

ORIGINAL

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State Bar Court of California Hearing Department San Francisco ACTUAL SUSPENSION		PUBLIC MATTER
Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number(s): 09-O-18811; [10-O-02066; 10-O-02669; 10-O-05158; 10-O-07358; 10-O-07801; 10-O-07949; 10-O-08384; 10-O-08385; 10-O-10919; 11-O-10760; 11-O-11533; 11-O-14517; 11-O-15967; 11-O-16180; 11-O-18632]	For Court use only FILED <i>gk</i> JAN 19 2012 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Jerome Fishkin Fishkin & Slatter, LLP 1111 Civic Dr Ste 215 Walnut Creek, CA 94596 (925) 944-5600 Bar # 47798	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: GREGORY T. FLAHIVE Bar # 190088 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 November 25, 1997.
- (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 28 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: 2013, 2014, 2015, 2016, 2017. (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. See page 20.

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- (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. See page 20.
- (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. See page 21.
- (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 page 21.
- (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. See page 21.
- (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. See page 21.
- (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.

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(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of four (4) 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 five (5) 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 three (3) 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 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.

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- (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**

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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:** Respondent shall also received credit for any restitution he makes prior to the effective date of discipline herein. He shall also receive credit for any restitution made by his former partner.

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

CASE NO. 09-O-18813- The Chini matter

FACTS

1. On February 24, 2009, Soleil Chini ("Chini"), hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, Chini entered into a written fee agreement wherein he agreed to pay respondent advanced attorney's fees in the amount of \$1,450 for respondent to perform legal services.
2. On February 24, 2009, Chini paid respondent \$1,000 as advanced attorney's fees in the loan modification matter. On March 26, 2009, Chini paid respondent \$450 as advanced attorney's fees in the loan modification matter. In total, Chini paid respondent \$1,450 as advanced attorney's fees in the loan modification matter.
3. The loan modification package was sent to the bank on June 2, 2009. The trustee's sale was postponed to August 2009. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that Chini received from respondent's office was conveyed by the non-attorney staff of respondent.
4. Respondent did not obtain a loan modification for Chini. Respondent failed to perform any services of value on behalf of Chini. Respondent did not earn the \$1,450 paid by Chini. On August 10, 2009, Chini's house was sold back to the lender.
5. Prior to September 21, 2009, Chini hired a new lawyer to handle his loan modification. On September 21, 2009, Chini's new lawyer sent a letter to respondent on behalf of Chini terminating respondent's services and requesting a refund of unearned fees. On September 21, 2009, respondent received Chini's lawyer's September 21, 2009 letter. On November 23, 2009, respondent sent a letter to Chini's lawyer refusing to refund any portion of the \$1,450. To date, respondent has failed to refund any portion of the \$1,450 in unearned fees to Chini.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Chini, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to refund \$1,450 in unearned fees to Chini, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
3. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.

4. By allowing his non-attorney staff to convey legal advice to Chini with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 10-O-02066- The Shores-Taylor matter

FACTS

1. On October 7, 2009, Cheryl Shores-Taylor ("Shores-Taylor"), hired respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. On November 9, 2009, Shores-Taylor paid respondent \$897 as advanced fees in the loan modification matter.

CONCLUSIONS OF LAW

1. By offering to perform a home mortgage loan modification for Shores-Taylor for a fee and demanding, charging, collecting and receiving fees from Shores-Taylor prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.

CASE NO. 10-O-02669- The Singh matter

FACTS

1. On May 5, 2009, Kuldeep Singh ("Singh"), hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, Singh entered into a written fee agreement wherein he agreed to pay respondent advanced attorney's fees in the amount of \$1,295.
2. On May 5, 2009, Singh paid respondent \$1,295 as advanced attorney's fees in the loan modification matter. A loan modification application was submitted to the bank on June 3, 2009.
3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that Singh received from respondent's office was conveyed by the non-attorney staff of respondent.
4. Respondent did not obtain a loan modification for Singh. Respondent failed to perform any services of value on behalf of Singh. Respondent did not earn any portion of the advanced fees paid by Singh. On September 10, 2009, Singh's house was sold at a trustee's sale, a delayed date negotiated by respondent's office.
5. On December 10, 2009, respondent sent a letter to Singh advising that respondent was closing his file. On August 6, 2011, Singh sent a letter to respondent requesting a refund of unearned fees. To date, respondent has failed to refund any portion of the \$1,295 in unearned fees to Singh.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Singh, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to refund \$1,295 in unearned fees to Singh, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
3. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
4. By allowing his non-attorney staff to convey legal advice to Singh with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 10-O-05158- The Giles matter

