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

<p>Counsel For The State Bar</p> <p>Christine Souhrada Deputy Trial Counsel 1149 South Hill street, 5th Fl. Los Angeles, CA 90015-2299 Telephone: (213) 765-1162</p> <p>Bar # 229256</p>	<p>Case Number (s)</p> <p>07-0-14462; 07-0-14500;07-0-14679; 07-0-14728; 07-0-14734; 07-0-14999; 08-0-10486; 08-0-10925; 08-0-11569; and 08-0-11579</p>	<p>(for Court's use)</p> <p style="text-align: center; font-size: 1.2em;"><b>PUBLIC MATTER</b></p> <p style="text-align: center; font-size: 1.5em;"><b>FILED</b> </p> <p style="text-align: center;">SEP 11 2009</p> <p style="text-align: center;"><b>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</b></p>
<p>In Pro Per Respondent</p> <p>John R. Call 11741 Maple Street Whittier, CA 90601 Telephone: (562) 692-7068</p> <p>Bar # 166415</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p>John R. Call</p> <p>Bar # 166415</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 1, 1993.
- (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 **31** 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".



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- (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 failures to perform and communicate caused delay in his clients' cases, caused client to lose their cause of action, to go into default, and/or to be ordered to pay attorney's fees for the opposing parties.
- (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. As detailed in the attached factual statement, Respondent committed multiple acts 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.
- (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 since he was admitted to the practice of law in 1993.

Respondent has a history of depression pre-dating and during his misconduct, for which he has been in treatment since at least 2005. At the time of the misconduct, Respondent's depression worsened. Respondent continues to be treated for depression.

Additionally, directly before the misconduct, Respondent was experiencing cash flow problems in his law office and was unable to stay current with his rent. Respondent's landlord then locked Respondent out of his office and would not allow Respondent to retrieve his files. During this same period Respondent's intimate relationship of 12 years ended.

**D. Discipline:**

- (1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of three 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 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:

**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:

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- |  |   |
|--|---|
| <input type="checkbox"/> Substance Abuse Conditions    | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> 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 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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Case number(s):  
07-0-14462 ET AL.

### Medical Conditions

- a.  Unless Respondent has been terminated from the Lawyer Assistance Program ("LAP") prior to respondent's successful completion of the LAP, respondent must comply with all provisions and conditions of respondent's Participation Agreement with the LAP and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and respondent's compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. However, if respondent has successfully completed the LAP, respondent need not comply with this condition-
- b.  Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of \_\_\_\_\_ times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment must continue for \_\_\_\_\_ days or months or \_\_\_\_\_ years or, the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- c.  Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, Office of the Chief Trial Counsel, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

#### Other:

Respondent currently sees a therapist or psychiatrist once per week. Respondent must continue therapy and treatment as recommended by his treating therapist or psychiatrist throughout his probationary period. Respondent must continue to see his treating therapist or psychiatrist at least once per week unless his treating therapist or psychiatrist consents to a lesser frequency.

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

Respondent must provide with each quarterly probationary report a report from his therapist or psychiatrist verifying that Respondent is continuing in treatment and is complying with all recommendations of his therapist or psychiatrist. The therapist's or psychiatrist's report must be dated no more than one month before the quarterly report due date. Should Respondent not provide such a report or should the report indicate that Respondent is not complying with his treatment as recommended by his therapist or psychiatrist, Respondent will be in violation of his disciplinary probation.

Upon request of the Office of Probation, respondent must provide the Office of Probation with medical waivers and access to respondent's medical records related to his psychiatric treatment as required by and during the period of disciplinary probation.



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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
Leon Kennedy	\$5,000	November 29, 2007
Trudy Martin	\$4,000	September 20, 2007
Anthony Peregretti	\$1,500	September 22, 2007
Elaine Bloom	\$4,350	September 17, 2007
Alexio Dario	\$900	October, 2007
Mary Thomas	\$500	February 21, 2008

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **30 days before the termination of his probationary period.**

### 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.

The required installment payments listed below will not begin until six months after the effective date of the Supreme Court order approving this stipulation.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Leon Kennedy	\$500	Quarterly
Trudy Martin	\$400	Quarterly
Anthony Peregretti	\$150	Quarterly
Elaine Bloom	\$450	Quarterly
Alexio Dario	\$75	Quarterly
Mary Thomas	\$60	Quarterly

### 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.

In the Matter of

JOHN R. CALL

A Member of the State Bar

Case number(s):

07-0-14462, et al.

## NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a Notice of Disciplinary Charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) **Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admission required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)**

### Rule 133, Rules of Procedure of the State Bar of California **STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

- (a) A proposed stipulation as to facts, conclusions of law, and disposition must set forth each of the following:

...

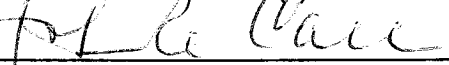
- (5) a statement that Respondent either
  - (i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or
  - (ii) **pleads nolo contendere to those facts and violations. If the Respondent pleads nolo contendere, the stipulation shall include each of the following:**
    - (a) **an acknowledgement that the Respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and**
    - (b) **if requested by the Court, a statement by the Deputy Trial Counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter (emphasis supplied)**

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code § 6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea must be considered the same as an admission of culpability except as state in Business and Professions Code section 6085.5(c).

