter. Respondent did not return any of Pineda's phone calls. However, Respondent did notify Pineda that she was required to appear at a scheduled court appointment on April 24, 2006 at 8:30 AM. On April 24, 2006, Pineda went to the scheduled court appointment and could not find Respondent because he had not scheduled the court appointment as he stated. Pineda called Respondent at least three times. Respondent never contacted Pineda at that time or any time thereafter. Respondent never resolved the issues surrounding the missed court appointment.

5. In or around April 2006, Pineda visited Respondent's office on at least two dates and Respondent's office door was locked shut. On or about April 28, 2006, Pineda mailed a letter to Respondent. In the letter, Pineda terminated Respondent's employment due to his lack of communicating with her regarding the status of her matter, and requested that Respondent return her file and all unearned fees. Respondent received the letter.

6. In or about April 2006, Pineda hired attorney Warren Chao ("Chao") to substitute into Pineda's matter.

7. In or about April 2006, Chao telephoned Respondent's office and informed Respondent's office that Chao would be substituting into Pineda's matter. Around that same time, Chao's office staff placed a substitution form under Respondent's locked front office door to Respondent's law office.

8. On or about May 8, 2006, Chao mailed a letter to Respondent on behalf of Pineda. In the letter, Chao asked that Respondent formally substitute out of Pineda's lawsuit and release Pineda's legal file to Chao. Chao requested that Respondent return the substitution immediately to assist Pineda. Respondent did not respond to Chao's request for the return of the form.

9. On or about May 18, 2006, Chao, filed a motion to relieve Respondent as Pineda's attorney. The court granted that motion on or about June 22, 2006.

10. Respondent never responded to Pineda's April 28 letter or to Chao May 8 letter.

11. Respondent did not perform substantial work towards finalizing the dissolution before his employment was terminated by Pineda.

12. Respondent did not fully earn the \$4,000 advance fee paid by Pineda. Respondent did not return any of the \$4,000 fee paid or provide an accounting of his fees to Pineda, and did not return Pineda's file after his employment was terminated.

I. B. CONCLUSIONS OF LAW:

1. By not responding to Pineda's requests for the status of her matter Respondent failed to respond promptly to reasonable status inquiries of a client, in wilful violation of Business and Professions Code section 6068(m).
2. By not performing substantial work in the matter to finalize the dissolution, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).
3. By not releasing Pineda's file, Respondent failed to promptly release to the client all the client's papers and property, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(1).
4. By not providing an accounting of the \$4,000 fee to Pineda, Respondent failed to render appropriate accounts to a client, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(3).
5. By not refunding that portion of the \$4,000 fee that was not earned, Respondent failed to promptly refund any part of a fee paid in advance that had not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

II. A. FACTS:

1. Paragraphs A. 1 through A. 12 are incorporated by reference.
2. On or about June 26, 2006, the State Bar opened an investigation, case number 06-O-13025, pursuant to a complaint filed by Pineda (the "Pineda matter").
3. On or about July 14, 2006 and August 9, 2006, a State Bar investigator sent a letter to Respondent regarding the Pineda matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address of 3605 Long Beach Blvd., #202, Long Beach, CA 90807. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service ("USPS") in the ordinary course of business. The USPS did not return the investigator's letters as undeliverable or for any other reason. Respondent received the letters.
4. In the letters, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Pineda matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

II. B. CONCLUSIONS OF LAW:

By not providing a written response to the allegations in the Pineda matter or otherwise cooperating in the investigation of the Pineda matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 06-O-14149

I. A. FACTS:

1. On or about March 22, 2004, a judgment was entered in a dissolution of marriage case pending in the Los Angeles County Superior Court entitled *In re Marriage of Burnett and Burnett*, case number VD046476 ("the Burnett action"). The judgment, drafted by La Chelle Burnett ("Burnett"), consisted of the division of property and other items related to the dissolution of the marriage. On or about April 26, 2004, the judgment was recorded in the official records of the Los Angeles County Recorder's Office. Burnett believed that the judgment provided, among other things, that Medrick Burnett was obligated to give \$20,000 to her from the proceeds of the sale of a real property. Sometime later, Medrick Burnett sold the real property but did not give the \$20,000 to Burnett. Burnett maintained that Medrick Burnett was liable for the \$20,000. At the time the real property was sold, Chicago Title Company assisted Medrick Burnett in the transfer of the real property and it allegedly failed to insure that Burnett's judgment was recognized and paid upon the sale of the real property. Burnett's judgment may or may not have secured an interest in any particular parcel of real property.

2. On or about July 18, 2005, Burnett and Respondent entered into a written agreement. In that written agreement, Burnett employed Respondent to represent her in a possible civil action against Medrick Burnett and Chicago Title for recovery of damages arising from an unpaid judgment in the Burnett action. The agreement stated that the legal services would include investigation and research required to ascertain the appropriate action, if any. Burnett paid Respondent \$1,500, which Respondent characterized as an advanced non-refundable fee to cover the initial fifteen hours of Respondent's time at a rate of \$150 per an hour for Respondent's services. Burnett agreed to pay Respondent an additional ten percent of any judgment awarded by the court. Burnett also agreed to pay Respondent \$150 per hour after the advanced non-refundable fee was exhausted.

3. Burnett's judgment, as drafted by Burnett, may not have secured the \$20,000 Burnett believed that she had secured through the judgment and recording of the judgment. Respondent had agreed that his legal services would include investigation and research to ascertain the legal status of the judgment.

4. In or around September 2005 through June 2006, Burnett left numerous messages for Respondent in which she requested the status of her matter. Respondent did not provide the status of the matter to Burnett.

5. Respondent did not ascertain whether or not the judgment would or would not create a valid lien on any property. Respondent did not commence collection of the unpaid judgment owed to Burnett. Respondent did not determine and advise Burnett whether or not he would be able to assist Burnett in collecting funds from other sources.

6. Respondent did not advise Burnett whether or not the judgment could be enforced or whether other options were available, and constructively terminated his employment with Burnett, but did not inform Burnett of his intent to withdraw from employment or take any other steps to avoid reasonably foreseeable prejudice to Burnett.

7. Respondent provided no services of value to Burnett, did not fully earn the \$1,500 fee paid by Burnett, and did not refund any portion of the fee paid.

I. B. CONCLUSIONS OF LAW:

1. By not ascertaining whether or not the judgment would or would not create a valid lien on any property; by not commencing collection of the unpaid judgment owed to Burnett; by not determining and advising Burnett whether or not he would be able to assist Burnett in collecting funds from other sources; and by not advising Burnett whether or not the judgment could be enforced or whether other options were available, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct rule 3-110(A).

2. By not responding to Burnett's status requests, Respondent failed to respond promptly to reasonable status inquiries of a client, in wilful violation of Business and Professions Code section 6068(m).

3. By not giving Burnett notice of his termination of employment with Burnett, Respondent withdrew from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to the right of his client, in wilful violation of Rule of Professional Conduct, rule 3-700(A)(2).

4. By not refunding any portion of the advance fee paid by Burnett, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

II. A. FACTS:

1. Paragraphs A. 1 through A. 7 are incorporated by reference.

2. On or about August 29, 2006, the State Bar of California ("State Bar") opened an investigation, case number 06-O-14149, pursuant to a complaint filed by Burnett (the "Burnett matter").

3. On or about September 26, 2006, the State Bar Investigator wrote to Respondent regarding the Burnett matter. The investigator's letter was placed in a sealed envelope addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Services ("USPS") in the ordinary course of business. The USPS did not return the investigator's letter as undeliverable or for any other reason. Respondent received the letter.

