

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 08-O-14792-LMA; 09-O-10891;
)	09-O-10979; 09-O-11042;
PAUL JEFFERY LUCAS)	09-O-11043; 09-O-14413;
)	09-O-14608; 09-O-14609;
Member No. 163076)	09-O-14647; 09-O-10010 (Cons.)
)	DECISION RECOMMENDING
A Member of the State Bar.)	DISBARMENT AND RESTITUTION;
)	ORDER OF INVOLUNTARY INACTIVE
)	ENROLLMENT
)	

I. INTRODUCTION

In this disciplinary matter, Hugh G. Radigan appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). Respondent represented himself.

After considering the evidence and the law, the court recommends, among other things, that respondent be disbarred and be ordered to make specified restitution.

II. SIGNIFICANT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed on December 17, 2009. A response and amended response were filed on April 12, 2010, pursuant to the court's order setting aside respondent's default.

Respondent participated in the proceedings until the first day of trial when he walked out of the hearing while the first witness was being sworn in. Accordingly, on August 30, 2010, the

court entered respondent's default and enrolled him inactive effective three days after service of the order. The order was filed and properly served on him at his official address on that same date by first-class mail, postage prepaid.

The matter was submitted for decision without hearing after the State Bar filed a brief on September 13, 2010.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court's findings are based on the allegations contained in the NDC as they are deemed admitted and no further proof is required to establish the truth of those allegations. (Business and Professions Code¹ section §6088; Rules of Proc. of State Bar², rule 200(d)(1)(A).) The findings are also based on any evidence admitted.

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

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 14, 1992, and has been a member of the State Bar at all times since.

B. Case no. 08-O-14792 (The Williams Matter)

1. Facts

On June 30, 2008, Brenda Williams spoke to Joann Mason of Lucas Law Center about obtaining a home mortgage loan modification. Mason told Williams that if she stopped making her mortgage payments, it would increase her chance of obtaining a loan modification.

¹ Future references to section are to the Business and Professions Code.

².Future references to the Rules of Procedure are to this source.

On July 3, 2008, Williams employed respondent and his law firm, Lucas Law Center, in connection with negotiating and obtaining a home mortgage loan modification on Williams' behalf. On July 3, 2008, Williams paid \$1,000 in advanced legal fees to the Lucas Law Center.

On July 9, 2008, Julie Dickey of Lucas Law Center contacted Williams' lender, Wilshire Credit Corporation, requesting a fax number. Thereafter, Lucas Law Center provided no legal services relating to Williams' loan with Wilshire Credit Corporation.

On September 3, 2008, Williams received a Notice of Trustee's sale of her home from Chase Home Financial, scheduled for October 7, 2008.

On September 27, 2008, Williams spoke to Wilshire Credit Corporation and learned that the lender had had no contact with the Lucas Law Center since July 9, 2008.

On September 29, 2008, Joe Sai of Lucas Law Center contacted Williams' second lender, Chase Home Financial, in order to obtain a fax number. On September 29, 2008, the Lucas Law Center faxed a signed Power of Attorney to Chase Home Financial.

In October 2008, Sai of Lucas Law Center contacted Chase Home Financial on two occasions requesting the status of the Lucas Law Center authorization request. Thereafter, respondent provided no legal services related to Williams' loan with Chase Home Financial.

On October 3, 2008, Williams filed for bankruptcy to prevent her home from going into foreclosure.

On October 3, 2008, Williams spoke to "Frank" of the Lucas Law Center and requested a refund and her client file. During the October 3, 2008 conversation, Frank told Williams that they were still working on her case, and they needed to keep her papers a couple of more weeks because the court may award Williams some money. At the time Frank made this misrepresentation to Williams, Lucas Law Center had not filed any legal action on Williams' behalf.

On October 15, 2008, Williams received a refund of \$1,500 from Lucas Law Center.

14. In September and October 2008, Williams left multiple messages for respondent requesting her client file, but respondent did not respond or provide the client file.

2. Conclusions of Law

a. Count 1 - Rule of Professional Conduct,³ Rule 3-110(A) (Competence)

Rule 3-110(A) prohibits an attorney from intentionally, recklessly or repeatedly failing to perform legal services competently.

By not performing any legal services of value to Williams, including, but not limited to, negotiating and obtaining home mortgage loan modifications, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 2 - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)

Rule 3-700(D)(1) requires an attorney whose employment has been terminated to promptly release to the client, at the client's request, all client papers and property, subject to any protective order or non-disclosure agreement. This includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

By not providing the client file to Williams despite her requests, respondent did not release promptly to his client upon termination of employment, at the request of the client, all client papers and property in wilful violation of rule 3-700(D)(1).

B. Case no. 09-O-10891 (The Meeks Matter)

1. Facts

In October 2008, Lorna Meeks spoke to Justin Sprinker from Lucas Law Center regarding obtaining a home mortgage loan modification. Sprinker represented to Meeks that

³.Future references to rule are to this source.

respondent was a real estate attorney and that Lucas Law Center would force the lender to negotiate her mortgage by finding flaws in her mortgage contract.