Date

Sep 7, 2009

Signature



Print Name

JOHN R. CALL

Attachment to Stipulation Re Facts, Conclusions of Law and Disposition  
in the Matter of John Richard Call

Case nos. 07-O-14462; 07-O-14500; 07-O-14679; 07-O-14728; 07-O-14734; 07-O-14999; 08-O-10486; 08-O-10925; 08-O-11569; 08-O-11579

I. FACTS AND CONCLUSIONS OF LAW

Case No. 07-O-14462

Facts

1. In July 2007, Leon Kennedy ("Kennedy") hired Respondent to represent him in a lawsuit involving real property ("lawsuit") he had previously filed against two banks and an insurance company. At the time of hiring Respondent, Kennedy and Powers fully informed Respondent of pending summary judgment motions and hearing dates on those motions set for September 10, 2007, October 10, 2007, and October 11, 2007.

Respondent was also given all of the files related to the lawsuit by Kennedy. Respondent was paid \$2500 each by Kennedy.

2. On August 8, 2007, after having not received any communication from Respondent, Kennedy telephoned Respondent's office seeking information on the lawsuit and inquiring as to whether Respondent had any questions for him. Respondent called he back to inform them that he was out of the state.

3. Between August 13, 2007 and September 13, 2007, Respondent's client attempted to contact him via phone and letter without success.

4. Respondent would testify that in August 2007, he was injured in New Mexico causing him to be immobilized and to be unable to communicate with anyone for several weeks.

5. On September 27, 2007, Respondent telephoned Kennedy. Respondent told Kennedy that he had been in an accident which made it impossible for his to communicate with anyone.

6. On September 28, 2007, Kennedy met with Respondent. In this meeting Kennedy discussed with Respondent how they had not heard from Respondent since early August 2007. They also discussed that Respondent had not filed an opposition for the September 10, 2007, Motion for Summary Judgment hearing and that Respondent had not appeared for that hearing. The parties agreed that Respondent would go to Court in early October 2007 and explain to the Court what had happened to him and to request that Kennedy not be penalized for Respondent's failure. Respondent also stated that he would prepare a Code of Civil Procedure, section 473(b) motion ("473(b) motion") for relief seeking to have the September 10, 2007, summary judgment ruling set aside based on Respondent's conduct. If called to testify, Respondent would testify that he advised Kennedy that he should seek other counsel and that Respondent would provide new counsel with a declaration of attorney fault under CCP 473(b).

7. On October 5, 2007, Respondent emailed Kennedy and informed Kennedy that he intended to make the appropriate motion to continue the two summary judgment motion hearing scheduled for the following and that he would also be taking the appropriate action with regard to the earlier summary judgment ruling, but that he had not determined when he would bring such a motion.

8. On October, 10, 2007, the case was called for hearing on defendant Safeguard Properties Motion for Summary Judgment. Respondent had failed to file an opposition to this motion. Respondent made an appearance and requested a continuance in order that he may file an opposition to the motion. The Court denied Respondent's request as untimely and unsupported. The Court granted the motion and entered a judgment in favor of Safeguard Properties.

9. On October 10, 2007, Respondent sent an email to Kennedy explaining what had taken place earlier in court regarding the lawsuit. Respondent indicated that he would not be appearing the following day on the hearing on the Motion for Summary Judgment brought by Litton Loan Servicing. Respondent indicated that he would begin preparing the three oppositions to these Motions for Summary Judgment that will need to be attached to his 473(b) application to vacate Summary Judgment.

10. Between October 11, 2007, and November 2, 2007, Respondent did not communicate with Kennedy in any fashion.

11. On November 2, 2007, Kennedy sent Respondent an email in response to Respondent's October 10, 2007, email. Kennedy stated that he expected Respondent to file the 473(b) motion by November 10, 2007.

12. Between November 29, 2007, and continuing through, at least, January 31, 2008, Respondent failed to communicate with Kennedy in any fashion.

13. As of, at least, January 31, 2008, Respondent has failed to return any of the \$5000 total collected from Kennedy that he did not earn.

14. On February 5, 2008, the case was called for hearing on ABN Amro's Motion for Attorney's Fees. Respondent did not file an opposition and no appearance was made by Respondent. The motion was granted and ABN Amro was awarded over \$140,000 in fees and costs.

15. On March 12, 2008, the case was called for hearing on Litton Loan Servicing's Motion for Attorney's Fees. Respondent did not file an opposition and no appearance was made by Respondent. The motion was granted and Litton Loan Servicing was awarded over \$150,000 in fees and costs.

16. Between in July 2007, and through, at least, January 31, 2008, Respondent failed to provide any legal services of value to Kennedy.

17. On November 20, 2007, a State Bar investigator wrote Respondent regarding his representation of Kennedy. Respondent did not respond to the investigator's November 20, 2007, letter.

18. On December 5, 2007, a second letter was sent to Respondent at his home address. Respondent did not respond to the investigator's December 5, 2007, letter.

19. On December 12, 2007, another letter was sent to Respondent at his home address. Respondent did not respond to the investigator's December 12, 2007 letter.

### Conclusions of Law

20. By failing to perform any legal services of value in the representation of Kennedy, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

21. By failing to refund promptly any part of the \$5000 paid to Respondent in advance by Kennedy, despite having not earned that fee, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

22. By failing on multiple occasions between July 2008 and January 31, 2008, to respond promptly to the reasonable status inquiries of Kennedy, Respondent willfully violated Business and Professions Code, section 6068(m).

23. By not providing a written response to the allegations in the Kennedy representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

### Case No. 07-O-14500

### Facts

24. On May 29, 2007, Trudy Martin ("Martin") met with Respondent and hired him to represent her in a suit against the City of Los Angeles and Martin's real estate broker. On the same date, Martin paid Respondent \$4000 to secure his representation.