4. In the letter, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Burnett matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

5. On or about October 18, 2006, the State Bar Investigator wrote a second letter to Respondent regarding the Burnett matter. The investigator's letter was placed in a sealed envelope addressed to Respondent at his State Bar of California membership records address. The letter was mailed by first class mail, postage prepaid, by depositing for collection by the USPS in the ordinary course of business. The USPS did not return the investigator's letter as undeliverable or for any other reason. Respondent received the letter.

6. In the second letter, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Burnett matter. Respondent did not respond to the investigator's letter or otherwise communicate with the investigator.

II. B. CONCLUSION OF LAW:

By not providing a written response to the allegations in the Burnett matter or otherwise cooperating in the investigation of the Burnett matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 07-O-11399

I. FACTS:

1. On or about April 9, 2007, the State Bar opened an investigation, case number 07-O-11399, pursuant to a complaint submitted by Kellye Brothers ("Brothers") against Respondent (the "Brothers matter").

2. On or about April 23 and June 8, 2007, a State Bar investigator sent a letter to Respondent regarding the Brothers matter. The investigator's letters were placed in sealed envelopes correctly addressed to Respondent at his State Bar membership records address of 3605 Long Beach Blvd., #202, Long Beach, CA 90807. The letters were properly mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal

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Service ("USPS") in the ordinary course of business. The USPS did not return the investigator's letters as undeliverable or for any other reason.

3. In the letters, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Brothers matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

I. CONCLUSION OF LAW:

By not providing a written response to the allegations in the Brothers matter or otherwise cooperating in the investigation of the Brother matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 07-O-11737

I. A. FACTS:

1. Jonathan De La Cruz ("De La Cruz"), Jose Mendoza ("Mendoza"), Robby Telah ("Telah"), Mariza Cuya ("Cuya"), Bob Guerzon ("Guerzon"), Jennifer Habib ("Habib"), Brenda Heller ("Heller"), Kathy Jones ("Jones"), Kate Lynn Juergens ("Juergens") and Joyce Onori ("Onori") were co-workers and employees at a Kaiser Laboratory in Garden Grove, California who had formed a lottery group (the "lottery group").

2. In or about 2001, the lottery group orally agreed that each member of the lottery group would contribute equal amounts of money to form a collective amount of money (the "pool") to buy California State lottery tickets. The lottery group further agreed that no member was required to participate in any given pool. Further, the lottery group agreed that a member must actually contribute money to the pool in order to become a pool participant and share in any winnings from lottery tickets purchased with that pool. The lottery group agreed that if the purchase of any lottery tickets resulted in any winnings, the pool participants would divide the winnings into equal parts.

3. On or before November 15, 2005, Cuya, Guerzon, Habib, Heller, Jones, Juergens and Onori purchased the winning ticket for the Mega Millions lottery held on November 15, 2005 worth \$315,000,000 (the "winning ticket").

4. At some time prior to November 22, 2005, De La Cruz employed Respondent to file a lawsuit on his behalf to collect his claimed share of the winning ticket. Based upon De La Cruz's assertion of entitlement to the \$315,000,000 in lottery winnings, on November 22, 2005, Respondent filed a lawsuit on behalf of De La Cruz against Cuya, Guerzon, Habib, Heller, Jones, Juergens and Onori (the "defendants") entitled, *Jonathan De La Cruz v. Mariza Cuya, et al.*, Orange County Superior Court, case number 05CC12462 (the "De La Cruz action").

5. Respondent alleged that De La Cruz and the defendants had entered into an oral agreement where De La Cruz agreed to contribute money to purchase tickets for the Mega Millions lottery drawing and to share any winnings from the purchase of the tickets. Respondent alleged that the defendants breached the agreement by failing to share with De La Cruz any of the \$315,000,000 in lottery winnings from the November 15, 2005 Mega Millions drawing. In addition to the cause of action for breach of contract, Respondent alleged causes of action of promissory estoppel and intentional misrepresentation.

6. At some time prior to February 3, 2006, Mendoza and Telah also employed Respondent to file a lawsuit on their behalf to collect their claimed share of the winning ticket.

7. On February 3, 2006, Respondent filed separate lawsuits on behalf of Mendoza and Telah, against the defendants, entitled *Jose Mendoza v. Mariza Cuya, et al.*, Orange County Superior Court case number 06CC02810 (the "Mendoza action"), and *Robby Telah v. Mariza Cuya, et al.*, Orange County Superior Court, case number 06CC02811 (the "Telah action"). In each lawsuit Respondent alleged that Mendoza and Telah had entered into an oral agreement with the defendants to contribute money to purchase tickets for the Mega Millions lottery drawing and

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to share any winnings from the purchase of the tickets. Respondent alleged that the defendants breached the agreement by failing to share \$315,000,000 in lottery winnings from the November 15, 2005 Mega Millions drawing with Mendoza and Telah. In addition to the cause of action for breach of contract, Respondent alleged causes of action of promissory estoppel and intentional misrepresentation. (The De La Cruz, Mendoza and Telah actions are hereafter collectively referred to as the "three lawsuits.")

8. Respondent certified as the attorney of record that the three lawsuits had evidentiary support or that he was likely to obtain evidentiary support for the three lawsuits after reasonable opportunity for further investigation or discovery, as required under California Code of Civil Procedure, section 128.7.

9. Prior to filing the three lawsuits, the only evidentiary support for the three lawsuits was his clients' representation that there was an oral contract between the parties. Respondent did not have the required evidentiary support and was unlikely to obtain the required evidentiary support after reasonable opportunity for further investigation or discovery, as required under California Code of Civil Procedure, section 128.7.

10. The defendants were represented by the law firm Barnes, Crosby, Fitzgerald & Zelman, LLP in the three lawsuits. The specific attorneys who acted for the defendants were Michael FitzGerald ("FitzGerald"), Larry Zeman ("Zeman"), Eric Francisconi ("Francisconi") and Kristy Schlesinger ("Schlesinger"). In or about December 2005, the defendants started their discovery of the allegations in the De La Cruz action. Respondent was unable to produce evidence to substantiate De La Cruz's claims other than his representation that there was an oral contract between the parties.

11. On December 30, 2005, the defendants' counsel served Respondent with a subpoena for De La Cruz to appear for his deposition on January 27, 2006.

12. On January 21, 2006, Respondent sent a letter to the defendants' counsel stating that De La Cruz's deposition could not go forward as scheduled because Respondent was purportedly engaged in a criminal trial. Respondent and the defendants' counsel agreed to re-schedule De La Cruz's deposition to February 22, 2006.

13. On January 27, 2006, the defendants' counsel personally served Mendoza with a subpoena to appear for his deposition on February 16, 2006.

14. On January 27, 2006, the defendants' counsel personally served Telah with a subpoena to appear for his deposition on February 17, 2006.

15. On February 2, 2006, the defendants' counsel served Respondent with the notice of deposition of Telah scheduled for February 17, 2006.

16. On February 4, 2006, Respondent served De La Cruz's response to the defendants' request for production of documents. The response denied there were any documents pertaining to De La Cruz's claim.

17. On February 13, 2006, Respondent sent a letter to FitzGerald in which he sought to reschedule the deposition of Mendoza and Telah because he purportedly was unavailable on the dates of the depositions and was engaged in a trial in a criminal matter.

18. On February 14, 2006, the defendants' counsel sent a letter to Respondent stating that absent a telephonic meet and confer with Respondent as to the deposition schedule and an agreement to provide the defendants with the name of the criminal matter in which Respondent was engaged, the defendants would proceed with the depositions of Mendoza and Telah as scheduled. Respondent did not respond to the letter.