In the conversation, Sprinker misrepresented to Meeks that Lucas Law Center would file a lawsuit to force her lender to negotiate her mortgage. Lucas Law Center did not file lawsuits on behalf of its loan modification clients.

On October 11, 2008, Meeks employed respondent and Lucas Law Center in connection with negotiating and obtaining a home mortgage loan modification. Meeks made an initial payment to respondent of \$2,000 in advanced legal fees.

On October 15, 2008, Meeks signed a retainer agreement on behalf of Lucas Law Center. Pursuant to the retainer agreement, Meeks would receive a full refund of legal fees if the loan modification was unsuccessful, and Meeks did not pursue other "foreclosure avoidance services."

On November 14, 2008, Meeks paid an additional \$1,500 in advanced legal fees to Lucas Law Center.

On November 19, 2008, Lucas Law Center submitted a loan modification package to Wachovia Mortgage on Meeks's behalf.

On November 21, 2008, Wachovia wrote Lucas Law Center stating that the lender needed additional information for the loan modification. The Lucas Law Center received the letter but did not provide Wachovia with any additional information.

On November 25, 2008, a "negotiator" from Lucas Law Center called Wachovia regarding Meeks's loan modification. Wachovia told the negotiator the modification had been denied, and Wachovia needed more information. Thereafter, respondent failed to perform any legal services of value to Meeks in connection with negotiating and obtaining a home mortgage loan modification.

On November 25, 2008, Meeks received a letter from Wachovia Mortgage denying her modification.

On March 6, 2009, Meeks wrote respondent, and pursuant to the terms of the retainer agreement, requested a full refund of the \$3,500 in attorney's fees. Respondent received the letter but did not respond and did not provide a refund.

On April 21, 2009 and May 6, 2009, a State Bar investigator wrote respondent regarding the allegations in the Meeks matter, including respondent's failure to provide a refund of unearned attorney's fees.

On June 15, 2009, respondent issued a full refund to Meeks.

2. Conclusions of Law

a. Count 3 - Rule 3-110(A) (Competence)

By not performing any legal services of value to Meeks, including, but not limited to negotiating and obtaining a home mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 4 - Rule 3-700(D)(2) (Unearned Fees)

Rule 3-700(D)(2) requires an attorney whose employment has terminated to promptly return any part of a fee paid in advance that has not been earned. This rule does not apply to true retainer fees paid solely for the purpose of ensuring the availability of an attorney to handle a matter.

By not refunding the \$3,500 in unearned attorney fees to Meeks despite her request until after being contacted by the State Bar of California, respondent wilfully did not promptly return an advanced, unearned fee in wilful violation of rule 3-700(D)(2).

C. Case no. 09-O-10979 (The Low Matter)

1. Facts

On October 7, 2008, Delmira Low contacted Lucas Law Center regarding a loan modification. Frank Sullivan and Joseph Mediasic from Lucas Law Center represented to Low that they would reduce her mortgage rate to 4%, extend the term of her mortgage payments and possibly reduce her principal by hundreds of thousands of dollars.

On October 8, 2008, Low employed Lucas Law Center to negotiate and obtain a home mortgage loan modification and paid \$3,475 in advanced legal fees to Lucas Law Center.

Pursuant to the retainer agreement with Lucas Law Center, Low would receive a full refund of legal fees if the loan modification was unsuccessful, and Low did not pursue other "foreclosure avoidance services."

On October 16, 2008, IndyMac received a letter of authorization from Lucas Law Center. Thereafter, respondent performed no legal services of value to Low.

As of November 28, 2008, Lucas Law Center had not submitted a loan modification package to IndyMac on Low's behalf.

On November 28, 2008, Frank Sullivan misrepresented to Low that IndyMac had denied her loan modification.

Several days later, Sullivan telephoned Low and advised her to miss two mortgage payments to increase her chances of obtaining a modification. Later that day, Low told Sullivan she wanted a full refund of the \$3,475 in advanced legal fees.

On December 1, 2008, respondent refunded \$1,000 to Low.

On December 8, 2008, Low and her husband went to respondent's office and received an additional refund check for \$1,500. They also requested their client file. On December 8, 2008, Sullivan misrepresented to the Lows that the client file had been shredded.

On January 5, 2009, attorney Kim James Kakadelas wrote Frank Sullivan on the Lows' behalf requesting a refund of the remaining \$975 owed to the Lows. Kakadelas sent the letter to the Lucas Law Center by fax and mail. Respondent's office received the letter but did not refund the Lows' funds.

On April 10, 2009, a State Bar investigator contacted respondent regarding allegations of misconduct in Low's matter, including respondent's failure to provide a full refund of unearned fees. On June 15, 2009, respondent refunded Low the remaining \$975.

On June 18, 2009, respondent's counsel provided a response to the State Bar's letter regarding the allegations in the Low matter and provided documents from Low's client file.