FACTS

1. On November 19, 2009, respondent was hired by Nathaniel Giles ("Giles") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On November 19, 2009, Giles entered into a written fee agreement with respondent wherein Giles agreed to pay \$995 as advanced attorney's fees in the bankruptcy matter.
2. Respondent failed to perform any work of value on behalf of Giles in the bankruptcy matter. Respondent did not prepare or file a Chapter 7 bankruptcy petition on behalf of Giles. Respondent did not earn any portion of the advanced fees paid by Giles. On February 23, 2010, Giles sent a letter to respondent terminating respondent's services and requesting a refund of unearned fees. Soon thereafter, respondent received Giles' February 23, 2010 letter, but failed to refund unearned fees.

CONCLUSIONS OF LAW

1. By failing to perform any work of value on behalf of Giles in the bankruptcy matter, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to refund \$995 in unearned fees to Giles, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 10-O-07358- The Glover matter

FACTS

1. On May 13, 2009, Michael Glover ("Glover") contacted respondent's firm by telephone to inquire about filing a Chapter 7 bankruptcy petition. At the time, Glover was in the process of negotiating a loan modification and did not know if he wanted to file a Chapter 7 bankruptcy petition. During the telephone conversation, a member of respondent's non-attorney staff advised Glover to "deposit" \$500 with respondent in case Glover needed to file a Chapter 7 bankruptcy petition. On May 18, 2009, Glover paid respondent \$500 as advanced attorney's fees.
2. Glover never hired respondent to file a Chapter 7 bankruptcy petition. There is no written fee agreement between respondent and Glover. Respondent did not prepare or file a Chapter 7 bankruptcy petition on behalf of Glover. Respondent did not perform any services of value on behalf of Glover. Respondent did not earn any portion of the advanced fees paid by Glover.
3. In May 2010, Glover received a loan modification. On May 4, 2010, Glover sent an e-mail to respondent requesting a refund of the \$500 in unearned fees. Soon thereafter, respondent received Glover's e-mail. On May 15, 2010, respondent sent an e-mail to Glover. In the e-mail, respondent claimed that he earned \$295 of the advanced attorney's fees paid by Glover and agreed to refund only \$205. On May 19, May 20 and May 27, 2010, Glover sent e-mails to respondent disputing his entitlement to fees and requesting a refund of the \$500 in unearned fees. Soon thereafter respondent received Glover's e-mails, but failed to refund the \$500 in unearned fees to Glover. To date, respondent has failed to pay any portion of the \$500 in unearned fees to Glover.

CONCLUSIONS OF LAW

1. By failing to refund \$500 in unearned fees to Glover, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 10-O-07801- The Masinas/Neighbour matter

FACTS

1. On February 9, 2010, Cecilia Masinas ("Masinas") and Erik Neighbour ("Neighbour"), hired respondent in connection with negotiating and obtaining a home mortgage loan modification on their first and second mortgages. On the same date, Masinas and Neighbour entered into two written fee agreements for each mortgage, for a total of four written fee agreements.
2. On February 9, 2010, Masinas and Neighbour paid respondent \$1,495 for a loan modification on their first mortgage and \$995 for a loan modification on their second mortgage, for a total of \$2,490 as advanced attorney's fees.
3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that Masinas and Neighbour received from

respondent's office was conveyed by the non-attorney staff of respondent. A loan modification request was sent to the bank on February 9, 2010.

4. Respondent did not obtain a loan modification for Masinas and Neighbour. Respondent failed to perform any services of value on behalf of Masinas and Neighbour. Respondent did not earn any portion of the advanced fees paid by Masinas and Neighbour. On June 2, 2010, Masinas and Neighbour contacted respondent's office by telephone to terminate respondent's services and request a refund of unearned fees. Soon thereafter, respondent was aware of Masinas and Neighbour's request for refund. On June 30, 2010, respondent sent a letter to Masinas and Neighbour refusing to refund any portion of the \$2,490.

5. To date, respondent has failed to refund any portion of the \$2,490 in unearned fees to Masinas and Neighbour. Respondent's law partner has agreed to pay restitution of \$2,490 to Masinas and Neighbour.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Masinas and Neighbour, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By offering to perform a home mortgage loan modification for Masinas and Neighbour for a fee and demanding, charging, collecting and receiving fees from Masinas and Neighbour prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.

