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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		
Counsel For The State Bar Susan Chan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 Bar # 233299	Case Number(s): 09-O-11275; 10-O-04742 10-O-05229; 11-O-13374	For Court use only PUBLIC MATTER FILED <i>Rz</i> DEC 08 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Michael E. Wine 301 N. Lake Ave., Ste. 800 Pasadena, CA 91101-5113 Bar # 58657	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: LELAND L. MOGLEN Bar # 141490 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted July 19, 1989.
- (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 17 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."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013, 2014. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) ☒ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None.

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. See Stipulation Attachment.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See Stipulation Attachment.
- (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:

None.

D. Discipline:

- (1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of two (2) 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 three (3) 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 ninety (90) days.

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

E. Additional Conditions of Probation:

- (1) ☒ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the 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:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input 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 5.162(A) & (E), 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:**

(Paragraphs E(8) and F(1), cont'd.) Respondent may fulfill either or both the Ethics School and MPRE requirement(s) described in paragraphs E(8) and F(1) above by taking and passing either or both Ethics School and the MPRE at any time on or after the date of submission of this Stipulation to the State Bar Court, and no later than one (1) year from the effective date of the Supreme Court's order on discipline in Case No. 09-O-11275 et al.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: LELAND L. MOGLEN

CASE NUMBER(S): 09-O-11275;
 10-O-04742;
 10-O-05229;
 11-O-13374

FACTS AND CONCLUSIONS OF LAW.

Facts: Case No. 09-O-11275: Count One:

1. At all times relevant herein, respondent by and through the Law Offices of Leland L. Moglen, a Professional Corporation operated M3 Legal Services, as a division of his law practice, providing loan modification services.
2. On or about December 8, 2008, Scott McClarrinon ("McClarrinon") received a letter in the mail from respondent's company, M3 Legal Services, which advertised a special loan modification program directed to members of the public who may be experiencing financial hardships and/or foreclosure. At no time had McClarrinon requested any correspondence from respondent.
3. Respondent's letter advertised respondent's firm, M3 Legal Services. The letter bore a logo identical to the United States Department of Housing and Urban Development that also included "Federal Housing Commissioner, Approved Lending Institution" on the top right hand corner. The letter also included "Housing Economic Recovery Act of 2008" in the text. At no time has respondent or M3 Legal Services been associated with or approved by the United States Department of Housing and Urban Development as a lending institution.
4. In or about December 2009, respondent advertised M3 Legal Services via the internet. Respondent's website advertised M3 Legal Services offering to "renegotiate mortgages for beleaguered homeowners" and identified respondent's education and degrees. At the bottom of respondent's advertisement, the following text appears:

"Copyright © 2009 Loan Modification | Mortgage Negotiation | Attorney Based. All Rights Reserved.
Alabama Alaska Arizona Arkansas California Colorado Connecticut Delaware Florida Georgia Hawaii
Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maine Maryland Massachusetts Michigan

Attachment Page 1

Minnesota Mississippi Missouri Montana Nebraska Nevada New Hampshire New Jersey New Mexico
New York North Carolina North Dakota Ohio Oklahoma Oregon Pennsylvania Rhode Island South
Carolina South Dakota Tennessee Texas Utah Vermont Virginia Washington West Virginia Wisconsin
Wyoming"

5. At all times relevant herein, respondent is not presently, and never has been, admitted to practice law in any jurisdiction other than California. Respondent's advertisement listing all 50 states created confusion or intended to deceive the public as to respondent's ability to practice law in any of the 50 states.

Conclusions of Law: Case No. 09-O-11275: Count One:

By transmitting a letter advertising M3 Legal Services as an approved United States Department of Housing and Urban Development lending institution to the general public, by advertising M3 Legal Services loan modification services and listing all 50 states on his website implying that respondent is eligible to practice law in all 50 states when he is not licensed to practice law in any jurisdiction other than California, respondent transmitted a false and deceptive communication or communication which tends to confuse, deceive or mislead the public in willful violation of Rules of Professional Conduct, rule 1-400(D)(2).

Facts: Case No. 10-O-04742: Count One:

1. Respondent is not presently, and never has been, admitted to practice in the State of Ohio.
2. On or about May 5, 2009, respondent d/b/a M3 Legal Services accepted the representation of Eddie Watson ("Watson"), a resident of Ohio, and accepted Watson as a client in order to negotiate and obtain for Watson a home mortgage loan modification of Watson's Ohio property.
3. On or about May 5, 2009, Watson paid respondent \$2,950.00 in advanced attorney fees.
4. Respondent's attorney retainer agreement sets forth a money back guarantee and refund policy. The provision states: "In the event Attorney/or staff does not submit mortgage modification request within 30 days, M3 Legal Services shall give a full refund of the retainer fee to client within thirty (30) calendar days, and that otherwise, client shall not be entitled to any refund. If client is not satisfied with terms of original approved modification attorney may resubmit Loan Modification Request at Attorney sole discretion. If a resubmission is completed the client waives an and all rights to a refund."