25. Between June 2007 and September 20, 2007, Martin called Respondent on five occasions seeking a status update on her case. On each occasion Respondent was not available and Martin left a message requesting that Respondent call her back. Respondent failed to return any of these phone calls and did not communicate with her in any other way during this time period.

26. On September 20, 2007, Martin sent Respondent a letter by certified mail, return receipt requested, informing Respondent that his services were terminated and that she wanted a full refund of the \$4000 paid to him.

27. In January 2008, Martin spoke with Respondent and requested the refund of the \$4000 she had paid to him. Respondent indicated that he had done research on her case and that he would not be refunding any amount until he was able to get back into his office. Respondent had a dispute with the landlord of his office and that he had been prevented from entering his office. Respondent has not provided Martin with any proof of any work done on her matter and Respondent never contacted Martin again regarding the requested refund.

28. Respondent has not performed any services of value for Martin.

29. Respondent failed to earn any part of the \$4000 paid by Martin to Respondent.

30. Respondent has failed to provide a refund of any amount to Martin despite her repeated requests for said refund.

31. On November 20, 2007, a State Bar investigator wrote Respondent regarding his representation of Martin. Respondent did not respond to the investigator's November 20, 2007 letter.

32. On December 5, 2007, a second letter was sent to Respondent at his home address. Respondent did not respond to the investigator's December 5, 2007 letter.

33. On December 12, 2007, another letter was sent to Respondent at his home address. Respondent did not respond to the investigator's December 12, 2007 letter.

#### Conclusions of Law

34. By failing to perform any services of value for Martin, Respondent intentionally, recklessly, or repeated failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

35. By failing to promptly refund any part of the fee paid in advance to him and not earned, Respondent has willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

36. By failing to respond in any manner to the status inquiries made by Martin between June 2007 and September 20, 2007, and by failing to respond to Martin's September 20, 2007, letter terminating his services and requesting a full refund, Respondent failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code section 6068(m).

37. By not providing a written response to the allegations in the Martin representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

#### Case No. 07-O-14679

#### Facts

38. On August 13, 2007, Respondent was hired by Anthony Peregretti ("Peregretti") to represent Peregretti in a paternity matter. Respondent was paid \$1500 in advance towards the representation.

39. On August 15, 2007, Peregretti was served with a Temporary Restraining Order and Notice of Hearing ("TRO matter"). The petitioner in the TRO matter was the pregnant woman who would be a party in the paternity action Respondent was hired to pursue.

40. On September 21, 2007, Peregretti sent a letter to Respondent via certified mail. This letter advised Respondent that Peregretti had been trying to contact Respondent without any success and that Respondent had failed to communicate with Peregretti in any manner. The letter requested that Respondent contact Peregretti.

41. On October 4, 2007, Peregretti's mother sent Respondent a fax letter requesting that Respondent contact Peregretti regarding the October 5, 2007, TRO matter hearing. Respondent did not respond to this request.

42. On October 18, 2007, Peregretti's mother sent Respondent a fax letter requesting that Respondent contact Peregretti to advise him whether Respondent intended on representing Peregretti regarding the paternity matter. Respondent did not respond to this request.

43. On November 9, 2007, the TRO matter was called for hearing. Peregretti appeared, but Respondent did not make an appearance. Following the hearing, the court denied the temporary restraining order and dismissed the case.

44. On November 15, 2007, Peregretti's mother went to Respondent's office in an attempt to contact him on behalf of Peregretti. Respondent was not in the office at that time. Respondent failed to contact Peregretti following this office visit.

45. Respondent failed to provide Peregretti with any legal services of value in the paternity matter.

46. Respondent has failed to refund any of the advanced fees paid to him by Peregretti.

47. Following his conversation with Peregretti on September 22, 2007, Respondent failed to respond to all attempts to contact him by Peregretti.

48. Despite failing to perform any legal services of value, Respondent has not refunded any of the \$1500 paid to him in advance by Peregretti.

49. On December 6, 2007, a State Bar investigator wrote Respondent regarding his representation of Peregretti. Respondent did not respond to the investigator's December 6, 2007, letter.

50. On December 12, 2007, a second letter was sent to Respondent at his home address following a telephone conversation the investigator had with Respondent. Respondent did not respond to the investigator's December 12, 2007, letter.

#### Conclusions of Law

51. By failing to perform any legal services of value to Peregretti, Respondent intentionally, recklessly, or repeatedly failing to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

52. By failing to promptly respond to the reasonable status inquiries of a client, Respondent willfully violated Business and Professions Code, section 6068(m).



53. By failing to promptly refund any part of a fee paid in advance that has not been earned, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

54. By not providing a written response to the allegations in the Peregretti representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

Case No. 07-O-14728

Facts

90. On July 18, 2007, Delores Minor ("Minor") hired Respondent to represent her in a civil matter involving real property, Los Angeles Superior Court, Case No. 07L00803. Respondent was paid \$2000 as advanced fees and expenses.

91. On August 3, 2007, Respondent faxed paperwork to Minor for her review and signature. After completing the paperwork, Minor faxed the paperwork back to Respondent. On the same date, Respondent sent a letter to opposing counsel informing them that on August 6, 2007, he would be moving on an ex parte basis for an order requesting that a judgment entered on July 17, 2007, be set aside and a writ of possession be quashed.

92. On August 6, 2007, Respondent appeared in Los Angeles Superior Court, in Case No. 07L00803, on Minor's behalf. Respondent filed a Substitution of Attorney, an Ex Parte Application For Order Vacating Entry of Summary Judgment, Declarations, and Memorandum of Points and Authorities. The Court denied the ex parte motion.

