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State Bar Court of California

Hearing Department
Los Angeles

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number (s)</p> <p>07-O-11294 09-O-11587 (inv) 09-O-13611 (inv)</p>	<p>(for Court's use)</p> <p>FILED</p> <p>DEC 22 2009</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>James I. Ham Pansky Markle Ham LLP 1010 Sycamore Avenue, Suite 308 South Pasadena, California 91030 213-626-7300</p> <p>Bar # 100849</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>In the Matter Of: James Marshall Hodges</p> <p>Bar # 53758</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 December 14, 1972.
- (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 18 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: three billing cycles following the effective date of the Supreme Court order.
(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. Respondent's failure to present credible and admissible evidence to create a triable issue of fact so as to overcome his adversary's Motion for Summary Judgment, and filing of an appeal from the summary judgment grant which was found frivolous as a matter of law, all worked to significantly harm his client, his adversaries and their counsel and the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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.
- (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. Respondent was admitted to practice on December 14, 1972 and has no prior record of discipline.
- (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. Respondent has returned the client file and paperwork to Radcliffe in conjunction with agreeing to refund the unearned fee in that matter. Additionally, Respondent has agreed to refund to Zuniga \$2,500.00 of that fee.
- (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. A substantial number of

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letters attesting to Respondent's good moral character from a variety of clients, attorneys and bench officers, have been received.

- (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

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 two 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 thirty days .
- 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:

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- (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 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 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 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 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:**

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Attachment language begins here (if any):

In the Matter of
James Marshall Hodges

Case number(s):
07-O-11294, 09-O-11587(inv), and 09-O-13611(inv)

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
Cesar Zuniga	\$2,500.00	
William Radcliffe III	\$3,000.00	

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **sixty days from the effective date of the discipline order in this matter.**

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";

(Financial Conditions form approved by SBC Executive Committee 10/16/2000. Revised 12/16/2004; 12/13/2006.)

- 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.

9. On March 25, 2004, Julissa Rodriguez, counsel for Medex Assistance Corporation ("Medex"), wrote to Respondent regarding dismissing Medex from the fraud action. Respondent received the letter but did not dismiss Medex from the fraud action.

10. On April 13, 2004, defendant Medex served and filed a Motion for Summary Judgment in the fraud action.

11. On April 19, 2004, Wallach filed a joinder in Medex's Motion for Summary Judgment.

12. On April 27, 2004, defendant Pan-American also filed a Motion for Summary Judgment in the fraud action. In support of its Motion for Summary Judgment, Pan-American provided copies of documentation submitted by Soroudi to the Mutual of Omaha Insurance Company in pursuit of another insurance claim.

13. On April 26, 2004, Pan-American's Motion for Summary Judgment with the supporting documentation was personally served on Respondent's office. Respondent received Pan-American's Motion for Summary Judgment.

14. On May 4, 2004, Respondent filed a cursory four page opposition to Pan-America and Medex's Motion for Summary Judgment. In the opposition, Respondent did not address the issues raised by Medex or Pan-American, including Soroudi's previous fraudulent insurance claims or Soroudi's conviction for insurance fraud. Respondent failed to file any controverting declarations intended to create a triable issue of fact, nor did Respondent file a separate controverting statement of undisputed facts.

15. On May 13, 2004, the court granted the defendants' Motions for Summary Judgment in the fraud action.

16. On May 21, 2004, the court in the fraud action entered judgment in favor of the defendants and against Soroudi as to all claims. The entire fraud action was dismissed with prejudice.

17. On May 24, 2004, Medex filed a Motion to Strike the Complaint and a Motion for Rule 11 Sanctions in the fraud action. The hearing regarding the motions was scheduled for June 14, 2004.

18. On June 14, 2004, the court issued an order denying Medex's Motion to Strike, granting in part the Motion for Rule 11 Sanctions and setting an Order to Show Cause as to why further sanctions

should not be imposed against plaintiff in the fraud action. The court set the hearing regarding the Order to Show Cause for July 14, 2004.

19. In its June 14, 2004 order, the court awarded Medex sanctions in the form of attorney's fees and costs, totaling \$54,793.13. The court ordered that Respondent be jointly and severally liable for any attorney's fees and costs incurred by Medex after April 27, 2004.

20. Finally, in its June 14, 2004 order, the court ordered plaintiff to show cause by July 12, 2004 why further Rule 11 sanctions should not be imposed in the fraud action.

21. On June 23, 2004, Respondent filed a motion to set aside the judgment entered on May 21, 2004 in the fraud action. The hearing regarding the motion was set for July 19, 2004.

22. On June 23, 2004, Respondent filed a declaration in opposition to the Rule 11 sanctions imposed on June 14, 2004 in the fraud action. In the declaration, Respondent stated that he believed Soroudi had a meritorious case.