5. Respondent failed to provide the legal services necessary to obtain a loan modification for Watson and failed to perform any other legal services of value in connection with negotiating and obtaining a home mortgage loan modification.
6. On or about May 8, 2011, respondent refunded \$1,475.00 in advanced attorneys fees to Watson. Respondent has yet to return the remainder of advanced attorneys fees in the amount of \$1,475.00 to Watson.

Conclusions of Law: Case No. 10-O-04742: Count One:

By soliciting Watson's representation, respondent held himself out to practice in Ohio when he was not so licensed. By accepting Watson as a client, respondent practiced law in a jurisdiction where practicing is in violation of the regulations of the profession in that jurisdiction (Ohio) in willful violation of Rules of Professional Conduct, rule 1-300(B).

Facts: Case No. 10-O-05229: Count One:

1. On or about March 22, 2010, a Deputy Commissioner from the California Department of Real Estate ("DRE"), Kyle Jones using the alias Joseph Thomson ("Jones"), placed a pre-text telephone call to respondent at his official membership records telephone number. Mr. Jones contacted respondent to shop the loan modification services respondent offered.
2. As part of Mr. Jones' pre-text telephone call to respondent, he informed respondent that:
 - His house was underwater;
 - The loan amount was \$423,000 and the house was worth \$323,000;
 - His original loan was conventional;
 - Bank of America was the lender;
 - His father could purchase his home;
 - His wife's name was Heather and worked as a teacher;
 - He worked for the State agency BTH as an analyst;
 - He and his wife had a combined income a little less than \$8,000 a month;
 - He had a four year old son.
3. In response to the information provided by Mr. Jones, respondent informed Mr. Jones that loan modifications were no longer an option as Bank of America had only approved 98 modifications out of 158,000 applications. Respondent informed Mr. Jones that he could help him by initiating a "lawsuit for title." Respondent explained that in a "lawsuit for title," Mr. Jones would stop making his mortgage payments to his lender and respondent would initiate legal action against the lender. Respondent informed Mr. Jones that he

would need to find a trusted individual to purchase his home from the bank. Respondent stated he would tie-up the bank with litigation and after Mr. Jones stopped making mortgage payments for a few months, they would offer the bank market value. Respondent informed Mr. Jones that the key is to have someone he trusted purchase the home and then have the home transferred back to Mr. Jones at a later date.

4. In the same telephone call, respondent informed Mr. Jones that banks were willing to take offers to sell homes at market value because the banks risked attorney's fees and marketing costs if the home went into foreclosure. Respondent quoted advances fees of \$15,000 - \$20,000 for his attorney's fees in performing a "lawsuit for title." Mr. Jones made an appointment to meet with respondent in-person on March 24, 2010.
5. On or about March 24, 2010, Mr. Jones contacted respondent by telephone at his official membership records address and disclosed that he was a DRE Commissioner and that he had previously contacted respondent on March 22, 2010 using the alias Joseph Thompson. Mr. Jones informed respondent that he had shopped respondent to determine if he was still offering loan modification services to the general public.

Conclusions of Law: 10-O-05229: Count One:

By informing Mr. Jones that he would initiate a "lawsuit for title" and providing advice on how to defraud his lender, respondent intentionally or by gross negligence, committed an act or acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Facts: Case No. 11-O-13374: Count One:

1. On or about February 27, 2009, Douglas and Chantel Trent (the "Trents") employed respondent d/b/a M3 Legal Services, to provide legal services in connection with negotiating and obtaining a home loan mortgage loan modification.
2. On or about March 7, 2009, the Trents paid respondent \$3,750.00 in advanced attorney fees.
3. Respondent failed to provide the legal services necessary to obtain a loan modification for the Trents and failed to perform any other legal services of value in connection with negotiating and obtaining a home mortgage loan modification.
4. The Trents did not obtain a home mortgage loan modification.

5. In truth and in fact, the Trents have never spoken to or met respondent.

Conclusions of Law: Case No. 11-O-13374: Count One:

By failing to provide any legal services in connection with negotiating and obtaining a home mortgage loan modification or perform any other legal services of value in the representation of the Trents, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-100(A).

Facts: Case No. 11-O-13374: Count Two:

6. The allegations of Count One are incorporated by reference.
7. Respondent did not earn any portion of the \$3,750 advanced attorney fee paid by the Trents.
8. To date, respondent has not refunded any portion of the \$3,750 in advanced attorney fees paid by the Trents.

Conclusions of Law: Case No. 11-O-13374: Count Two:

By failing to refund the unearned attorney fees to the Trents, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Facts: Case No. 11-O-13374: Count Three:

9. On or about March 18, 2009, Patricia Jacobs ("Jacobs") employed respondent d/b/a M3 Legal Services, to provide legal services in connection with negotiating and obtaining a home loan mortgage loan modification.
10. On or about April 3, 2009, Jacobs paid respondent \$2,500 in advanced attorney fees.
11. Respondent failed to provide the legal services necessary to obtain a loan modification for Jacobs and failed to perform any other legal services of value in connection with negotiating and obtaining a home mortgage loan modification.

Conclusions of Law: Case No. 11-O-13374: Count Three:

By failing to provide any legal services in connection with negotiating and obtaining a home mortgage loan modification or perform any other legal services of value in the representation of Jacobs, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-100(A).