93. On August 6, 2007, Respondent spoke with Minor and told her that the motion had been denied. Respondent told Minor that he would follow with necessary paperwork to pursue the matter further. Following this conversation, Respondent did not communicate with Minor in any manner.

94. On September 29, 2007, Minor sent a letter to Respondent stating that she had been trying to contact Respondent by telephone and had left messages for him without receiving a return call. Minor requested that Respondent contact her and inform her of the status of her case and to advise when the next scheduled court date was. Respondent did not respond to this letter.

95. On October 8, 2007, Minor telephoned Respondent and left a message with his secretary requesting a return phone call. Respondent did not return this telephone call.

96. On October 22, 2007, Minor telephoned Respondent and left a message with his secretary requesting a return phone call. Respondent did not return this telephone call.

97. Following his August 6, 2007, conversation with Minor, Respondent failed to communicate in any manner with Minor despite her numerous attempts to contact him.

98. On December 13, 2007, a State Bar investigator wrote Respondent regarding his representation of Minor. Respondent did not respond to the investigator's December 13, 2007, letter.

99. On May 21, 2008, a second letter was sent to Respondent at his home address. Respondent did not respond to the investigator's May 21, 2008, letter.

100. On June 5, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address. Respondent did not respond to the investigator's June 5, 2008 letter.

#### Conclusions of Law

101. By failing to perform any further legal services following the August 6, 2007, ex parte hearing, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

102. By failing to promptly respond to any of the reasonable status inquiries of Minor, Respondent willfully violated Business and Professions Code, section 6068(m).

103. By not providing a written response to the allegations in the Minor representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

#### Case No. 07-O-14734

#### Facts

104. On June 13, 2007, Valerie Thompson ("Thompson") hired Respondent to represent her in an unlawful detainer matter and to handle a civil assault matter involving her minor son. Pursuant to retainer agreement, Thompson was to pay an initial \$1000 to Respondent. Thompson paid \$500 to Respondent and gave Respondent original documents including her lease, receipts, and other correspondence. The retainer balance of \$500 was due to Respondent on July 1, 2007.

105. Subsequent to this initial meeting, Thompson attempted to phone Respondent on a weekly basis. On each occasion she left a message for Respondent to return her phone call. Respondent never returned any of Thompson's phone calls.

106. On August 17, 2007, Thompson sent an e-mail to Respondent at [jrc@johnncall.com](mailto:jrc@johnncall.com) requesting that Respondent contact her as she needed to speak to him.

107. On November 8, 2007, Thompson sent an e-mail to Respondent at [jrc@johnncall.com](mailto:jrc@johnncall.com) informing Respondent that she would be coming to his office to pick up her file. Thompson's e-mail also informs Respondent that it is her understanding that Respondent is not intending on representing her.

108. Respondent did not respond to either the August 17, 2007, e-mail or the November 8, 2007, e-mail. Respondent also failed to provide Thompson with her file despite her request for it.

109. Respondent never filed anything on Thompson's behalf. Further, Respondent provided no legal services of value to Thompson in either the unlawful detainer matter or the civil assault matter.

110. On January 28, 2008, an unlawful detainer action was filed against Thompson and, subsequently, the Court found against Thompson causing her to lose her residence.

111. Following their June 13, 2007, meeting, Respondent never again communicated with Thompson in any manner despite her repeated messages and emails.

112. On December 12, 2007, a State Bar investigator wrote Respondent regarding his representation of Thompson. Respondent did not respond to the investigator's December 12, 2007, letter.

113. On April 14, 2008, a second letter was sent to Respondent at his membership record's address. Respondent did not respond to the investigator's April 14, 2008, letter.

114. On June 5, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address. Respondent did not respond to the investigator's June 5, 2008 letter.

#### Conclusions of Law

115. By failing to provide Thompson with any legal services of value in the either the unlawful detainer matter or the civil assault matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

116. By failing to respond to any of Thompson's phone calls and/or emails, Respondent failed to respond promptly to reasonable status inquiries in willful violation of Business and Professions Code, section 6068(m).

117. By not providing a written response to the allegations in the Thompson representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

#### Case No. 07-O-14999

#### Facts

118. In May or June 2007, Respondent was employed to substitute into a lawsuit against Terry Rusheen ("Rusheen") entitled *Han v. Rusheen*, Superior Court Case no. EC022640. Rusheen ("Han matter") paid Respondent \$5000. At that time, there was

a pending Order to Show Cause set for July 31, 2007. Rusheen gave Respondent four boxes containing his case file[s].

119. Respondent failed to substitute into the case until on July 18, 2007.

120. On July 31, 2007, the Order to Show Cause came on for hearing, in the Han matter. Neither Respondent nor Rusheen appeared for the hearing. As a result of the failure to appear, Rusheen's answer was stricken and Rusheen's default was entered. A notice of ruling was issued on August 1, 2007.

121. Respondent failed to take any action on Rusheen's part in the Han matter and, on November 16, 2007, a default judgment was entered against Rusheen.

122. On November 27, 2007, Rusheen filed a complaint with the State Bar of California against Respondent.

123. On January 10, 2008, Rusheen sent an email to Respondent complaining about how Respondent had handled the Han matter and requested that his file be returned.

124. In April 2008, Respondent filed a Motion to Vacate Judgment pursuant to Code of Civil Procedure, section 473(b). Respondent claimed, in part, that he had been injured in August 2007, such that he was disabled from and after that time until in November 2007. He also advised that his landlord had terminated all services to him and restricted his access to his file and computers. The plaintiff filed an opposition.