19. Mendoza, Telah and De La Cruz did not make themselves available for their scheduled depositions.

20. On February 23, 2006, the defendants requested an order to show cause (OSC) why Mendoza and

Telah should not be sanctioned for failing to comply with the deposition subpoena.

21. On February 23, 2006, the Court issued the requested OSC which ordered that Mendoza and Telah appear in court on March 14, 2006 and show cause why they should not be adjudged in contempt of court for disobeying the deposition subpoena.

22. On February 27, 2006, a hearing was held on the defendants' OSC applications for an order to show cause re: contempt against Mendoza and Telah regarding the deposition subpoenas. Respondent appeared in Court and confirmed that he represented Mendoza and Telah in their two related lawsuits. The Court granted the applications.

23. On March 6, 2006, the defendants' counsel filed a motion to compel De La Cruz's deposition. The court set the hearing for March 14, 2006.

24. On March 14, 2006, based upon the motions filed by the defendants, the Court ordered De La Cruz to appear for a deposition on April 11, 2006 at the Orange County Superior Court.

25. On March 14, 2006, the Court ordered Mendoza to appear for a deposition on March 29, 2006 at the Orange County Superior Court.

26. On March 14, 2006, the Court ordered Telah to appear for a deposition on March 30, 2006 at the Orange County Superior Court. The Court further ordered Respondent to provide appropriate interpreters, if necessary, and to bear the cost for the interpreters.

27. On March 22, 2006, the defendants filed their motions to compel De La Cruz to respond to the written discovery in the De La Cruz action. Despite receiving the motions to compel, Respondent did not respond to the motions.

28. On March 29, 2006, Respondent and Mendoza appeared for Mendoza's deposition and informed the defendant's counsel, Francisconi, that he was not able to obtain an interpreter in the proper Indonesian dialect, Manada, for Telah for the following day. Respondent had not requested a Manada interpreter until the morning of March 29, 2006 and no interpreter was available for March 30, 2006 because of the short notice of the request.

29. On April 6, 2006, the Court held a hearing on the motion to compel Telah's deposition. Respondent appeared for the hearing. The Court ordered Telah to appear for his continued deposition at the Court on April 18, 2006. The Court declined to order a contempt proceeding based upon Respondent's representation to the Court and counsel that Telah would appear for his deposition as ordered and that he had made arrangements for an appropriate interpreter to attend the deposition.

30. On April 18, 2006, the Court held a hearing on the 21 motions to compel. Respondent appeared for the hearing. The Court granted the 21 motions to compel and ordered De La Cruz to further respond to the defendants' written discovery, without objections, by May 26, 2006 at 4:30 p.m. The Court ordered \$1,890 in sanctions payable to defendants by May 19, 2006 in connection with the 21 motions to compel. Respondent and De La Cruz were jointly and severally liable for the sanctions.

31. On April 18, 2006, the Court also ordered a \$250 sanction payable to the defendants, jointly and severally, by De La Cruz and Respondent by May 19, 2006 in connection with the defendant's motion to compel Del La Cruz's deposition.

32. On April 18, 2006, the Court also ordered a \$250 sanction payable to the defendants, jointly and severally, by Mendoza and Respondent by May 19, 2006 in connection with the contempt proceedings.

33. On April 18, 2006, the Court also ordered a \$250 sanction payable, jointly and severally, by Telah and Respondent to defendants by May 19, 2006 in connection with the contempt proceedings.

34. On May 15, 2006, the defendants' counsel served requests for admissions, form and special interrogatories, and requests for production of documents on Respondent in the Telah action. Respondent did not serve responses to the requests for admissions, form and special interrogatories, or requests for production of documents or produce documents due on June 19, 2006, and did not request an extension to respond in order to preserve objections.

35. On June 2, 2006, the defendants filed a motion to compel un-coached and non-evasive deposition answers and documents from De La Cruz.

36. On June 2, 2006, the defendants filed a motion to compel un-coached and non-evasive deposition answers and documents from Mendoza.

37. On June 2, 2006, the defendants in the Mendoza action served a request for admissions, a request for production of documents, form interrogatories and special interrogatories propounded to Mendoza on Respondent. The responses to the discovery requests were due on July 19, 2006. Respondent did not serve any response to the discovery requests and did not request an extension of time to respond to the discovery requests.

38. On June 7, 2006, Respondent filed an opposition to the motion to compel un-coached and non-evasive deposition answers and documents from De La Cruz and Mendoza.

39. On June 13, 2006, the Court held a hearing on the motion to compel un-coached and non-evasive deposition answers. Respondent appeared for the hearing. The Court granted the motion and ordered De La Cruz to answer, without objection, the question, "are you married?"

40. On June 13, 2006, the Court held a hearing on the motion to compel un-coached and non-evasive deposition answers. Respondent appeared for the hearing. The Court granted the motion and ordered Mendoza to produce the answers and any requested documents.

41. By mutual agreement, the next session of De La Cruz's deposition was to go forward on June 23, 2006. On June 20, 2006, Respondent faxed a letter to defendants' counsel in which he stated that Respondent had a calendar conflict and that he was unilaterally cancelling the deposition session. Respondent said he was available to resume the deposition on July 7, 10, 11 and 13, 2006.

42. On June 28, 2006, the Court held a hearing on the motion to compel the response to a deposition question posed to De La Cruz. Respondent appeared for the hearing. The court granted the motion and set a schedule for De La Cruz to produce the document pertaining to proof that De La Cruz had participated in the purchase of a lottery ticket, which he referred to in his deposition taken on April 20, 2006.

43. On June 28, 2006, the Court held a hearing on the motion to compel the depositions of Mendoza. Respondent appeared for the hearing. The court granted the motion and set a schedule for the deposition.

44. On June 28, 2006, the defendants' counsel sent a letter notifying Respondent that Telah's responses to the requests for admissions, form and special interrogatories, and requests for production of documents were overdue and all objections had been waived. The defendants' counsel requested responses to the requests for admissions, form and special interrogatories, and requests for production of documents by July 5, 2006, and notified Respondent that a motion to compel the responses would be filed if the responses were not received by that date. Respondent did not serve the responses to the requests for admissions, form and special interrogatories, or requests for production of documents or produced any documents.

45. On July 5, 2006, the defendants filed motions to compel Telah to respond to the form interrogatories, special interrogatories and request for production of documents. The defendants also filed a motion for an order deeming the truth of all the matters set forth in their request for admissions and a request for sanctions against Respondent and Telah.

46. On July 11, 2006, Respondent sent a letter to the defendants' counsel stating that the discovery responses would be provided by the end of the week.

47. On July 14, 2006, Respondent and De La Cruz attended De La Cruz's deposition.

48. During De La Cruz's deposition of July 14, 2006, De La Cruz testified that he had taken and kept notes of his alleged telephone conversations with Guerzon and Jones shortly after the lottery drawing in November 2005, that he had shown the notes to his attorney, and that he did not know where to locate the notes. Respondent further made contradictory statements during the deposition that he would produce the notes only in response to a motion, that he had no problem producing the notes, that it was not possible to produce the notes, and that he did not know where the notes were. Respondent further instructed De La Cruz not to answer a question seeking to determine if the Respondent had returned the notes to De La Cruz.

49. On July 26, 2006, Zeman, co-counsel for the defendants, sent a letter to Respondent. Zeman notified Respondent that the discovery responses were overdue and as such, all objections had been waived. Zeman requested receipt of Mendoza's discovery responses by July 31, 2006.