2. Conclusions of Law

a. Count 5 - Rule 3-110(A) (Competence)

By not performing any legal services of value to Low, including, but not limited to, negotiating and obtaining home mortgage loan modifications, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 6 - Rule 3-700(D)(2) (Unearned Fees)

By not promptly providing Low with a full refund of unearned fees despite her requests and only after being contacted by the State Bar of California, respondent did not promptly return an advanced, unearned fee in wilful violation of rule 3-700(D)(2).

c. Count 7 - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)

By not providing the client file to Low despite her request, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all client papers and property in wilful violation of rule 3-700(D)(1).

D. Case no. 09-O-11042 (The Millsap Matter)

1. Facts

On October 28, 2008, Brenda Millsap employed respondent and Lucas Law Center in connection with negotiating and obtaining two home mortgage loan modifications on her behalf and signed a retainer agreement. Pursuant to the retainer agreement, Millsap would receive a full refund of legal fees if the loan modifications were unsuccessful, and Millsap did not pursue other "foreclosure avoidance services." On that same date, she paid respondent of \$2,500 in advanced legal fees.

On January 5, 2009, Millsap began calling respondent's office every day inquiring about her loan modifications but did not receive return telephone calls.

On January 20, 2009, Millsap wrote respondent demanding a full refund of the \$2,500 in legal fees and the return of her documents. Although respondent received the letter, he did not provide a refund or Millsap's client file.

On April 6, 2009, a State Bar investigator contacted respondent regarding allegations of misconduct in Millsap's matter, including his not providing a full refund of unearned fees or the client file.

On May 6, 2009, respondent refunded \$2,500 to Millsap.

On June 17, 2009, respondent's counsel provided a response to the State Bar's letter regarding the allegations in the Millsap matter and represented that Millsap would be provided with her file. Thereafter, respondent did not return Millsap's file.

2. Conclusions of Law

a. Count 8 - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)

By not promptly providing Millsap with a full refund of unearned fees despite her requests until after being contacted by the State Bar of California, respondent did not refund promptly any part of an advanced, unearned fee in wilful violation of rule 3-700(D)(1).

b. Count 9 - Rule 3-700(D)(2) (Unearned Fees)

By not providing the client file to Millsap despite her request, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all client papers and property in wilful violation of rule 3-700(D)(2).

E. Case no. 09-O-11043 (The Gately Matter)

1. Facts

In September 2008, Joseph Gately submitted a home mortgage loan modification package to his lender, Litton Loan Servicing. Litton subsequently advised Gately that he would need the authorization of his estranged wife to obtain the loan modification.

In October 2008, Gately contacted the Lucas Law Center regarding obtaining home mortgage loan modifications. Jansen Falvai and a second Lucas Law Center employee represented to Gately that Lucas Law Center would be able to obtain loan modifications without the signature of Gately's estranged wife.

On October 2, 2008, based on this representation, Gately employed Lucas Law Center in connection with negotiating and obtaining mortgage loan modifications with his two lenders — Litton Loan Servicing and Specialized Loan Servicing. On October 10, 2008, Gately paid Lucas Law Center an advanced legal fee of \$2,200.

On October 16, 2008, Lucas Law Center submitted a letter of authorization to Specialized Loan Servicing.

On October 17, 2008, Lucas Law Center submitted a letter of authorization to Litton Loan Services. Thereafter, Lucas Law Center did not perform any legal services in furtherance of obtaining loan modifications on Gately's behalf.

On December 4, 2008, Litton approved the loan modification plan submitted by Gately in September 2008. The modification plan required the approval of Gately's estranged wife.

On December 12, 2008, Gately contacted Lucas Law Center and threatened to terminate his contract with the firm.

On December 19, 2008, Joe Sai of Lucas Law Center contacted Litton and asked that a copy of the loan modification approval be faxed to Lucas Law Center. The Litton representative informed Sai that the authorization Lucas Law Center previously sent to Litton on October 16, 2008 had expired.

On December 19, 2008, without Gately's consent, Sai altered the date on the October 2008 authorization from "10/2/08" to "12/18/2008" and faxed it to Litton as an "Updated 3rd Party Authorization." On December 19, 2008, Litton sent Sai a copy of the December 12, 2008 letter authorizing Gately's loan modification.

On December 19, 2008, Sai presented the December 12, 2008 approval letter to Gately, who recognized it as the loan modification proposed to him prior to hiring Lucas Law Center. The proposed loan modification still required the signature of Gately's wife.

On January 12, 2009, Gately sent respondent a letter regarding respondent's lack of response and cooperation. In the January 12, 2009 letter, respondent terminated respondent's services and requested the return of his client file and a full refund of the \$2,200 in attorney fees. On January 14, 2009, respondent received Gately's letter.

On January 15, 2009, respondent issued Gately a check for \$2,200 but did not return the client file.

2. Conclusions of Law

a. Count 10 - Rule 3-110(A) (Competence)

By not performing legal services of any value to Gately, including, but not limited to, negotiating and obtaining a home mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 11 - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)

By not providing the client file to Gately despite his request, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all client papers and property in wilful violation of rule 3-700(D)(1).