125. On May 16, 2008, the Court issued its order granting Rusheen's Motion to Vacate Judgment. A Mandatory Settlement Conference was set for November 10, 2008, and a trial was set for December 1, 2008.

126. On May 18, 2008, Rusheen sent Respondent his new email address.

127. On May 29, 2008, Rusheen sent an email to Respondent asking, "Why Don't You Call Me?????????????????????????????????????" Respondent did not respond to this email.

128. On June 11, 2008, Rusheen wrote an email to Respondent, in an attempt to contact him, "John, we are looking dummer and dummer to the Court every day that passes. What is the hold up?????????" Respondent did not respond to this email.

129. On July 3, 2008, and July 4, 2008, Rusheen sent emails to Respondent expressing concern about the lack of contact with him. Respondent received these emails and responded to them by email on July 7, 2008. In Respondent's July 7, 2008, email Respondent indicated that he was working on Rusheen's matter and that he would telephone Rusheen soon. Respondent did not telephone Rusheen after sending the July 7, 2008, email.

130. On July 16, 2008, Rusheen sent two emails to Respondent in an effort to obtain a status report regarding his matter.

131. Subsequently, Respondent did no legal work on behalf of Rusheen.

132. On December 1, 2008, another default judgment was entered against Rusheen in the amount of \$107,469.75.

133. Although Respondent set aside the default judgment entered on November 16, 2007, after making representations to Rusheen upon which he relied to his detriment, Respondent again took no steps to protect his client, effectively withdrawing from representation, and allowed a default judgment of \$107,469.75 to be entered against Rusheen on December 1, 2008.

134. At no time did Respondent contact Rusheen to inform him that he would no longer be representing Rusheen or that a default judgment would or had been entered against him.

#### Conclusions of Law

135. By his conduct, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

136. By effectively withdrawing from representation and failing to take any steps to avoid reasonably foreseeable prejudice against Rusheen, Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2).

#### Case No. 08-O-10486

#### Facts

137. On February 7, 2007, Respondent was hired by Elaine Bloom ("Bloom") to represent her and other neighbors in establishing an L.L.C. and in filing a civil suit against a neighbor and the local government relating to nuisance allegations and the violation of building codes and covenants and restrictions ("the civil suit"). Respondent was paid \$4350 by Bloom for the representation.

138. From February 7, 2007, through October 3, 2007, Respondent was contacted on numerous occasions by Bloom regarding the progress of the filing of the suit and the creation of the L.L.C.. On each occasion Respondent indicated that he was working on the matters and that they would soon be completed.

139. On September 17, 2007, Bloom sent Respondent a letter. This letter stated that Respondent had failed to complete any of the legal services for which he was hired and paid to do on February 7, 2007. The letter further requests that Respondent provide evidence that the civil suit has been filed within 5 business days upon receipt of the letter or, if this deadline is not met, that Respondent refund the \$4350 paid to him by Bloom.

140. On October 3, 2007, Respondent met with Bloom at her home to review the legal matters he was hired to pursue. At this time Respondent told Bloom that the reason for his failure to have filed anything to date was due to Respondent being ill.

Prior to the conclusion of this meeting, Respondent told Bloom that he would be filing the civil suit on October 12, 2007.

141. On October 23, 2007, Bloom sent Respondent a letter. This letter stated that Respondent had failed to complete any of the legal services for which he was hired and paid to do on February 7, 2007. The letter further requests that Respondent provide evidence that the civil suit has been filed within 3 business days upon receipt of the letter. The letter also requests that Respondent refund the \$4350 paid to him by Bloom.

142. Subsequent to the October 3, 2007, meeting, Bloom has attempted to contact Respondent on numerous occasions by telephone, letter, and email in an effort to learn the status of her civil suit. Respondent did not respond to any of these attempts to contact him. Further, Respondent has failed to communicate with Bloom in any manner since the October 3, 2007, meeting.

143. Respondent has never filed the civil suit or established an L.L.C. as he was hired to do by Bloom.

144. Bloom requested that Respondent return the \$4350 paid to him as advanced fees on two occasions. Respondent has failed to refund any part of the advanced fees to Bloom.

145. On April 14, 2008, a State Bar investigator wrote Respondent regarding his representation of Bloom. Respondent did not respond to the investigator's April 14, 2008, letter.

146. On April 30, 2008, a second letter was sent to Respondent at his membership record's address, as well as to a second address provided to the State Bar by Respondent. Respondent did not respond to the investigator's April 30, 2008, letter.

147. On June 6, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address. Respondent did not respond to the investigator's June 6, 2008 letter.

#### Conclusions of Law

148. By failing to perform any of the legal services he for which he was hired and by failing to provide any legal services of value to Bloom, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

149. By failing to respond to any of the phone calls, letters and emails sent to him by his client following his October 3, 2007, meeting with Bloom, Respondent failed to promptly respond to reasonable status inquiries of a client in willful violation of Business and Professions Code, section 6068(m).

150. By failing to promptly refund any part of the advanced fee paid to him by Bloom, despite having not performed any of the services for which he was hired, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

151. By not providing a written response to the allegations in the Bloom representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

Case No. 08-O-10925

Facts

152. On July 30, 2007, Darcy Alexio ("Alexio") hired Respondent to prepare a prenuptial agreement and will. Alexio paid \$900 to Respondent as full payment to complete these services. It was agreed that the prenuptial agreement and will were to be completed prior to Alexio's wedding in October 2007.