50. On July 28, 2006, the defendants' counsel received some discovery responses from Mendoza, but Mendoza did not respond to all the discovery propounded by Cuya and Juergens and insufficient responses to the form and special interrogatories propounded by the remaining defendants. Mendoza also did not provide any responses to the defendants' request for production of documents.

51. On July 31, 2006, the day before the hearing scheduled for the discovery motions, Respondent served responses to the special interrogatories and the requests for admissions, but only as to five of the seven defendants. Respondent did not serve responses to the form interrogatories and requests for production of documents and did not serve responses to discovery propounded by Cuya and Juergens.

52. On August 1, 2006, the Court ordered that amended responses be served by August 18, 2006 and ordered a discovery compliance hearing for August 22, 2006.

53. On August 4, 2006, the defendants filed and served on Respondent a motion for an order imposing issue and evidentiary sanctions against De La Cruz on the ground that De La Cruz had failed and refused to comply with discovery, including the Court's April 18, 2006 discovery order requiring him to provide supplemental responses to the defendants' request for admissions and form and special interrogatories.

54. On August 8, 2006, Francisconi, co-counsel for the defendants, sent a letter to Respondent requesting further responses to the discovery by August 22, 2006. Respondent did not respond to Francisconi's request.

55. On August 10, 2006, the defendants' counsel, FitzGerald, sent a letter to Respondent in which he requested that De La Cruz produce the telephone notes. Respondent did not respond to FitzGerald's letter.

56. On August 18, 2006, Respondent hand-delivered responses to the form interrogatories and requests for production of documents, but for only five of the seven defendants. Respondent did not serve responses to Cuya's or Juergens's discovery requests.

57. On August 22, 2006, the Court held a discovery compliance hearing. Respondent appeared for the hearing. The Court ruled that Telah could not present evidence at trial that was responsive to the defendants' discovery requests without the prior order of the Court.

58. On August 25, 2006, Mendoza provided defendants' counsel with some but not all responses to the discovery.

59. On August 28, 2006, Francisconi sent a letter to Respondent requesting further responses to the discovery by September 1, 2006. Respondent did not respond to Francisconi's request.

60. On September 1, 2006, the defendants filed a motion to compel De La Cruz to produce the telephone, entitled a Motion for Order Imposing Issue and Evidentiary Sanctions against Plaintiff Del LA Cruz, consisting of notes and for an order imposing monetary sanctions against De La Cruz and Respondent. The Court heard this motion on September 6, 2006.

61. On September 6, 2006, the Court heard the motions for issue and evidentiary sanctions. Respondent did not appear at the hearing and did not file an opposition to the motion. The Court ordered that the matters involved in the request for admissions be deemed admitted and ordered that De La Cruz be precluded from introducing any matters into evidence at trial for which he did not provide a supplemental response to the defendants' request for admissions or form and special interrogatories.

62. On September 15, 2006, the defendants filed a motion for an order imposing issue and evidentiary sanctions against Mendoza for failing and refusing to comply with the defendants' discovery requests.

63. On September 19, 2006, Respondent filed a motion for reconsideration of the Court's order imposing evidentiary sanctions against De La Cruz. Respondent's motion consisted of the notice of motion and a memorandum of points and authorities that contained three citations of law with no analysis or application of the law to the facts of the matter. Respondent did not raise new facts or evidence or discuss the facts in the motion and provided no declaration, documents or grounds in support of his motion.

64. On October 3, 2006, the Court granted defendants' unopposed motion to compel De La Cruz to produce documents. The Court ordered Respondent to pay \$2,440 in sanctions to defendants in care of defendants' counsel no later than November 10, 2006 at 4:30 p.m. in connection with the motion.

65. On October 5, 2006, the Court entered default against Mendoza on the defendants' cross-complaint in the Mendoza action.

66. On October 18, 2006, the Court ordered that De La Cruz produce the notes to defendants' counsel no later than November 10, 2006 at 4:30 p.m.

67. On October 24, 2006, the Court denied Respondent's motions for reconsideration of the Court's September 6, 2006 order imposing evidentiary sanctions against De La Cruz.

68. On November 17, 2006, the Court held a hearing on the motion for issue and evidentiary sanctions in the Mendoza action. Respondent was present during the hearing. The Court granted the motion.

69. On November 20, 2006, the defendants filed a motion for summary judgment or, in the alternative, summary adjudication in the Telah action. Respondent did not file a written response to the motion. During Telah's deposition on April 6, 18 and 24, 2006; May 1, 2006; and July 10, 2006, and in Telah's answers to special interrogatories served on July 31, 2006, he had admitted the following:

- a. he did not contribute any money toward the purchase of the winning lottery ticket or pool;
- b. he never met Cuya;

- c. he had never spoken with Habib, Jones, Juergens or Onori about the California lottery;
- d. Heller never said anything to Telah to cause him to believe he was included in the Mega Millions pool;
- e. his description of Guerzon's only statements about the lottery to Telah pertained to a separate drawing months before the winning ticket was purchased and not to the pool for the winning ticket;
- f. the participants in the various lottery pools at the Kaiser laboratory varied from pool to pool and often had between 12 and 19 people;
- g. if asked to participate in a lottery pool, a person was free to decide whether or not to participate;
- h. he only participated in a lottery pool if he had the money required to participate;
- i. when a pool was organized, the participants in the pool would agree to contribute an agreed dollar amount to the pool and the money was placed in an envelope;
- j. the participants' names were written on the envelope and a copy of the envelope and tickets were placed in an easily accessible place in the laboratory;
- k. participants in the pool were free to purchase lottery tickets on their own or participate in other pools;
- l. his name was not on the envelope accompanying the winning ticket;
- m. he was not working when the defendants organized the winning Mega Millions pool;
- n. the agreement alleged in the Second Amended Complaint did not impose responsibilities on him, and that he could not state whether the alleged contract required him to do or refrain from doing anything;
- o. each of the various lottery pools organized in the Kaiser laboratory were formed by separate agreements;
- p. he was not aware that the defendants organized a lottery pool to purchase Mega Millions lottery tickets for the November 15, 2005 drawing until November 16, 2005, the day after the defendants won the lottery jackpot;
- q. while he alleged in his complaint that he relied upon defendants' alleged statements by refraining from participating in other lottery pools, he bought lottery tickets on his own between 10 and 20 times from 2004 to November 15, 2005 (the period of time during which he alleged there was an agreement between Telah and the defendants); and,
- r. he participated 40 to 50 times in a lottery pool at the Kaiser "E" Street medical records facility over the same time period, and did not want the defendants to know about his participation in that pool.

70. On November 30, 2006, the defendants in the De La Cruz action filed a motion for an order imposing terminating sanctions, or in the alternative, evidentiary sanctions against De La Cruz and monetary sanctions against

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

De La Cruz and Respondent based upon De La Cruz not complying with defendants' demand for production of the alleged notes of the telephone conversations.