F. Case no. 09-O-14413 (The Ramirez Matter)

1. Facts

In mid-January 2009, Carlos Ramirez contacted Lucas Law Center regarding obtaining loan modifications on his three rental properties. In response to his call, Ramirez received an information sheet from the Lucas Law Center which stated that the "general timeframe for a loan modification is 8-12 weeks." It also stated that the firm "will always return your call within 24 hours."

On February 16, 2009, Ramirez met with Eric Sullivan and Frank Sullivan of Lucas Law Center regarding loan modifications. Frank Sullivan represented to Ramirez that Lucas Law Center had an 80% success rate in obtaining loan modifications. At the time Sullivan made this representation to Ramirez, Sullivan knew or should have known the Lucas Law Center did not have an 80% success rate in obtaining loan modifications.

In the February 16, 2009 meeting, Frank Sullivan gave Ramirez a "conservative" estimate of \$865 in monthly savings after the loan modifications.

On February 16, 2009, Ramirez employed Lucas Law Center to negotiate and obtain mortgage loan modifications on his three rental properties and made an initial payment \$5,000 in advanced legal fees to Lucas Law Center. On May 1, 2009, Ramirez paid an additional \$500 in advanced legal fees to Lucas Law Center.

During initial meetings with Lucas Law Center, both Frank Sullivan and Joe Sai suggested to Ramirez "off the record" that he should stop making the mortgage payments on his properties so negotiations with the lenders could move forward.

In February 2009, Lucas Law Center submitted a loan modification package to Aurora Loan Services on Ramirez's behalf.

On February 26, 2009, Lucas Law Center submitted a letter of authorization to IndyMac, but thereafter provided no legal services of value to Ramirez regarding his loan with IndyMac.

In March 2009, Lucas Law Center submitted a letter of authorization to CitiMortgage, but thereafter provided no legal services of value to Ramirez regarding his loan with CitiMortgage.

In May 2009, Ramirez contacted his lenders, who informed him that it was against their policy to do loan modifications on rental property.

On June 3, 2009, Ramirez emailed Joe Sai of Lucas Law Center regarding the law firm's lack of results and lack of communication and requested a full refund of all fees paid to Lucas Law Center. On June 3, 2009, Sai responded to Ramirez's email attempting to resolve the dispute with Ramirez.

On June 3, 2009, Janet from Lucas Law Center called Aurora to discuss options related to Ramirez's loan modification. Thereafter, respondent and Lucas Law Center provided no legal services of value to Ramirez regarding his loan with Aurora.

On June 6, 2009, Ramirez emailed Sai complaining that Sai had once again ceased communicating with him.

From March through April 2009, Ramirez made numerous calls to Lucas Law Center and left messages inquiring about the status of his loan modifications but there was no response.

In May 2009, Ramirez made at least seven telephone calls to Lucas Law Center and left messages asking for someone to call him regarding his loans but no one did.

On May 30, 2009, Ramirez wrote respondent regarding the lack of response from his office and requested results on his loan modification or a full refund. Respondent received the May 30, 2009 letter but did not respond.

Ramirez never spoke to or had any contact with respondent.

On June 3, 2009, Ramirez emailed Lucas Law Center terminating their services and requesting a full refund of the \$5,500 in legal fees. Respondent received the email, but did not provide a refund to Ramirez.

On August 13, 2009, the State Bar opened an investigation, case no. 09-0-14413, pursuant to a complaint made against respondent by Carlos Ramirez. On September 22, October 8 and 19, 2009, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the Ramirez complaint. The letters were properly mailed and were addressed to respondent's official membership records address. Respondent received the letters but did not respond.

2. Conclusions of Law

a. Count 12 - Rule 3-110(A) (Competence)

By not performing legal services of any value to Ramirez, including, but not limited to, negotiating and obtaining a mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 13 - Section 6068, subd. (m) (Communication)

By not responding to Ramirez's calls and letter, respondent wilfully failed to respond promptly to reasonable status inquiries of a client in wilful violation of section 6068, subdivision (m).

c. Count 14 - Rule 3-700(D)(2) (Unearned Fees)

By not refunding the \$5,500 in unearned attorney fees to Ramirez, respondent wilfully did not return an advanced, unearned fee in wilful violation of rule 3-700(D)(2).

d. Count 15 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

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

By not responding to the State Bar investigator's three letters, respondent did not participate in the investigation of the allegations of misconduct regarding the Ramirez case in wilful violation of 6068(i).

G. Case no. 09-O-14608 (The Carrillo Matter)

1. Facts

On March 11, 2009, Ernesto Carrillo spoke to Leslie Jenson from Lucas Law Center regarding obtaining a home mortgage loan modification. During their conversation, Jenson implied that Ernesto Carrillo and his wife should stop making their mortgage payments because Lucas Law Center had greater success when clients stopped making the payments.