23. On June 24, 2004, Respondent also filed a Notice of Appeal, appealing to the Ninth Circuit Court of Appeal, the court's May 21, 2004 ruling dismissing the fraud action with prejudice (the "appellate action"). Respondent did not appeal the district court's sanction award.

24. On July 14, 2004, the court took both the motion to set aside the judgment and the OSC regarding sanctions off calendar pending the appeal of the fraud action.

25. On January 21, 2005, Respondent filed the Appellant's Opening Brief on Soroudi's behalf in the appellate action, but the brief contained several major deficiencies.

26. On January 26, 2005, Walter Greene Jr. ("Greene"), counsel for Wallach, wrote Respondent after receiving the opening brief in the appellate action. In the January 26, 2005 letter, Greene informed Respondent that he intended to seek sanctions against both Respondent and Soroudi for filing a frivolous appeal. In his January 26, 2005 four page letter, Greene described years of Soroudi's fraudulent insurance claims, lawsuits, arrests and convictions. On February 2, 2005, Respondent wrote Greene acknowledging receipt of the January 26, 2005 letter.

27. On March 4, 2005, Respondent filed an opening brief with the Ninth Circuit that addressed the deficiencies previously noted by the court.

28. On April 8, 2005, Wallach filed a motion in the appellate action seeking damages and costs against Soroudi and Respondent based on Soroudi's frivolous appeal. In the motion, Wallach noted that Soroudi was currently under investigation for insurance fraud in the Commonwealth of Virginia because Soroudi had filed another claim under an international travel health insurance policy.

29. On July 6, 2005, Pan-American filed a motion in the appellate action seeking attorney's fees costs and sanctions against Soroudi and Respondent.

30. On August 11, 2005, Medex filed a joinder of Wallach's motion for damages and costs and Pan-American's motion for fees, costs and sanctions.

31. On April 13, 2006, the Ninth Circuit Court of Appeal issued an order affirming the trial court's order granting the summary judgment motions. Regarding Soroudi's claims in the fraud action, the Ninth Circuit declared that "if an odor of mendacity wafts through this case, its provenance is Soroudi himself." The court noted that the appeal should never have been filed and imposed attorney's fees and costs against Soroudi and Respondent, jointly and severally.

32. On April 18, 2006, the Ninth Circuit issued an order referring the determination of the proper amount of sanctions to the court's special master, Appellate Commissioner Peter L. Shaw.

33. On February 21, 2007, Shaw issued an order imposing sanctions and against Soroudi and Respondent. In his February 21, 2007 order, Shaw awarded \$47,187.50 in attorney's fees in favor of Pan-American and against Soroudi and Respondent - jointly and severally, awarded \$28,446 in attorney's fees in favor of Wallach and against Soroudi and Respondent - jointly and severally and \$40,425 in attorney's fees in favor of Medex and against Soroudi and Respondent, jointly and severally. Respondent was properly served with the February 21, 2007 order. At no time did Respondent report the sanctions imposed against him by the Ninth Circuit to the State Bar of California.

Legal Conclusion:

34. By pursuing the fraud action even after receiving evidence that Soroudi had filed fraudulent insurance claims, by pursuing the fraud action even after receiving documentation showing Soroudi's claims lacked merit and by appealing the orders granting the Motions for Summary Judgment even after the District Court found the fraud action to be "frivolous" and "fraudulent", Respondent wilfully violated Business and Professions Code section 6068(c). By not reporting the sanctions imposed against

him by the Ninth Circuit within 30 days, Respondent wilfully violated Business and Professions Code section 6068(o)(3).

Case No. 09-O-11587:

35. Respondent was retained by Cesar Zuniga in January 2008 to pursue on his behalf a petition for writ of habeus corpus in the action styled *Cesar Zuniga v. Warden, Soledad Correctional Training Facility, Case No. Cv 08-08048 GW (RZ)*. Zuniga paid Respondent \$5,000.00 to prepare the subject writ.

36. In April 1992, Zuniga was convicted of first degree murder and other charges, receiving a prison sentence of thirty-three years to life. Zuniga's direct appeal efforts ceased on January 26, 1994, at which time the California Supreme Court denied his petition for review. Zuniga's conviction became final on April 26, 1994, at which time the deadline for his certiorari petition expired.

37. Thereafter, in 2005, Zuniga commenced a series of state habeus corpus petitions in the trial, state appellate and state supreme courts, all of which rejected the requested relief. The California Supreme Court denied the final petition on October 17, 2007.

38. On December 5, 2008, Respondent filed a petition for writ of habeus corpus on behalf of Zuniga, resulting in the United States Magistrate Judge issuing an order to show cause questioning the timeliness of the petition.

39. On January 9, 2009, the Magistrate issued his report and recommendation that the petition was untimely inasmuch as more than one year had passed subsequent to the California Supreme Court's denial of the final petition on October 17, 2007.