71. On December 11, 2006, the defendants filed a motion for summary judgment, or in the alternative, summary adjudication in the Mendoza action. During Mendoza's deposition on May 22 and 23, 2006, June 15, 2006, and September 1, 2006; and in Mendoza's answers to special interrogatories served on August 25, 2006, he had admitted the following:

- a. the participants in the various lottery pools at Kaiser laboratory varied from pool to pool;
- b. a person asked to join an a particular pool was always free to decide whether or not to participate;
- c. he never entered into any oral agreement with the defendants regarding the winning lottery ticket;
- d. none of the defendants said that they would purchase lottery tickets for him in his absence;
- e. he was always asked if he wanted to participate in a particular lottery pool;
- f. if he was on vacation, no one participated for him unless De La Cruz contributed money on his behalf;
- g. when a lottery ticket was purchased, the initials of each of the pool participants were written on a photocopy of the lottery ticket or on another sheet of paper;
- h. if his name or initials were not on the paper when he had participated in the pool, he would ask someone to put his initials on the paper;
- i. when he saw the list for the winning lottery pool, his initials, as well as the initials of De La Cruz and Telah were not on the list of participants;
- j. if he was not specifically advised that someone was collecting money for a pool, he did not assume that he was actually in the lottery pool, but instead assumed that there was no lottery pool;
- k. there was no restriction by the defendants on him or on the other defendants from participating in other lottery pools;
- l. he participated in several other lottery pools during the period of time he participated in the Kaiser laboratory pool;
- m. as for the winning lottery ticket, he was not even aware of the purchase of the winning ticket until after the drawing;
- n. he was not working at Kaiser laboratory on the day the money was collected to purchase the winning lottery ticket;
- o. he did not contribute any money toward the purchase of the winning lottery ticket;

- p. he never discussed with any of the defendants that he believed he should have been included in the winning lottery pool;
- q. he congratulated several of the defendants on their win without saying anything about his own alleged involvement in the pool;
- r. he said he was not one of the winners when asked by a co-worker at one of his other jobs at St. Jude Medical Center; and,
- s. he had no agreement whatsoever with Cuya and Juergens regarding the winning lottery ticket and that he was going to dismiss them from the action.

72. On December 14, 2006, the defendants in the De La Cruz action filed a motion for summary judgment, or in the alternative, summary adjudication, on the ground that De La Cruz had no evidentiary support for his causes of action. During De La Cruz's deposition on May 25, 2006; June 2, 2006; July 5, 13, 14, and 15, 2006; and August 2, 2006, he had admitted the following:

- a. he did not contribute any money to the defendants' pool for the November 15, 2005 Mega Millions lottery drawing;
- b. he was not aware of the purchase of the winning lottery ticket prior to the drawing;
- c. the winning ticket was purchased on a weekend, and he did not work weekends at the laboratory or participate in weekend lottery pools;
- d. nothing in the alleged agreement prevented the defendants from entering into a pool of their own at any time, including the weekends, for the purposes of playing the lottery and sharing lottery winnings;
- e. the participants in the various lottery pools at the Kaiser laboratory changed over time;
- f. potential participants in such pools had the right not to participate if they so chose;
- g. he could not identify when the alleged oral agreement was entered into, how the parties entered into the agreement, how potential participants were added to the pool, how long the agreement for the pool lasted, or if the participants could refuse to let new hires to the laboratory participate in the pool;
- h. three of the defendants were not working in the laboratory in 2002, the first year the alleged sole agreement between De La Cruz and the defendant was to have begun;
- i. he could not identify any benefit to the other members of the lottery pool from his participation except that his contribution of money increased the number of tickets purchased, thereby increasing the odds of winning;
- j. he never entered into a lottery pool with Cuya and Juergens and never had any agreement with them concerning the lottery;
- k. while he alleged in his complaint that he relied upon the defendants' alleged statements by refraining from participating in other lottery pools or buying his own tickets, De La Cruz admits that the defendants never dissuaded or prevented him from participating in other pools;

- l. he was not restricted from participating in other pools or buying his own tickets;
- m. he regularly participated in other lottery pools and bought his own lottery tickets, including participating in another pool for the very same lottery drawing won by the defendants;
- n. each time a lottery pool was organized, the names of each of the pool participants were written on a list; and,
- o. his name was not on the list for the winning lottery ticket in question.

73. On December 26, 2006, the defendants filed a motion for an order imposing sanctions against Respondent and Telah for violations of Code of Civil Procedure section 128.7.

74. On January 18, 2007, the Court on its own motion continued the hearing on the motion for terminating sanctions to January 23, 2007.

75. On January 23, 2007, Respondent did not appear for the hearing on the motion for terminating sanctions. The Court granted terminating sanctions against plaintiff Telah.

76. On January 31, 2007, Respondent moved for relief from the dismissal and entry of the default judgment in the De La Cruz action on the ground of his mistake, inadvertence, surprise, or neglect. Respondent's motion stated that he had not properly calendar the motion to compel discovery compliance and had not turned over discovery documents which he had earlier believed were not in his possession.

77. On February 6, 2007, the Court held a hearing on the defendants' motions for summary judgment. Respondent did not appear at the hearing and did not otherwise oppose the motions. The Court granted the motions.

78. On February 13, 2007, the defendants filed a motion for an order imposing sanctions against Mendoza and Respondent for violations of California Code of Civil Procedure section 128.7.

79. On February 27, 2007, the Court held a hearing on the defendants motions for summary judgment/adjudication in the Mendoza action. Respondent did not appear at the hearing. The Court granted the motions.

80. On March 5, 2007, the defendants' counsel served on Respondent by mail written notice of the continuance of the hearing on the defendants' motion for sanctions in the Mendoza action to March 20, 2007.

81. On March 13, 2007, the Court denied Respondent's motion for relief from the dismissal and entry of default judgment, and motion for reconsideration of the dismissal.

82. On March 20, 2007, the Court held a hearing on the defendants' motion for sanctions in the De La Cruz, Mendoza and Tehah actions. Respondent did not appear at the hearing. The Court granted the defendants' motions for an order imposing sanctions under Code of Civil Procedure section 128.7. The Court granted \$381,946.60 in sanctions against Respondent, payable collectively to defendants in the De La Cruz, Mendoza and Telah actions.

83. On March 27, 2007, the defendants' counsel sent notice of entry of the summary judgment and final judgment to Respondent by mail.

84. On March 28, 2007, the defendants' counsel served notice of entry of the order imposing terminating sanctions on Respondent by mail.

85. On March 29, 2007, the defendants' counsel served notice of entry of the final judgment in the Mendoza action on Respondent by mail.

86. On March 29, 2007, the defendants' counsel served notice of entry of the final judgment on Respondent by mail.

87. On April 2, 2007, Respondent filed a motion for reconsideration in the Telah action of the March 20, 2007 order imposing sanctions against him in connection with the De La Cruz, Mendoza and Telah actions, but the motion was denied.

88. On April 2, 2007, Respondent filed a motion for reconsideration of the March 20, 2007 order imposing sanctions against him, but did not address why the Telah action was warranted under the facts and circumstances presented.

89. On May 8, 2007, the Court denied Respondent's motion for reconsideration.

90. On May 10, 2007, the defendants filed and the Court executed written orders memorializing the Court's March 20, 2007 order that Respondent pay \$381,946.60 to the defendants in the De La Cruz, Mendoza and Telah actions, pursuant to Code of Civil Procedure section 128.7, within 10 days of the order, which stated as follows:

"The Court finds that the allegations and other factual contentions within the respective complaints in the above-captioned matter did not have evidentiary support and were not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery and that the claims within those complaints were not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. Counsel for the plaintiff in this and each of the related cases, Mark H. Williams, Esq. of the Law Offices of Mark H. Williams, did not adequately investigate the claims he advanced these cases before they were filed, at any time since, nor did he take any action to dismiss those claims even when it became apparent during the discovery process that the claims were without merit."

91. Respondent did not report the \$381,946.60 sanction to the State Bar of California.

I. B. CONCLUSIONS OF LAW:

1. By filing the De La Cruz, Mendoza and Telah actions without sufficient evidentiary support for the alleged oral agreement between De La Cruz, Mendoza and Telah and the defendants and without adequate investigation of the claims of De La Cruz, Mendoza and Telah; and by not taking any action to dismiss their claims when it became apparent during the discovery process that their claims were without merit, Respondent willfully counseled and maintained three unjust actions, in wilful violation of Business and Professions Code section 6068(c).