On March 11, 2009, Ernesto and Sandi Carrillo employed respondent to negotiate and obtain the loan modification on their behalf and paid respondent \$3,500 in advanced legal fees. Thereafter, respondent did not perform any legal services of value to the Carrillos.

Between mid-April and mid-May 2009, Ernesto Carrillo left at least five voice mail messages with Jenson, each time seeking an update on the status of the loan modification. No one from Lucas Law Center returned his calls.

From April through June 2009, Ernesto Carrillo sent emails to various Lucas Law Center employees requesting the status of his loan modification but no one provided him with an update.

In June 2009, Ernesto Carrillo left at least five voice mail messages with Frederick Bien, an employee with the Lucas Law Center. On one occasion in which Ernesto Carrillo was able to reach Bien, Bien told Carrillo that he would provide an update on his file but failed to do so.

On July 7, 2009, the Carrillos faxed a letter to respondent and Dru Kaplan, a representative of Lucas Law Center, complaining about the lack of a communication and seeking an immediate response. Respondent received the letter but failed to respond.

On August 20, 2009, the State Bar opened an investigation, case no. 09-0-14608, pursuant to a complaint made against respondent by Ernesto and Sandi Carrillo.

On September 24 and October 19, 2009, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the Carrillo complaint. The letters were properly mailed and were addressed to respondent's official membership records address. Respondent received the letters but did not respond.

2. Conclusions of Law

a. Count 16 - Rule 3-110(A) (Competence)

By not performing legal services of any value to the Carrillos, including, but not limited to, negotiating and obtaining a home mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 17 - Section 6068, subd. (m) (Communication)

By not responding to the Carrillos' calls, emails and letter regarding the status of their loan modification, respondent did not respond promptly to their reasonable status inquiries in wilful violation of section 6068, subdivision (m).

c. Count 18 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not responding to the State Bar investigator's two letters , respondent did not participate in the investigation of the allegations of misconduct regarding the Carrillo case in wilful violation of 6068, subdivision (i).

H. Case no. 09-O-14609 (The Moslehi Matter)

1. Facts

In early March 2009, Angela F. Moslehi contacted the Lucas Law Center regarding obtaining loan modifications on her four properties — her principal residence and three rental properties.

In early March 2009, Frank Sullivan represented to Moslehi that Lucas Law Center would be able to obtain the loan modifications on her properties.

In March 2009, Moslehi spoke to respondent, who also assured her that Lucas Law Center would be able to obtain loan modifications. Respondent also represented that Lucas Law Center would be able to reduce the interest rates on Moslehi's loans and may be able to reduce the principal balances. At the time respondent made these representations to Moslehi, he had not seen her financial documentation and had no basis to represent that he would be able to obtain loan modifications on Moslehi's behalf.

On March 16, 2009, after talking to Sullivan and respondent, Angela and her husband, Ali Moslehi, employed Lucas Law Center to negotiate and obtain mortgage loan modifications

on their behalf. Pursuant to the retainer agreement with Lucas Law Center, the Moslehis would receive a partial refund of legal fees if the loan modification was unsuccessful and they did not pursue other "foreclosure avoidance services."

On March 16, 2009, the Moslehis made an initial payment of \$4,000 in advanced legal fees to Lucas Law Center.

On March 19, 2009, Angela Moslehi submitted the documentation requested by Lucas Law Center, including income and expense worksheet, pay stubs, loan statements and tax returns.

On April 21, 2009, the Moslehis paid an additional \$3,500 in advanced legal fees to Lucas Law Center.

Thereafter, respondent failed to perform any legal services of value to the Moslehis in connection with negotiating and obtaining home mortgage loan modifications on their behalf.

In May 2009, Moslehi spoke to Fredrick Bien of the Lucas Law Center. In the conversation, Bien told Moslehi that her loans had been modified and the loan modification terms "looked good." At the time Bien made this false statement to Moslehi none of Moslehi's loans had received modifications.

In July 2009, Moslehi spoke to the lenders on her rental property who stated that they could not do loan modifications on rental properties.

In July 2009, Moslehi received a letter from her lender stating that her loan modification request had been denied.

From in mid-May 2009 through in July 2009, Angela Moslehi sent four emails to Lucas Law Center requesting the status of her loan modifications. No one responded to the emails.

From mid May 2009 and in early July 2009, Angela Moslehi called Lucas Law Center approximately sixteen times. In half of the calls, Moslehi left messages asking for someone to

provide the status of her loan modifications. However, no one from the Lucas Law Center responded to those calls. In the other half of the calls, Moslehi was able to speak to a Lucas Law Center representative, but no one who could provide the status of her matter.

In June 2009, Moslehi telephoned Lucas Law Center and spoke to respondent. During the conversation, respondent did not provide Moslehi with an update on her matter but said someone would call Moslehi with an update. No one did.

On August 20, 2009, the State Bar opened an investigation, case no. 09-0-14609, pursuant to a complaint made against respondent by Angela Moslehi.