153. Between July 31, 2007, and through September 2007, Alexio attempted to contact Respondent by telephone on multiple occasions. Alexio left multiple messages with Respondent's secretary and voice messages requesting that Respondent contact Alexio regarding the status of her matter. Respondent did not respond to any of these messages.

154. On September 17, 2007, Alexio sent Respondent an e-mail requesting that Respondent contact Alexio in some fashion and reminding Respondent that she needed the prenuptial agreement and will completed prior to her wedding which was to take place in three weeks from the date of the e-mail. Respondent did not respond to the e-mail.

155. Subsequent to receiving no response from Respondent to her telephone calls or e-mail, Alexio hired new counsel to complete the prenuptial agreement and will prior to her wedding in October 2007.

156. During the first week of October 2007, Respondent contacted Alexio and offered to complete the services for which she hired him. Alexio informed Respondent that, due to his lack of communication and her pending wedding date, she had hired new counsel to prepare the prenuptial agreement and will. Further, Alexio requested a full refund of the \$900 she had paid Respondent. Respondent agreed to pay a full refund within two weeks. Respondent did not provide any refund to Alexio and failed to contact Alexio further regarding the refund.

157. On October 26, 2007, Alexio sent an e-mail to Respondent again requesting a full refund of the \$900 paid to Respondent. Alexio requested that Respondent pay the refund via cashier's check, that the refund be made within two weeks of the e-mail, and that Respondent contact her to make arrangements to provide her with the refund. Respondent did not respond to the October 26, 2007, e-mail, nor has Respondent ever provided Alexio with a refund of any amount of the \$900 paid to him for the services that were not performed.

158. Despite repeated requests by Alexio and despite agreeing to refund the full amount paid to him by Alexio, Respondent has not refunded any part of the \$900 paid to him by Alexio.

159. On April 11, 2008, a State Bar investigator sent two letters to Respondent regarding his representation of Alexio. Respondent did not respond to the investigator's April 11, 2008, letter.

160. On April 28, 2008, a second set of letters were sent to Respondent at the alternate addresses Respondent had provided to the State Bar. Respondent did not respond to the investigator's April 28, 2008, letter.

161. On June 11, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address. Respondent did not respond to the investigator's June 11, 2008 letter.

### Conclusions of Law

162. By failing to prepare a prenuptial agreement and will for Alexio and by failing to respond to her inquiries, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

163. By failing to promptly refund any part of the fee paid to him in advance by Alexio that was not earned, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

164. By failing to respond to any of the multiple telephone calls made to him by Alexio between July 31, 2007, and throughout September 2007, and by failing to respond to the September 17, 2007, e-mail sent to him by Alexio, Respondent failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code, section 6068(m).

165. By not providing a written response to the allegations in the Alexio representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

### Case No. 08-O-11569

### Facts

166. On November 10, 2006, Mary Thomas ("Thomas") hired Respondent to file a lawsuit against United International Mortgage and Investment ("United lawsuit"). On that same date, Thomas paid Respondent \$500 towards the costs of the representation.

167. On December 4, 2006, Thomas sent an email to Respondent requesting a status update on the United lawsuit. On the same date, Respondent responded with an email to Thomas stating that he was working on her matter and that he hoped to have a complaint to Thomas prior to Christmas.

168. On January 3, 2007, Respondent sent an email to Thomas indicating that he was working on the United lawsuit and that he hoped to be able to "move forward with the demand letter and complaint within a couple of weeks..."



169. On March 27, 2007, Thomas sent Respondent an email requesting a status update on the United lawsuit. On March 28, 2007, Respondent responded with an email to Thomas stating that he was continuing to work on the United lawsuit and that he believed the "timing was about right to file..."

170. On February 19, 2008, Thomas sent Respondent an email stating that she had been unable to reach Respondent by telephone. Thomas also indicated that she was not sure what, if anything, was happening on the United lawsuit and that she need Respondent to contact her with a status update. On February 20, 2008, Respondent responded with an email to Thomas indicating that he was currently in a dispute with his landlord and that his files were not available to him. Respondent indicated that he was working with an attorney and the State Bar in an attempt to resolve the dispute. Respondent specifically stated that he would keep Thomas "posted on what is happening."

171. On February 21, 2008, Thomas sent Respondent an email stating that she would like a refund of the \$500 paid to Respondent for costs, unless Respondent "can show me how the money was spent for my case." Further, Thomas included her telephone number for Respondent's use.

172. Following Thomas's February 21, 2008, email, Respondent has not contacted Thomas in any form.

173. Respondent has not refunded any of the \$500 paid to him by Thomas for costs, despite Thomas requesting a refund.

174. Respondent performed no legal services of value for Thomas.

175. On April 24, 2008, a State Bar investigator wrote Respondent regarding his representation of Thomas. Respondent did not respond to the investigator's April 24, 2008, letter.

176. On May 9, 2008, a second letter was sent to Respondent at his membership record's address, as well as to a second address provided to the State Bar by Respondent. Respondent did not respond to the investigator's May 9, 2008, letter.

177. On June 5, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address.

178. On June 30, 2008, another letter was sent to Respondent, to his recently updated membership record's address. Respondent did not respond to the investigator's June 30, 2008 letter.

#### Conclusions of Law

179. By failing to perform any legal services of value for Thomas, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

180. By failing to promptly refund any part of the fee paid in advance by Thomas that had not been earned, Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).