3. By failing to promptly refund \$2,490 in unearned fees to Masinas and Neighbour, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.

5. By allowing his non-attorney staff to convey legal advice to Masinas and Neighbour with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 10-O-07949- The Brazil matter

FACTS

1. On September 4, 2009, William Brazil ("Brazil") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. Specifically, Brazil hired respondent to extend the length of his loan terms or reduce the principal. On September 4, 2009, Brazil paid respondent \$1,795 as advanced attorney's fees in the loan modification matter.

2. On February 25, 2010, Brazil was notified by his lender that he qualified for a loan modification. The lender offered to reduce Brazil's interest rate. The loan modification offer neither extended the length of Brazil's loan terms, nor reduced the principal.
3. On March 10, 2010, a member of respondent's non-attorney staff sent an e-mail to Brazil stating, in part: "the lender is stating that if you do not accept the current offer they will close it out. Thus, if you intend to accept the modification proposal provided to you, you must sign and return the agreement along with your payment... Additionally, please note that according to the terms of your fee agreement you retained our firm to negotiate on one loan modification. Thus, once you decide to accept or reject his agreement and we communicate according with your lender we will be concluding this firm's representation." Brazil spoke to an attorney at respondent's firm and then accepted the terms offered by his lender.
4. As of March 10, 2010, respondent effectively terminated his services for Brazil. Respondent did not perform any services of value on behalf of Brazil. Respondent did not earn any portion of the advanced fees paid by Brazil. To date, respondent has failed to refund any portion of the \$1,795 in unearned fees to Brazil.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Brazil, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to refund \$1,795 in unearned fees to Brazil, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 10-O-08384- The Roper matter

FACTS

1. On March 15, 2010, respondent was hired by Lewis Roper ("Roper") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On March 15, 2010, Roper entered into a written fee agreement with respondent wherein Roper agreed to pay respondent \$1,495 as advanced attorney's fees in the bankruptcy matter.
2. On April 30, 2010, Roper paid respondent \$822.50 in the bankruptcy matter. In total, Roper paid respondent \$1,495 as advanced fees.
3. Respondent failed to perform any work of value on behalf of Roper in the bankruptcy matter. Respondent did not prepare or file a Chapter 7 bankruptcy petition on behalf of Roper. Respondent did not earn any portion of the advanced fees paid by Roper. On May 25, 2010, Roper sent an e-mail to respondent terminating respondent's services and requesting a refund of unearned fees. Soon thereafter, respondent received Roper's May 25, 2010 e-mail. On June 14, 2010, respondent sent a letter to Roper refunding only \$764.75. After allotting \$150 for unused advanced costs, respondent only refunded \$614.75 in unearned fees to Roper. Respondent still owes Roper \$880.25 in unearned fees. To date, respondent has failed to pay any portion of the \$880.25 in unearned fees to Roper.

CONCLUSIONS OF LAW

1. By failing to perform any work of value on behalf of Roper in the bankruptcy matter, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to refund \$880.25 in unearned fees to Roper, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 10-O-08385- The Di Schiavi matter

FACTS

1. On October 6, 2009, John and Irene Di Schiavi ("the Di Schiavis") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, the Di Schiavis were provided with a written fee agreement.
2. On October 6, 2009, the Di Schiavis paid respondent \$897.50 as advanced attorney's fees in the loan modification matter. On November 6, 2009, the Di Schiavis paid respondent \$897.50 as advanced attorney's fees in the loan modification matter. In total, the Di Schiavis paid respondent \$1,795 as advanced attorney's fees in the loan modification matter. Respondent's law partner has agreed to pay restitution of \$897.50 to the Di Schiavis.
3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that the Di Schiavis received from respondent's office was conveyed by the non-attorney staff of respondent. A loan modification request was sent to the bank on January 8, 2010.
4. Respondent did not obtain a loan modification for the Di Schiavis. Respondent failed to perform any services of value on behalf of the Di Schiavis. Respondent did not earn any portion of the advanced fees paid by the Di Schiavis. On May 24, 2010, the Di Schiavis sent a letter to respondent terminating respondent's services and requesting a refund of unearned fees. Soon thereafter, respondent received the Di Schiavis' letter, but failed to respond to it or provide a refund of unearned fees.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of the Di Schiavis, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By offering to perform a home mortgage loan modification for the Di Schiavis for a fee and demanding, charging, collecting and receiving the second installment of fees from the Di Schiavis prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.