Facts: Case No. 11-O-13374: Count Four:

12. The allegations of Count Three are incorporated by reference.
13. Respondent did not earn any portion of the \$2,500 advanced attorney fee paid by Jacobs.
14. To date, respondent has not refunded any portion of the \$2,500 in advanced attorney fees paid by Jacobs.

Conclusions of Law: Case No. 11-O-13374: Count Four:

By failing to refund the unearned attorney fees to Jacobs, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

The disclosure date referred to, on page two, paragraph A.(7), was November 8, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of November 8, 2011, the estimated prosecution costs in this matter are approximately \$5,523.00. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.3 states: "Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent

to which the victim of the misconduct is harmed or misled and depending on the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law."

Standard 2.4(b) states: "Culpability of a member of willfully failing to perform services in an individual matter of matters not demonstrating a pattern of misconduct shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client."

Rule 3-110(A) states a member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence. (See *Schullman v. State Bar* (1976) 16 Cal.3d 631, in two matters, respondent failed to perform and in one of the matters, respondent failed to return unearned fee. Respondent was disbarred. In aggravation, respondent had a record of five priors. (See *Martin v. State Bar* (1978) 20 Cal.3d 717, attorney in six separate matters, failed to perform; failed to communicate and misrepresented status of case to clients. Attorney received one-year actual suspension and had no priors in 28 years of practice; *Franklin v. State Bar* (1986) 41 Cal.3d 700, attorney had not performed services for which he was retained, failed to communicate with clients regarding status of their cases, repeatedly refused to respond to client inquiries, and failed to cooperate with a new attorney. The Court ordered a 45-day actual suspension, one-year probation and passage of the professional responsibility examination).

Crawford v. State Bar (1960) 54 Cal.2d 659, 666 ["unauthorized practice of law includes the mere holding out by a layman that he is...entitled to practice law"]; *In re Caldwell* (1975) 15 Cal.3d 762, 771, fn.3 [implied representation of entitlement to practice constitutes UPL]

In the Matter of Wells (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 896 (Respondent culpable of two counts of violating rule 1-300(B), which prohibits the practice of law in another jurisdiction where to do so would be in violation of that jurisdiction's regulation of the profession, culpability for charging an illegal fee, failing to return unearned fees, failing to maintain funds in a trust account, and three acts of misconduct involving moral turpitude. Respondent received two years suspension, stayed, with two years' probation to include six months actual suspension, and until respondent pays restitution of fees collected, plus interest). See also *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr 343 (one-year suspension for misconduct including collecting an illegal fee for services not performed, UPL of a client in a criminal matter while on suspension, moral turpitude).

Lydon v. State Bar (1988) 45 Cal.3d 1181, "willfulness does not require actual knowledge of the provision violated."

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 309, "Thus, the term willful does not require a showing that respondent intended the consequences of his acts or omissions, it simply requires proof that he intended the act or omission itself."

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

None.

MITIGATING CIRCUMSTANCES.

FACTS SUPPORTING MITIGATING CIRCUMSTANCES.

Standard 1.2(e)(i): Respondent has been admitted to the practice of law since 1989 without a prior record of discipline.

Standard 1.2(e)(v): Respondent by and through his counsel has cooperated with the State Bar during its investigation.

STATE BAR ETHICS SCHOOL.

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

OTHER CONDITIONS NEGOTIATED BY THE PARTIES.

1. See attached for Financial Conditions.

(Do not write above this line.)

In the Matter of: LELAND L. MOGLEN	Case Number(s): 09-O-11275; 10-O-04742 10-O-05229; 11-O-13374
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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
Eddie Watson	\$1,475.00	May 5, 2009
Douglas and Chantel Trent	\$3,750.00	March 7, 2009
Patricia Jacobs	\$2,500.00	April 3, 2009

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

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

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

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

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:
- 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**


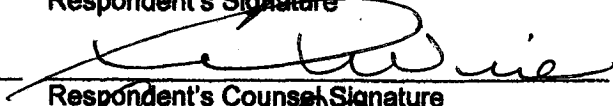

- ☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that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

(Do not write above this line.)

In the Matter of: LELAND L. MOGLEN	Case number(s): 09-O-11275; 10-O-04742 10-O-05229; 11-O-13374
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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 Facts, Conclusions of Law, and Disposition.

11/09/2011		Leland L. Moglen
Date	Respondent's Signature	Print Name
11/15/11		Michael E. Wine
Date	Respondent's Counsel Signature	Print Name
11/17/2011		Susan Chan
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: LELAND L. MOGLEN	Case Number(s): 09-O-11275; 10-O-04742 10-O-05229; 11-O-13374
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ACTUAL SUSPENSION ORDER

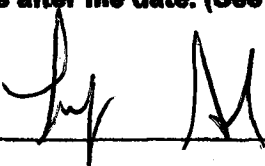
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

Date

Dec 8, 2011



Judge of the State Bar Court

LUCY ARMENDARIZ

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 December 8, 2011, 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:

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113

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

SUSAN CHAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 8, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court