40. On April 24, 2009, the court entered judgment having accepted the findings and recommendation of the Magistrate ordering the petition denied and the action dismissed with prejudice as untimely. Respondent has agreed to refund \$2,500.00 of his fee, and this has been accepted by Mr. Zuniga.

Legal Conclusion:

43. By failing to prepare and file the subject writ in timely fashion, Respondent intentionally or recklessly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct.

Case No. 09-O-13611:

44. Respondent was retained on December 10, 2008, by William M. Radcliffe III to secure a loan modification with respect to his primary residence. A \$3,000.00 retainer was conveyed to Respondent for these same services. Pursuant to the terms of the retainer, Respondent was to prepare and submit a loan modification request to the involved lender, and if accepted, negotiate reasonable terms of settlement.

45. Respondent's overture to the lender in question on behalf of Radcliffe resulted in Respondent being advised that due to Radcliffe's high earnings history he was not likely to qualify for their loan modification program.

46. Frustrated with the progress of the loan modification application, Radcliffe insisted upon a conference call with both the lender and Respondent, at which time Radcliffe first realized that Respondent had been earlier advised by the lender that Radcliffe would not in all likelihood qualify for the program due to his high earnings history.

Legal Conclusion:

47. By failing to competently pursue the loan modification process on behalf of Radcliffe, Respondent recklessly or intentionally failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct. Additionally, by failing to promptly refund any of the unearned fee advanced by Radcliffe to secure the loan modification application, Respondent recklessly or intentionally failed to return any of the fee advanced that had not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was November 18, 2009.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
07-O-11294	Two	Failure to obey a court order (B&PC section 6103)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 18, 2009, the prosecution costs in this matter are approximately \$4,892.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards For Attorney Sanctions For Professional Misconduct provides that the primary purpose of discipline is the protection of the public, the courts and the legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 1.6(a) provides that where two or more acts of misconduct occur within a single proceeding, the more severe sanction is to be imposed.

Standard 2.10 provides for reproof or suspension for those violations of Rule of Professional Conduct, rules 3-110(A) and 3-700(D)(2), according to gravity of the offense or the harm, if any, to the victim.

Standard 2.6(a) provides for disbarment or suspension depending upon the gravity of the offense or harm for a violation of Business and Professions Code section 6068(c) and 6068(o)(3).

A thirty day actual suspension together with a two year stayed suspension, in conjunction with the probationary conditions set forth herein, is consistent with the above referred Standards.

The parties submit that given Respondent's recognition of wrongdoing, together with his remorse and candor and cooperation throughout this matter, that the stipulated discipline and probationary conditions in this matter are sufficient to assure that Respondent will conform his future conduct to ethical standards and therefore, protect the public, courts and legal profession.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

FINANCIAL CONDITIONS, RESTITUTION.

Within sixty days from the effective date of discipline in this matter, respondent must make restitution to William M. Radcliffe III or the Client Security Fund if it has paid, in the principal amount of \$3,000.00 and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him or her during that reporting period.

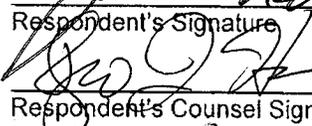
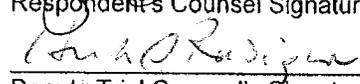
Within sixty days from the effective date of discipline in this matter, respondent must make restitution to Cesar Zuniga or the Client Security Fund if it has paid, in the principal amount of \$2,500.00 and furnish satisfactory evidence of restitution to the Office of Probation. Respondent shall include, in each quarterly report required herein, satisfactory evidence of all restitution payments made by him or her during that reporting period.

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In the Matter of James Marshall Hodges	Case number(s): 07-O-11294, 09-O-11587(inv) and 09-O13611(inv)
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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>12/9/2009</u> Date	 Respondent's Signature	James M. Hodges Print Name
<u>12/10/2009</u> Date	 Respondent's Counsel Signature	James I. Ham Print Name
<u>December 16, 09</u> Date	 Deputy Trial Counsel's Signature	Hugh G. Radigan Print Name

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In the Matter Of
James Marshall Hodges

Case Number(s):
07-O-11294, 09-O-11587(inv) and 09-O-13611(inv)

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:

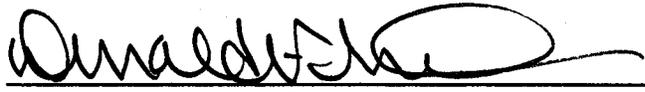
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

Court notes that pages 7 and 8 are substantively blank.

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.)**

Date

12/22/09



Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court 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 December 22, 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:

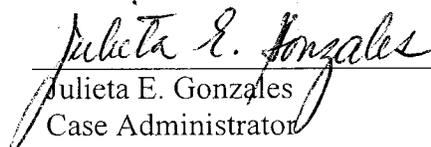
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JAMES I HAM ESQ
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

Hugh G. Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 22, 2009.



Julieta E. Gonzales
Case Administrator
State Bar Court