3. By failing to refund \$897.50 in unearned fees to the Di Schiavis, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
5. By allowing his non-attorney staff to convey legal advice to the Di Schiavis with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 10-O-10919- The Moore matter

FACTS

1. On October 2, 2009, Bill and Karen Moore ("the Moores") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, the Moores were provided with a written fee agreement.
2. On October 2, 2009, the Moores paid respondent \$300 as advanced fees in the loan modification matter. On October 16, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On November 3, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On November 19, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On December 2, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On December 16, 2009, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. On January 11, 2010, the Moores paid respondent \$249.16 as advanced fees in the loan modification matter. In total, the Moores paid respondent \$1,794.96 as advanced fees in the loan modification matter. Respondent's law partner has agreed to pay restitution of \$1,494.96 to the Moores.
3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that the Moores received from respondent's office was conveyed by the non-attorney staff of respondent.
4. Respondent did not obtain a loan modification for the Moores. In June 2010, the bank foreclosed on the Moores' home. Respondent failed to perform any services of value on behalf of the Moores. Respondent did not earn any portion of the advanced fees paid by the Moores.
5. In June 2010, the Moores sent a letter to respondent terminating respondent's services and requesting a refund of unearned fees. Soon thereafter, respondent received the Moores' letter. In June 2010, the Moores sent a letter to respondent terminating his services. On June 8 and June 31, 2010, the Moores sent e-mails to respondent requesting return of their client file. Soon thereafter, respondent received the Moores' e-mails. It was not until May 12, 2011, and only after the State Bar became involved in the matter, that respondent returned the client file to the Moores.

6. On August 26, 2010, respondent sent a letter to the Moores refusing to refund any portion of the \$1,794.96. To date, respondent has failed to refund any portion of the \$1,794.96 in unearned fees to the Moores.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of the Moores, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By offering to perform a home mortgage loan modification for the Moores for a fee and demanding, charging, collecting and receiving fees after October 10, 2009, from the Moores prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.
3. By failing to refund \$300.00 in unearned fees to the Moores, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
5. By allowing his non-attorney staff to convey legal advice to the Moores with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.
6. By failing to return the client file to the Moores until almost one year after it was first requested, respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in willful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

CASE NO. 11-O-10760- The Vong matter

FACTS

1. On May 17, 2010, respondent was hired by Vincent Vong ("Vong") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On June 10, 2010, Vong entered into a written fee agreement with respondent wherein Vong agreed to pay \$995 as advanced attorney's fees in the bankruptcy matter.
2. Respondent failed to perform any work of value on behalf of Vong in the bankruptcy matter. Respondent did not prepare or file a Chapter 7 bankruptcy petition on behalf of Vong. Respondent did not perform any services of value on behalf of Vong. Respondent did not earn any portion of the advanced fees paid by Vong.
3. On October 10 and October 18, 2010, Vong sent letters to respondent terminating respondent's services and requesting a refund of unearned fees. Soon thereafter, respondent received Vong's letters. On October

26, 2010, Vong sent a letter to respondent requesting an accounting of unearned fees. Soon thereafter, respondent received Vong's October 26, 2010 letter. On October 26, 2010, respondent sent a letter to Vong refunding \$50 of the \$995 paid as advanced fees. Vong did not accept the \$50 refund because he believed he was entitled to a full refund.

4. To date, respondent has failed to tender the remaining \$945 in unearned fees to Vong.

CONCLUSIONS OF LAW

1. By failing to perform any work of value on behalf of Vong in the bankruptcy matter, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to refund \$995 in unearned fees to Vong, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

CASE NO. 11-O-11533- The Boe matter

FACTS

1. On February 16, 2010, Edward Boe ("Boe") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, Boe was provided two written fee agreements.

2. On February 16, 2010, Boe paid respondent \$1,495 as advanced fees in the loan modification matter. On December 8, 2010, Boe paid respondent \$995 as advanced fees on the loan modification matter. In total, Boe paid respondent \$2,490 as advanced fees in the loan modification matter. Respondent's law partner has agreed to pay restitution of \$1,495 to Boe.

3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that Boe received from respondent's office was conveyed by the non-attorney staff of respondent. The respondent's office submitted a loan modification request on February 16, 2010.