On September 23 and October 19, 2009, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the Moslehi complaint. The letters were properly mailed and were addressed to respondent's official membership records address. Respondent received the letters but did not respond.

2. Conclusions of Law

a. Count 19 - Rule 3-110(A) (Competence)

By not performing legal services of any value to Angela and Ali Moslehi, including but not limited to, negotiating and obtaining a home mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 20 - Section 6068, subd. (m) (Communication)

By not responding to Moslehi's calls and emails regarding the status of her loan modifications, respondent wilfully failed to respond promptly to reasonable status inquiries of a client in wilful violation of section 6068, subdivision (m).

c. Count 21 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not responding to the State Bar investigator's two letters, respondent did not participate in the investigation of the allegations of misconduct regarding the Moslehi case in wilful violation of 6068, subdivision (i).

I. Case no. 09-O-14647 (The Torres Matter)

1. Facts

On October 13, 2008, Roberto Torres contacted Lucas Law Center regarding obtaining home mortgage loan modifications for his three rental properties.

On October 13, 2008, Torres met with Eric Sullivan and Frank Sullivan of Lucas Law Center. Frank Sullivan represented to Torres that Lucas Law Center would obtain copies of Torres's original loan documents to conduct a forensic audit. He also represented to Torres that Lucas Law Center not only negotiates loan modifications but also had experts to handle short sales and other services to avoid foreclosure. He also suggested to Torres that he stop making his mortgage payments because Lucas Law Center had greater success obtaining loan modifications when clients ceased making their payments.

On October 13, 2008, Torres signed three separate retainer agreements and paid \$4,000 in advanced legal fees to Lucas Law Center.

By October 14, 2008, Torres had provided Lucas Law Center with all requested documentation.

On October 24, 2008, Lucas Law Center submitted a letter of authorization to Homecoming Financial regarding Torres's Winter Haven rental property. Thereafter, respondent provided no legal services of value to Torres regarding the loan on his Winter Haven property.

On October 24, 2008, Lucas Law Center submitted a letter of authorization to Homecoming Financial regarding Torres's Milton rental property.

On November 6, 2008, Lucas Law Center submitted a loan modification package to Homecoming Financial regarding Torres's Milton property. Thereafter, respondent provided no legal services of value to Torres regarding the loan on his Milton property.

On October 25, 2008, Lucas Law Center submitted a letter of authorization to EMC regarding Torres's Fairburn property.

On October 30, 2008, Torres paid an additional \$3,500 in advanced legal fees to Lucas Law Center.

On November 7, 2008, Lucas Law Center submitted a loan modification package to EMC regarding Torres's Fairburn property. Thereafter, Karen from Lucas Law Center made several calls to EMC regarding the status of the loan modification, and Karen was told it would be sixty to ninety days. Thereafter, respondent provided no legal services of value to Torres regarding the loan on his Fairburn property.

On November 12, 2008, Frank Sullivan told Torres that the lenders had denied his loan modifications, and Torres should try and modify his loans again in February. At the time Sullivan made this false statement to Torres, the lenders had not denied his loan modification requests.

In November 2008, Torres stopped making his mortgage payments because of financial hardships and because he understood it would help him obtain loan modifications.

On April 16, 2009, Torres emailed Julie Dickey of the Lucas Law Center. Torres told Dickey that he was now working and asked Dickey to obtain loan modifications on his three rental properties which were in foreclosure. He also told Dickey to pursue short sales if the banks were unwilling to do the loan modifications.

On July 10, 2009, Torres received an email from David A. Williams of the Lucas Law Center informing Torres that the firm would not be able to assist Torres with the short sales of his properties.

From January 30 to April 1, 2009, Torres wrote respondent on four occasions inquiring about his properties. Respondent received the four letters but failed to respond.

On May 25, 2009, Torres wrote respondent asking for documentation from his client file, including documentation evidencing contacts with Torres's lenders. Respondent received the May 25, 2009 letter but did not respond or provide the requested documentation.

On July 10, 2009, Torres emailed David Williams of Lucas Law Center requesting a full refund of the \$7,500 in attorney fees.

On July 11, 2009, Torres wrote respondent requesting a refund of the \$7,500 in attorney fees paid to Lucas Law Center. On July 11, 2009, Torres sent the letter by certified mail. On July 13, 2009, respondent received the letter but failed to provide a refund to Torres.

On July 13, 2009, Williams emailed Torres saying his refund request had been forwarded to Dru Kaplan, who was processing it. Thereafter, respondent failed to provide a refund to Torres of any of the advanced legal fees.

On August 21, 2009, the State Bar opened an investigation, case no. 09-0-14647, pursuant to a complaint made against respondent by Roberto Torres.

On September 24 and October 19, 2009, a State Bar investigator sent respondent letters requesting that respondent answer in writing specific allegations of misconduct regarding the Torres complaint. The letters were properly mailed and were addressed to respondent's official membership records address. Respondent received the letters but did not respond.