181. By not providing a written response to the allegations in the Thomas representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

Case No. 08-O-11579

Facts

182. On February 21, 2007, Respondent was hired by Supinya Pawasittichot ("Pawasittichot") to represent her in a marital dissolution action ("dissolution matter"). The dissolution matter had been filed by Pawasittichot's husband in San Bernardino Superior Court, Case No. RFLRS051414. On the same date, Respondent was paid \$2500 by Pawasittichot towards the \$5000 retainer called for in the fee agreement.

183. Subsequently, Respondent was paid an additional \$5000 by Pawasittichot's daughter towards the representation of Pawasittichot in the dissolution matter. Respondent was paid a total of \$7500 towards the representation of Pawasittichot in the dissolution matter.

184. On February 27, 2007, opposing counsel in the dissolution matter filed a Declaration Regarding Service of Declaration of Disclosure.

185. On May 14, 2007, Respondent filed a Response and a Declaration Regarding Service of Declaration.

186. On June 4, 2007, opposing counsel sent a letter to R stating that on March 22, 2007, Form Interrogatories were served on Pawasittichot, but that they had yet to receive a response from Respondent on his client's behalf. Opposing counsel requested responses to the Form Interrogatories within 10 days and indicated that she would file a Motion to Compel and seek sanctions if the responses were not received.

187. On July 3, 2007, opposing counsel filed a Case Management Statement.

188. On July 19, 2007, Respondent filed a Case Management Statement. On the same date, Respondent appeared in court on behalf of Pawasittichot for a Case Management Conference. At the conclusion of this conference, a further Case Management Conference was set for September 18, 2007.

189. On July 31, 2007, opposing counsel sent a letter to Respondent stating that Pawasittichot was served with Form Interrogatories on March 22, 2007, and that a Demand for Production of Documents and Things was served on June 18, 2007. Opposing counsel demanded responses to both within 10 days and that, if she did not receive said responses, she would file a Motion to Compel and would seek sanctions.

190. On August 30, 2007, opposing counsel sent a letter to Respondent stating that they had not received any responses to the outstanding discovery. Opposing counsel informed Respondent that she will be filing a Motion to Compel without further notice.

191. On September 18, 2007, the dissolution matter was called for a Case Management Conference. Respondent failed to appear for the conference and failed to inform Pawasittichot of the conference. The dissolution matter was set for a Mandatory Settlement Conference on December 18, 2007.

192. On October 25, 2007, opposing counsel filed a Notice of Mandatory Settlement Conference Hearing, Notice of Motion and Motion to Bifurcate, a Notice of Motion and Motion to Compel Responses to Form Interrogatories and Motion to Compel Responses to Demand for Production of Documents and Things and an Award of Monetary Sanctions and Attorney Fees, among other documents. A hearing on the Motions to Compel, the Motion to Bifurcate, and the Motion for Attorney Fees and Costs was set for December 13, 2007. Respondent was served with all of these documents and was provided with notice of the hearing dates on the Motions to Compel, the Motion to Bifurcate, and the Motion for Attorney Fees and Costs and the Mandatory Settlement Conference.

193. Respondent did not file any responses to the motions filed by opposing counsel on October 25, 2007. Further, Respondent did not inform his client of these filings or of the pending hearing dates regarding the Motions to Compel, the Motion to Bifurcate, or the Motion for Attorney Fees and Costs, the Mandatory Settlement Conference,

194. On December 13, 2007, Respondent failed to appear for the hearing on the Motions to Compel, the Motion to Bifurcate, and the Motion for Attorney Fees and Costs. The Court granted these motions. The Court further ordered that Respondent and Pawasittichot were to pay opposing counsel \$850 as attorney fees and \$80 court costs within 30 days. Respondent did not inform Pawasittichot about this hearing and the Court's orders.

195. On December 18, 2007, Respondent failed to appear at the Mandatory Settlement Conference. A Trial Setting Conference was set for February 19, 2008.

196. On December 21, 2007, Respondent was served with a Notice of Trial Setting Conference informing Respondent of the February 19, 2008, date for the Trial Setting Conference Hearing. This Notice further informed Respondent that the issue of sanctions for failing to appear at the Mandatory Settlement Conference was reserved for the Trial Setting Conference. Respondent failed to inform Pawasittichot of the Trial Setting Conference date.

197. On February 19, 2008, Respondent failed to appear at the Trial Setting Conference. The Court granted petitioner's request for sanctions in the amount of \$1000 to be paid by Pawasittichot within 30 days.

198. On March 21, 2008, opposing counsel filed Notice of Ruling and Notice of Prove Up Hearing set for April 11, 2008. Respondent failed to inform Pawasittichot of the April 11, 2008, hearing.

199. Following the July 19, 2007, hearing, Respondent failed to provide any legal services of value on behalf of Pawasittichot.

200. Subsequent to his appearance on the dissolution matter on July 19, 2007, Respondent failed to communicate with Pawasittichot in any manner.

201. Following his appearance at the July 19, 2007, conference, Respondent effectively withdrew from representing Pawasittichot in the dissolution matter. Respondent did not inform Pawasittichot that he would no longer be representing her in the dissolution matter. Respondent took no steps to avoid prejudice to his client in the dissolution matter.

202. Subsequent to his appearance at the July 19, 2007, conference, Respondent failed to communicate with Pawasittichot in any manner.

203. On May 7, 2008, a State Bar investigator sent two letters to Respondent regarding his representation of Pawasittichot. Respondent did not respond to the investigator's May 7, 2008, letter.

204. On May 22, 2008, a second set of letters were sent to Respondent at the addresses provided to the State Bar by Respondent. Respondent did not respond to the investigator's May 22, 2008, letter.