2. By not reporting the \$381,946.60 sanction to the State Bar of California, Respondent willfully failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against Respondent, in wilful violation of Business and Professions Code section 6068(o)(3).

II. A. FACTS:

1. Paragraphs I. A. 1 through I. A. 91 are incorporated by reference.

2. Neither Respondent nor anyone else paid the \$2,140 in sanction by May 19, 2006, as ordered by the Court in the De La Cruz action on April 18, 2006.

3. On June 27, 2006, the defendants' counsel sent a letter to Respondent stating that the defendants would be filing a motion to compel the payment of the \$2,140 sanction that was to be paid by May 19, 2006.

4. Respondent made no request to defendants' counsel or the Court for an extension to pay the \$2,140 sanction and provided no explanation as to why he had not complied with the Court's order. To date, neither Respondent nor anyone else has paid this \$2,140 in sanctions.

5. Neither Respondent nor anyone else paid the three \$250 sanctions (payable by De La Cruz and Respondent, Mendoza and Respondent, and Telah and Respondent) to defendants by May 19, 2006 in connection with the contempt proceedings, as ordered by the Court on April 18, 2006.

6. Neither Respondent nor anyone else paid the \$2,440 sanction by November 10, 2006, as ordered by the Court on October 3, 2006.

7. On November 13, 2006, the defendants' counsel sent a written demand for the payment of the \$2,440 sanction. Respondent did not respond to the demand or pay the sanction.

8. Neither Respondent nor anyone else paid the \$381,946.60 sanction, as ordered by the Court on May 10, 2007.

II. B. CONCLUSION OF LAW:

By not paying the sanctions imposed on April 18, 2006, October 3, 2006, and May 10, 2007, Respondent wilfully disobeyed and violated orders of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to have done, in wilful violation of Business and Professions Code section 6103.

III. A. FACTS:

1. Paragraphs I. A. 1 through I. A. 91 and II. A. 2 through II. A. 8 are incorporated by reference.

2. On May 3, 2007, the State Bar of California ("State Bar") opened an investigation regarding the facts and circumstances leading to the imposition of the sanctions against Respondent in March 2007 identified as case number 07-O-11737.

3. On August 14, 2007, the State Bar Investigator sent a letter to Respondent regarding its investigation of case number 07-O-11737. The letter was placed in a sealed envelope addressed to Respondent at his membership records address of 3605 Long Beach Blvd., #202, Long Beach, CA 90807 ("membership records address") and mailed by first class mail, postage prepaid, by depositing for collection by the United States Postal Service ("USPS") in the ordinary course of business. Respondent received the letter. In the letter, the investigator requested that Respondent respond by August 28, 2007 in writing to specified allegations of misconduct being investigated by the State Bar in case number 07-O-11737. Respondent did not respond to the letter or otherwise communicate with the State Bar regarding its investigation of case number 07-O-11737.

4. On August 29, 2007, the State Bar Investigator sent a second letter to Respondent regarding its investigation of case number 07-O-11737. The August 29, 2007 letter and a copy of the August 14, 2007 letter were placed in a sealed envelope addressed to Respondent at his membership records address and mailed by first class mail, postage prepaid, by depositing for collection by the USPS in the ordinary course of business. Respondent received the letter. In the August 29, 2007 letter, the investigator requested that Respondent respond by September 10, 2007 in writing to specified allegations of misconduct being investigated by the State Bar in case number 07-O-11737. Respondent did not respond to the State Bar's letters or otherwise communicate with the State Bar regarding its investigation of case number 07-O-11737.

III. B. CONCLUSION OF LAW:

By not providing a written response to the State Bar to the allegations in case number 07-O-11737 matter or otherwise cooperating in the investigation of case number 07-O-11737, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 07-O-14003

I. A. FACTS:

1. On or about July 6, 2006, Frank Gonzales, Sr. ("Gonzales") employed Respondent to represent him in a dissolution of marriage pending in the Los Angeles County Superior Court entitled *In re Marriage of Gonzales and Gonzales*, case number ND039070. Respondent agreed to perform all legal services related to Gonzales's matter. The petitioner, Mary Gonzales, was represented by attorney Charles Gangloff ("Gangloff").
2. At the time of employment, Respondent and Gonzales entered into a written fee agreement. In the agreement, Gonzales agreed to pay Respondent an advanced non-refundable fee of \$1,500. Gonzales was required to pay the \$1,500 on or before August 15, 2006.
3. On or about July 1, 2006, Respondent prepared and filed two court documents on behalf of Gonzales consisting of a Waiver of Court Fees and Costs and Gonzales's response to the petition for dissolution. Respondent did not prepare, file or complete any other work on behalf of Gonzales.
4. On or about July 6, 2006, Gonzales paid Respondent \$700 of his \$1,500 fee.
5. On or about August 15, 2006, Gangloff served Respondent with the petitioner's Special Interrogatories and Form Interrogatories ("interrogatories"). The response to the interrogatories was due on or before September 19, 2006. Respondent did not respond to the interrogatories. Respondent did not inform Gonzales that he had received the interrogatories.
6. On October 4, 2006, Gangloff sent a letter to Respondent requesting that Respondent respond to the interrogatories. Gangloff advised Respondent in the letter that a motion to compel responses and for sanctions would be filed if Respondent failed to respond to the interrogatories by October 16, 2006. Respondent neither responded to Gangloff's letter nor responded to the interrogatories. Respondent never notified Gonzales that he had received the letter regarding the interrogatories and that he had not responded to the interrogatories.
7. On February 22, 2007, the court notified all parties to appear at the trial setting conference scheduled for April 10, 2007. Gangloff served the notice to appear on Respondent by mail. Respondent received the notice. Respondent did not notify Gonzales about the trial setting conference.
8. On April 10, 2007, Respondent and Gonzales failed to appear for the scheduled conference. The court made the following orders:
 - a. the court continued the Trial Setting Conference to May 17, 2007;
 - b. the court ordered Respondent to serve final Declarations of Disclosure no later than May 7, 2007; and
 - c. the court set a hearing for May 17, 2007, at which time Respondent was to show cause why sanctions should not be imposed as a result of Respondent's failure to appear in court on April 10, 2007 (the "OSC").
9. On April 11, 2007, written notice of the April 10, 2007 orders was served on Respondent by mail. Respondent received the notice.

10. On April 23, 2007, Gangloff filed a Notice of Motion for Attorney Fees and Costs and a Request for an Order Compelling Interrogatory Responses. Gangloff served a copy of the motion on Respondent. Respondent received the motion. Respondent did not notify Gonzales that he received the motion.

11. On May 17, 2007, the Respondent failed to appear for trial setting conference and OSC set for the same date. At that time, the court granted the motion to compel interrogatories and ordered Respondent to file his responses no later than June 14, 2007. In addition, the court ordered Respondent to pay Gangloff \$600 in sanctions. The court continued the Trial Setting Conference to June 20, 2007. The court served notice of the conference on the Respondent by mail on the same date. Respondent received the notice.

12. Respondent failed to file the interrogatory responses by June 14, 2007, as ordered by the court on May 17, 2007; and to pay Gangloff the \$600 sanction as ordered.

13. On June 20, 2007, Respondent failed to appear for the trial setting conference. The court ordered Respondent to pay a \$1,200 sanction to Gangloff and a \$200 sanction to the court. The court further ordered Respondent to refund \$600 to Gonzales forthwith. The court also set the matter for trial on October 22, 2007. On June 20, 2007, Gangloff served written notice of the court's orders, by mail, on Respondent. Respondent received the notice. Respondent failed to notify Gonzales of the court's orders. Respondent did not pay the sanctions or refund \$600 to Gonzales.