2. Conclusions of Law

a. Count 22 - Rule 3-110(A) (Competence)

By not performing legal services of any value to Torres, including, but not limited to, negotiating and obtaining a home mortgage loan modification, respondent intentionally, recklessly, or repeatedly did not perform competently in wilful violation of rule 3-110(A).

b. Count 23 - Section 6068, subd. (m) (Communication)

By not responding to Torres's letters, respondent wilfully failed to respond promptly to reasonable status inquiries of a client in wilful violation of section 6068, subdivision (m).

c. Count 24 - Rule 3-700(D)(1) (Failure to Return Client Papers or Property)

By not providing the client file to Torres despite his request, respondent failed to release promptly, upon termination of employment, to his client, at the request of the client, all client papers and property in wilful violation of rule 3-700(D)(1).

d. Count 25 - Rule 3-700(D)(2) (Unearned Fees)

By not refunding the \$7,500 in unearned fees to Torres, respondent did not return an advanced, unearned fee in wilful violation of rule 3-700(D)(2).

e. Count 26 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not responding to the State Bar investigator's two letters, respondent did not participate in the investigation of the allegations of misconduct regarding the Torres case in wilful violation of 6068, subdivision (i).

J. Case nos. 08-O-14792; 09-O-10979; 09-O-14413; 09-O-14608; 09-O-14647 (The Pattern of Advice and Nonperformance Matters)

1. Facts

Respondent, through his staff and agents, advised clients Williams, Low, Ramirez, Carrillo and Torres to stop making their mortgage payments. Thereafter, respondent failed to negotiate loan modifications on behalf of Williams, Low, Carrillo, Ramirez and Torres. Respondent knew or should have known that his failure to take action after advising his clients to stop making mortgage payments would cause substantial harm to his clients.

2. Conclusions of Law

a. Count 27 - Section 6106 (Moral Turpitude)

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

There is clear and convincing evidence that respondent violated section 6106 by engaging in a pattern of advising his clients, through his staff and agents, to stop making their mortgage payments and then failing to perform on the clients' behalf, respondent wilfully committed acts involving moral turpitude, dishonesty or corruption in wilful violation of section 6106.

K. Case nos. 08-O-14792; 09-O-10891; 09-O-10979; 09-O-11043; 09-O-14413; 09-O-14608; 09-O-14609; 09-O-14647 (The Misrepresentations)

1. Facts

Respondent, through his staff and agents, made repeated misrepresentations to his clients and to third parties, including but not limited to the following:

1. Misrepresenting to Brenda Williams that a legal action had been filed on her behalf;
2. Misrepresenting to Meeks that the Lucas Law Center would file a lawsuit

against her lender in order to obtain a loan modification on her behalf;

3. Misrepresenting to Low that IndyMac had denied her loan modification when Lucas Law Center had not submitted a loan modification request to IndyMac on her behalf;

4. Misrepresenting to Low that her client file had been shredded when it had not;

5. Misrepresenting to Litton Loan Services that Gately had provided an updated letter of authorization when Gately had not;

6. Misrepresenting to Ramirez that Lucas Law Center had an 80% success rate in obtaining loan modifications when they knew it did not;

7. Misrepresenting to Moslehi that her loan modifications had been approved and "looked good" when none of Moslehi's loan modifications had been approved; and

8. Misrepresenting to Torres that his loan modifications had been denied when they had not.

2. Conclusions of Law

a. Count 28 - Section 6106 (Moral Turpitude)

There is clear and convincing evidence that respondent violated section 6106 by allowing repeated false and misleading statements to be made to his clients and to third parties and by otherwise not supervising the conduct of his staff and agents, respondent demonstrated a pattern of disregard regarding the supervision of his staff of such gross negligence that it constitutes moral turpitude in wilful violation of section 6106.

M. Case no. 09-O-10010 (The Future Financial Services Matter)

1. Facts

From January 1, 2003 through August 16, 2007, respondent was on voluntary inactive status. From August 16, 2007 through June 5, 2008, respondent was not entitled to practice law due to his failure to pay State Bar membership dues.

In 2008, non-attorney Christopher Francis Betts was the owner and operator of Future Financial Services (FFS). In 2008, Frank Sullivan was an employee/manager with FFS.

In 2008, respondent and Betts entered into an "Agreement Re Management Services" (Agreement).

According the Agreement, FFS "has experience in delivering debt related and/or foreclosure avoidance services, including the [sic] marketing, customer services and negotiation; ..."

In addition, the Agreement states that "LUCAS desires to expand his practice and wishes to use [FFS's] expertise and assistance in facilitating the delivery of debt related and/or foreclosure avoidance legal services; ..."

Moreover, the Agreement states that "LUCAS will establish a law firm to whom [FFS] can provide its management services, which will include at least one California licensed attorney."

Pursuant to the Agreement, "LUCAS will be responsible for the delivery of legal services to clients, but will delegate much of the actual delivery of said services to non-attorneys who will either be employed by LUCAS, or employed by [FFS] but subcontracted to LUCAS. When dealing with creditors or clients, [FFS] employees will represent themselves as 'being with LUCAS' office' and/or 'employees of the law firm' or of similar job description. ..." (Italics added.)