205. On June 6, 2008, another letter was sent to Respondent, this time to his recently updated membership record's address. Respondent did not respond to the investigator's June 6, 2008, letter.

#### Conclusions of Law

206. By failing to appear at the hearings September 18, 2007, December 13, 2007, December 18, 2007, and February 19, 2008, by failing to file any responses to the motions filed by opposing counsel on October 25, 2007, and by failing to inform Pawasittichot of any of the motions or hearing dates subsequent to July 19, 2007, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

207. By failing to take any reasonable steps to avoid reasonably foreseeable prejudice to Pawasittichot in the dissolution matter, Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2).

208. By failing to, among other things, inform Pawasittichot of the hearing dates set for September 18, 2007, December 13, 2007, December 18, 2007, and February 19, 2008, and by failing to inform Pawasittichot of the Court sanctions orders on December 13, 2007, and February 19, 2008, Respondent failed to keep a client reasonably informed of significant developments in a matter which Respondent had agreed to provide legal services.

209. By not providing a written response to the allegations in the Pawasittichot representation, Respondent failed to cooperate in a disciplinary matter in willful violation of Business and Professions Code, section 6068(i).

## II. WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on March 13, 2009, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

## III. SUPPORTING AUTHORITY

The purpose of sanctions for attorney misconduct is set forth in Standard 1.3, which states:

The primary purposes of disciplinary proceedings conducted by the State Bar of California and of sanctions imposed upon a finding or acknowledgment of a member's professional misconduct are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. Rehabilitation of a member is a permissible object of a sanction imposed upon the member but only if the imposition of rehabilitative sanctions is consistent with the above-stated primary purposes of sanctions for professional misconduct.

Standard 2.4 addresses an attorney's failure to perform or failure to communicate:

(a) Culpability of a member of a pattern of wilfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment.

(b) Culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 1.6 guides determination of the appropriate sanction and states, in pertinent part:

(b) The appropriate sanction shall be the sanction imposed unless: ... (ii) Mitigating circumstances are found to surround the particular act of misconduct found or acknowledged and the net effect of those mitigating circumstances, by themselves and in balance with any aggravating

circumstances found, demonstrates that the purposes of imposing sanctions set forth in standard 1.3 will be properly fulfilled if a lesser degree of sanction is imposed. In that case, a lesser degree of sanction than the appropriate sanction shall be imposed or recommended.

In the case of *In re Ronald Robert Silverton*, (2005) 36 Cal.4th 81, the Supreme Court discussed the fact that the Standards For Attorney Sanctions For Professional Misconduct are entitled to great weight and the State Bar Court should follow their guidance whenever possible. (*Id.* at 92)

However, the Court in *Silverton* also indicated that the State Bar Court may deviate from the Standards where there exists grave doubt as to the propriety of applying them in a particular case. (*Id.* at 92) For example, deviation from the Standards may be appropriate where extraordinary circumstances exist or where the imposition of discipline called for by the Standards would be manifestly unjust.

The parties submit that it would be manifestly unjust to apply Standard 2.2(b) in this matter without deviation. Respondent has no prior history of discipline in over 15 years of practice. The bulk of Respondent's misconduct appears to have been precipitated by a confluence of events, including his financial difficulties and his landlord's actions in locking Respondent out of his office and seizing Respondent's client files. These events occurred in conjunction with a worsening of Respondent's pre-existing depression, which for years had already been serious enough to require medication.

Finally, the parties submit that given the probationary conditions in this matter, including the requirement that Respondent's continue treatment for depression, the stipulated discipline is sufficient to assure that Respondent will conform his future conduct to ethical standards and, therefore, protect the public, courts and profession. This is consistent with Standard 1.3.

#### IV. ESTIMATE OF COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 3, 2009, the estimated prosecution costs in this matter are approximately \$10,806.49. Respondent acknowledges that this figure is an estimate only. 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.

#### V. PENDING PROCEEDINGS

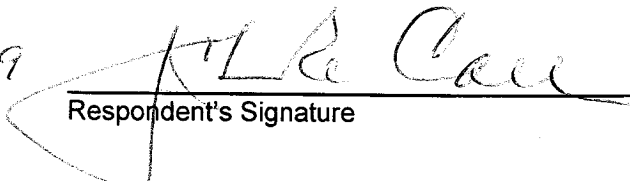
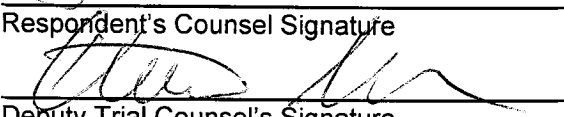
The disclosure date referred to in paragraph A.(7) of this stipulation, was September 4, 2009.

(Do not write above this line.)

In the Matter of <b>JOHN R. CALL</b>	Case number(s): <b>07-0-14462 ET AL.</b>
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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>Sept 7, 2009</u> Date	 Respondent's Signature	<u>JOHN R. CALL</u> Print Name
<u>9/8/2009</u> Date	 Deputy Trial Counsel's Signature	<u>CHRISTINE SOUHRADA</u> Print Name

(Do not write above this line.)

In the Matter Of <b>JOHN R. CALL</b>	Case Number(s): <b>07-0-14462 ET AL.</b>
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**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.

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.)**

9/9/09  
Date

  
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 San Francisco, on September 11, 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 San Francisco, California, addressed as follows:

**JOHN R. CALL  
CALL LAW OFFICES  
11741 MAPLE ST  
WHITTIER, CA 90601**

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

**CHRISTINE A. SOUHRADA**, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 11, 2009.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court