14. After hearing nothing from Respondent regarding his matter, on or about October 1, 2007, Gonzales substituted attorney Homer L. Harris in place of Respondent in Gonzales's matter.

I. B. CONCLUSIONS OF LAW:

1. By not responding to the interrogatories and by not appearing in court on April 10, May 17 and June 20, 2007 on behalf of Gonzales, Respondent failed to perform legal services with competence, in wilful violation of Rules of Professional Conduct, rule 3-110(A).

2. By not informing Gonzales of the discovery motions, court orders and sanctions, Respondent failed to keep Gonzales reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in wilful violation of Business and Professions Code section 6068(m).

3. By not complying with the court orders issued in the Gonzales matter on April 10, May 17 and June 20, 2007, Respondent disobeyed and violated orders of the court requiring him to do an act connected with or in the course of Respondent's profession which he ought in good faith to have done, in wilful violation of Business and Professions Code section 6103.

II. A. FACTS:

1. Facts I. A. 1 through I. A. 14 are incorporated by reference.

2. On or about October 15, 2007, the State Bar opened an investigation, case number 07-O-14003, pursuant to a complaint filed by Gonzales against Respondent ("the Gonzales matter").

3. On or about May 6, 2008, a State Bar investigator sent a letter to Respondent regarding the Gonzales matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service ("USPS") in the ordinary course of business. The USPS did not return the investigator's letter as undeliverable or for any other reason. Respondent received the letter.

4. On or about June 1, 2008, the State Bar Investigator sent a second letter to Respondent regarding the

Gonzales matter. The investigator's letter was placed in a sealed envelope correctly addressed to Respondent at his State Bar membership records address. The letter was properly mailed by first class mail, postage prepaid, by depositing it for collection by the USPS in the ordinary course of business. The USPS did not return the investigator's letter as undeliverable or for any other reason. Respondent received the letter.

5. In the letters, the investigator requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Gonzales matter. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator about this matter.

II. B. CONCLUSION OF LAW:

By not providing a written response to the allegations in the Gonzales matter or otherwise cooperating in the investigation of the Gonzales matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of Business and Professions Code section 6068(i).

Case No. 08-O-13489

I. A. FACTS:

Suspension for non-payment of membership fees

1. On or about November 15, 2007, Membership Billing of the State Bar of California ("membership billing") mailed a 2008 membership fee statement to Respondent at his membership records address of 3605 Long Beach Blvd., #202, Long Beach, CA 90807 (the "membership records address"). The fee statement was not returned to membership billing undeliverable. Respondent received the fee statement.
2. On or about March 15, 2008, membership billing mailed a final delinquent notice regarding Respondent's unpaid membership fee to Respondent at the membership records address. The notice was not returned to membership billing undeliverable. Respondent received the notice.
3. On June 12, 2008, the California Supreme Court suspended Respondent by order number S164208 due to Respondent's failure to pay his 2008 membership fees. The order was effective July 1, 2008.
4. On June 18, 2008, membership billing mailed a notice of the suspension order to Respondent at the membership records address. The notice was not returned to membership billing undeliverable. Respondent did not receive the notice because he had moved his office without updating his membership records address as required by Business and Professions Code section 6002.1 ("section 6002.1").
5. On August 15, 2008, membership billing received payment of the membership fees and penalties due from Respondent, and the suspension was terminated.

Suspension for non-compliance with MCLE

6. On or about April 30, 2008, Member Services of the State Bar of California ("member services") mailed a notice to Respondent at the membership records address. In the notice, member services stated that Respondent was not in compliance with the rules governing Minimum Continuing Legal Education ("MCLE") for the compliance period ending January 31, 2008 in that member services had not received Respondent's MCLE compliance card by February 1, 2008. In the notice, member services stated that a \$75 non-compliance fee was due, and that Respondent would be enrolled as an inactive member or not eligible to practice status and not be entitled to practice law if he failed to comply with the MCLE rules by June 30, 2008 at 5:00 p.m. The notice was not returned to membership services undeliverable.

7. On or about June 12, 2008, member services mailed another notice to Respondent at the membership records address via certified mail, return receipt requested. In the notice, member services again stated that Respondent was not in compliance with the MCLE rules in that member services had not received Respondent's MCLE compliance card. In the notice, member services stated that a \$75 non-compliance fee was due, and that Respondent would be enrolled as an inactive member and not be entitled to practice law if the \$75 fee and compliance card were not received by member services by June 30, 2008, or mailed to member services bearing a United States Postal Service ("USPS") postmark no later than June 30, 2008.
8. Effective July 1, 2008, Respondent was enrolled to not eligible status due to his failure to comply with the MCLE rules.
9. On July 14, 2008, the June 12, 2008 notice was returned to member services reflecting that the USPS had attempted service of the notice on June 14, June 26, and July 1, 2008, and that Respondent did not claim the notice.
10. On or about July 14, 2008, member services mailed a notice to Respondent at the membership records address. In the notice, member services stated that Respondent had been enrolled to not eligible status effective July 1, 2008, and that he was required to submit to member services a non-compliance fee of \$75; a reinstatement fee of \$200; his completed compliance card; and documentation of compliance (i.e., certificates of attendance from the MCLE providers, record of self-study activities, and/or proof of exempt status) to return to active status. The notice was not returned to membership services undeliverable. Respondent did not receive the notice because he had moved his office without updating his membership records address as required by section 6002.1.
11. On August 12, 2008, member services received the non-compliance and reinstatement fees and Respondent's MCLE compliance card and certificates of attendance showing that Respondent completed six hours of MCLE on November 18, 2006; six and one-half hours of MCLE on December 9, 2006; and 25 hours of MCLE from August 7 through 9, 2008.
12. On August 12, 2008, Respondent's not eligible status was terminated.

The Marshak action

13. Beginning in April 2008, Respondent provided legal representation to Godwin David-Obuyemi ("Obuyemi").
14. On May 13, 2008, an unlawful detainer action was filed against Obuyemi in the Los Angeles County Superior Court entitled, *Ben Marchak v. Godwin David-Obuyemi*, case number 08U01457 (the "Marchak action").
15. On July 9, 2008, when Respondent was not entitled to practice law in California, Respondent appeared in court in the Marchak action as the attorney for Obuyemi with opposing counsel, Dennis Block ("Block"), when the action was called for trial. The court continued the trial to July 23, 2008 and ordered that trial briefs were due by July 15, 2008. Respondent did not inform Block or the court that he was not entitled to practice law on July 9, 2008.
16. On July 15, 2008, when Respondent was not entitled to practice law in California, Respondent filed a document with the court in the Marchak action as the attorney for Obuyemi entitled, "Brief Re: Perjury By Plaintiff Ben Marchak and Invocation of Fifth Amendment Privilege Against Self-Incrimination By Plaintiff Ben Marchak." Respondent did not inform the court that he was not entitled to practice law on July 15, 2008.
17. On July 23, 2008, when Respondent was not entitled to practice law in California, Respondent appeared in court for the trial in the Marchak action as the attorney for Obuyemi. Gary Arakelian ("Arakelian") appeared as the attorney for Ben Marchak ("Marchak"). Arakelian called Marchak as a witness, Marchak testified at trial, and exhibits were received in evidence on behalf of Marchak. Respondent called Obuyemi and Timothy Obuyemi as witnesses

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004.)

and they testified at trial. The court entered judgment in favor of Marchak and against Obuyemi. Respondent did not inform Arakelian or the court that he was not entitled to practice law on July 23, 2008.