The Agreement also states that "[FFS] will provide, at its Aliso Viejo, CA premises, an office for at least one attorney, which may be occupied by LUCAS or any other attorney LUCAS chooses."

On June 6, 2008, respondent was reinstated to active status with the State Bar of California.

In June 2008, respondent established the "Lucas Law Center, Inc." to provide legal services, including "foreclosure avoidance options." Respondent described himself as the managing attorney of Lucas Law Center and stated that he was continuously onsite at the office.

On June 24, 2008, respondent changed his State Bar membership records address to the following: Lucas Law Center, 65 Enterprise, Suite 450, Aliso Viejo. California 92656. On January 28, 2009, respondent changed his State Bar membership records to 75 Enterprise, Suite 180, Aliso Viejo, California, 92656.

By the foregoing, respondent formed a partnership with non-attorney Christopher Betts to provide legal services to clients.

2. Conclusions of Law

a. Count 29- Rule 1-310 (Forming a Partnership with a Non-Lawyer)

By entering into a partnership agreement with non-attorney Christopher Betts to provide legal services to clients and by operating Lucas Law Center in partnership with non- attorney Christopher Betts, respondent formed a partnership with a non-attorney in wilful violation of rule 1-310.

IV. LEVEL OF DISCIPLINE

A. Aggravating Circumstances

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

Misconduct⁴, std. 1.2(b).)

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).) In addition, he engaged in a pattern of not performing services competently and not returning files or unearned fees.

Respondent's misconduct significantly harmed a client, the public or the administration of justice. (Standard 1.2(b)(iv).) The Lows had to retain counsel to try to obtain a refund of unearned fees.

B. Mitigating Circumstances

Respondent bears the burden of establishing mitigation by clear and convincing evidence. (Std. 1.2(e).) Since respondent did not participate in these proceedings, the court has been provided no basis for finding mitigating factors other than approximately 10 years of blemish-free practice prior to taking inactive status in January 2003.⁵ (Std. 1.2(e)(i).)

C. Discussion

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

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable

⁴Future references to standard or std. are to this source.

⁵ Subsequently, respondent was not entitled to practice for nonpayment of State Bar membership fees. On June 5, 2008, after paying the fees, he resumed inactive status and, the next day, resumed active status. The misconduct commenced soon thereafter.

sanctions. (Std. 1.6(a).)

Standards 2.3, 2.4(a) and (b), 2.6 and 2.10 apply in this matter. The most severe sanction is prescribed by standard 2.4(a) which suggests disbarment for culpability of a pattern of wilfully failing to perform services demonstrating the attorney's abandonment of the causes for which he or she was retained.

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

Respondent has been found culpable, in 10 matters, of violating rules 3-110(A) (eight counts); 3-700(D)(1) and (2) (five counts each) and 1-310 (one count) as well as sections 6068, subdivisions (i) and (m) (four counts each) and 6106 (two counts). In aggravation, the court found a pattern of misconduct as well as multiple acts of misconduct and client harm. In mitigation, the court found approximately 10 years of discipline-free practice.

The State Bar recommends disbarment. The court agrees.

Lesser discipline than disbarment is not warranted. No reason has been offered to deviate from the standards. The serious and unexplained nature of the misconduct, the lack of participation in these proceedings as well as the self-interest underlying respondent's actions suggest that he is capable of future wrongdoing and raise concerns about his ability or willingness to comply with his ethical responsibilities to the public and to the State Bar. Having considered the evidence, the standards and other relevant law, the court believes that disbarment is the only adequate means of protecting the public from further wrongdoing by respondent.

Accordingly, the court so recommends.

V. DISCIPLINE RECOMMENDATION

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

It is recommended that respondent make restitution to the following clients within 30 days following the effective date of the Supreme Court order in this matter or within 30 days following the Client Security Fund payment, whichever is later (Rules Proc. of State Bar, rule 291):

1. to Brenda Williams in the amount of \$1,000 plus 10% interest per annum from July 3, 2008 (or to the Client Security Fund to the extent of any payment from the fund to Brenda Williams, plus interest and costs, in accordance with Business and Professions Code section 6140.5);
2. to Carlos Ramirez in the amount of \$5,500 plus 10% interest per annum from June 3, 2009 (or to the Client Security Fund to the extent of any payment from the fund to Carlos Ramirez, plus interest and costs, in accordance with Business and Professions Code section 6140.5); and
3. to Roberto Torres in the amount of \$7,500 plus 10% interest per annum from July 11, 2009 (or to the Client Security Fund to the extent of any payment from the fund to Roberto Torres, plus interest and costs, in accordance with Business and Professions Code section 6140.5).

Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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

VI. COSTS

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VII. ORDER REGARDING INACTIVE ENROLLMENT

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

Dated: December ___, 2010

LUCY ARMENDARIZ
Judge of the State Bar Court