18. On July 28, 2008, when Respondent was not entitled to practice law in California, Respondent called Block's office and left a message that on July 30, 2008 at 8:30 a.m., he would be appearing in the Marchak action on Obuyemi's ex parte motion to stay enforcement of the judgment and to stay execution of the writ of possession pending appeal. Respondent did not inform Marchak's counsel that he was not entitled to practice law on July 28, 2008.

19. On July 29, 2008, when Respondent was not entitled to practice law in California, Respondent spoke with Denise at Block's office. Respondent did not inform Denise or Marchak's counsel that he was not entitled to practice law on July 29, 2008. Denise informed Respondent that Marchak would oppose Obuyemi's ex parte motion.

20. On July 30, 2008, when Respondent was not entitled to practice law in California, Respondent filed a notice of appeal; an ex parte motion to stay execution of the judgment and his declaration in support of the merit of the motion; and a declaration regarding his notice of the ex parte motion with the court as the attorney for Obuyemi in the Marchak action. Respondent also appeared in court on the motion as the attorney for Obuyemi, and Paul Eric Gold ("Gold") appeared as the attorney for Marchak. The court denied the motion without prejudice. Respondent did not inform Gold or the court that he was not entitled to practice law on July 30, 2008.

21. On August 5, 2008, when Respondent was not entitled to practice law in California, Respondent spoke with Denise at Block's office and informed her that on August 6, 2008 at 8:30 a.m., he would be appearing in the Marchak action on Obuyemi's ex parte motion to stay enforcement of the judgment and to stay execution of the writ of possession pending appeal. Respondent did not inform Denise or Marchak's counsel that he was not entitled to practice law on August 5, 2008.

22. On August 6, 2008, when Respondent was not entitled to practice law in California, Respondent filed an ex parte motion to stay execution of the judgment and his declaration in support of the merit of the motion; and a declaration regarding his notice of the ex parte motion with the court as the attorney for Obuyemi in the Marchak action. Respondent also appeared in court on the motion as the attorney for Obuyemi, and Gold appeared as the attorney for Marchak. The court denied the motion without prejudice. Respondent did not inform Gold or the court that he was not entitled to practice law on August 6, 2008.

I. B. CONCLUSIONS OF LAW:

By appearing in court and providing legal representation for Obuyemi on July 9, July 23, July 30 and August 6, 2008; by filing the documents with the court on July 15, July 30 and August 6, 2008 as the attorney for Obuyemi; and by contacting Marchak's counsel as the attorney for Obuyemi on July 28, July 29, and August 5, 2008, Respondent engaged in the unauthorized practice of law and held himself out as entitled to practice law, and violated Business and Professions Code sections 6125 and 6126 ("sections 6125 and 6126"). By violating sections 6125 and 6126, Respondent failed to support the laws of this state, in wilful violation of Business and Professions Code section 6068(a).

II. A. FACTS:

1. Paragraphs I. A. 1 through I. A. 12 are incorporated by reference.
2. Respondent represented in a letter dated April 29, 2009 to an investigator with the Office of the Chief Trial Counsel of the State Bar of California that he had left the membership records address in or about June 2008 and relocated to 4401 Atlantic Avenue, #200, Long Beach, California.
3. Respondent did not notify Membership Records of the State Bar of California ("membership records") of

his change of address, for State Bar purposes or purposes of the agency charged with attorney discipline, until April 30, 2009.

II. B. CONCLUSION OF LAW:

By not notifying membership records of his change of address until April 30, 2009, Respondent failed to comply with the requirements of section 6002.1, which requires a member of the State Bar to maintain on the official membership records of the State Bar, the member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline, in wilful violation of Business and Professions Code section 6068(j).

III. A. FACTS:

1. Paragraphs I. A. 1 through I. A. 22 and II. A. 2 and II. A. 3 are incorporated by reference.
2. Respondent knew that he had not paid his 2008 membership fees and that he had not complied with the MCLE rules for the compliance period ending January 31, 2008 when he provided legal representation to Obuyemi in the Marchak action.
3. Respondent knew that he would be suspended from the practice of law in California if he failed to pay his 2008 membership fees.
4. Respondent knew that he would be placed on not eligible status with the State Bar of California ("State Bar") if he did not submit his MCLE compliance card to member services by February 1, 2008.
5. Respondent knew that he had not maintained a current address with membership records for State Bar purposes or purposes of the agency charged with attorney discipline between June and August 2008.
6. Respondent knew that he would not receive notices affecting his ability to practice law if he did not maintain a current address with membership records.
7. Respondent did not reasonably believe that he was entitled to practice law from July 9 to August 6, 2008 when he knew that he had not paid his 2008 membership fees and that he would be suspended as a result; when he knew that he had not submitted his MCLE compliance card to member services and that he would be placed on not eligible status with the State Bar as a result; and when he knew that he had not maintained a current address with membership records. As such, Respondent engaged in the unauthorized practice of law in the Marshak action from July 9 to August 6, 2008 through his gross negligence.

III. B. CONCLUSION OF LAW:

By engaging in the unauthorized practice of law in the Marshak action from July 9 to August 6, 2008 through his gross negligence, Respondent committed acts involving moral turpitude, in wilful violation of Business and Professions Code section 6106.

In the Matter of
Mark H. Williams

Case number(s):
06-O-13025, et al.

A Member of the State Bar

Law Office Management Conditions

- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within days/ months/**one** years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **six** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

In the Matter of
Mark H. Williams

Case number(s):
06-O-13025 and 06-O-14149

A Member of the State Bar

Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

| Payee | Principal Amount | Interest Accrues From |
|-------------------|------------------|-----------------------|
| La Chelle Burnett | \$1,500 | July 18, 2005 |
| Araceli Pineda | \$4,000 | April 24, 2006 |
| | | |
| | | |

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **one year from the effective date of discipline ordered by the Supreme Court in these matters.**

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

| Payee/CSF (as applicable) | Minimum Payment Amount | Payment Frequency |
|---------------------------|------------------------|-------------------|
| | | |
| | | |
| | | |
| | | |

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

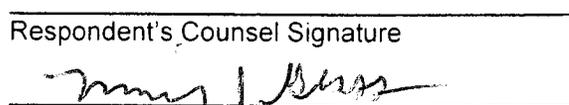
- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

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|--------------------------------------|---------------------------------------|
| In the Matter of Mark H. Williams | Case number(s): 06-O-13025, et al. |
|--------------------------------------|---------------------------------------|

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 Fact, Conclusions of Law and Disposition.

| | | |
|-------------------------------|--|---------------------------------------|
| <u>August 6, 2009</u> Date |  Respondent's Signature | <u>Mark H. Williams</u> Print Name |
| <u>8/6/09</u> Date |  Deputy Trial Counsel's Signature | <u>Michael J. Glass</u> Print Name |

(Do not write above this line.)

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|---|--|
| In the Matter Of Mark H. Williams | Case Number(s): 06-O-13025, et al. |
|---|--|

ORDER

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

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

*PAGE 2 - A.(8) DELETE YEAR 2010.
INSERT YEAR 2012.*

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

05-24-06

Date



Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 25, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

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

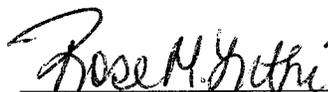
MARK H. WILLIAMS
4508-A ATLANTIC AVE #722
LONG BEACH, CA 90807

MARK H. WILLIAMS
4401 ATLANTIC AVE #200
LONG BEACH, CA 90807

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

MICHAEL GLASS, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 25, 2009.



Rose Luthi
Case Administrator
State Bar Court