4. Respondent did not obtain a loan modification for Boe. Respondent did not perform any services of value on behalf of Boe. Respondent did not earn any portion of the advanced fees paid by Boe. As of May 2010, respondent ceased performing work on behalf of Boe in the loan modification matter. As of that date, respondent constructively terminated his employment with Boe. To date, respondent has failed to refund any portion of the \$995 in unearned fees to Boe.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Boe, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By offering to perform a home mortgage loan modification for Boe for a fee and demanding, charging, collecting and receiving fees from Boe prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.
3. By failing to refund \$995 in unearned fees to Boe, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
5. By allowing his non-attorney staff to convey legal advice to Boe with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 11-O-14517-The Lytle matter

FACTS

1. On July 9, 2010, Howard and JoAnn Lytle ("the Lytles") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, the Lytles entered into two written fee agreements with respondent.
2. On July 12, 2010, the Lytles paid respondent \$1,795 as advanced fees in the loan modification matter.
3. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. Most of the information and legal advice that the Lytles received from respondent's office was conveyed by the non-attorney staff of respondent. Respondent's office submitted the loan modification on July 9, 2010.
4. Respondent did not obtain a loan modification for the Lytles. Respondent failed to perform any services of value on behalf of the Lytles. Respondent did not earn any portion of the advanced fees paid by the Lytles. On May 6, 2011, respondent sent a letter to the Lytles advising that they do not qualify for a loan modification and terminating his services. To date, respondent has failed to refund any portion of the \$1,795 in unearned fees to the Lytles.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of the Lytles, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By offering to perform a home mortgage loan modification for the Lytles for a fee and demanding, charging, collecting and receiving fees from the Lytles prior to fully performing each and every service

respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.

3. By failing to refund \$1,795 in unearned fees to the Lytles, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
5. By allowing his non-attorney staff to convey legal advice to the Lytles with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 11-O-15967- State Bar Investigation

FACTS

1. On March 8, 2004, the U.S. Bankruptcy Court, Eastern District of California, issued a "General Order" regarding the electronic filing of documents. At all relevant times herein, the General Order was in full force and effect and respondent was aware of the General Order. The General Order contains the following provision regarding the use of "/s/" instead of an original signature: "The use of '/s/ Name' on documents constitutes the electronic filer's representation that an originally signed copy of the document exists and is in the filer's possession at the time of filing."
2. On March 3, 2010, respondent electronically filed documents in three bankruptcy matters using "/s/" in place of his clients' signatures at a time when respondent knew or should have known that he did not have the clients' original signatures in his possession, in violation of the General Order.
3. On March 5, 2010, respondent electronically filed documents in two bankruptcy matters using "/s/" in place of his clients' signatures at a time when respondent knew or should have known that he did not have the clients' original signatures in his possession, in violation of the General Order.
4. On March 8, 2010, respondent electronically filed documents in one bankruptcy matter using "/s/" in place of his clients' signatures at a time when respondent knew or should have known that he did not have the clients' original signatures in his possession, in violation of the General Order.

CONCLUSIONS OF LAW

1. By electronically filing documents in bankruptcy matters using "/s/" in place of his clients' signatures at a time when knew or should have known that he did not have the clients' original signatures in his possession, in violation of the General Order, respondent wilfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of respondent's profession which he ought in good faith to do or forbear in violation of section 6103 of the Business and Professions Code.

CASE NO. 11-O-16180- The Flinn matter

FACTS

1. On March 12, 2010, Denise Flinn ("Flinn") hired respondent in connection with negotiating and obtaining a home mortgage loan modification. On the same date, Flinn entered into two written fee agreements. On March 16, 2010, Flinn paid respondent \$2,490 as advanced attorney's fees.
2. All of the loan modification work was performed by respondent's non-attorney staff with limited supervision. All of the information and legal advice that Flinn received from respondent's office was conveyed by the non-attorney staff of respondent. A loan modification request was sent to the bank.
3. Respondent did not obtain a loan modification for Flinn. Respondent failed to perform any services of value on behalf of Flinn. Respondent did not earn any portion of the advanced fees paid by Flinn. In June 2010, Flinn called respondent to terminate respondent's services and request a refund of unearned fees. Soon thereafter, respondent was aware of Flinn's request, but failed to refund any portion of the \$2,490 to Flinn. To date, respondent has failed to refund any portion of the \$2,490 in unearned fees to Flinn.

CONCLUSIONS OF LAW

1. By failing to perform any services of value on behalf of Flinn, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By offering to perform a home mortgage loan modification for Flinn for a fee and demanding, charging, collecting and receiving fees from Flinn prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent willfully violated Business and Professions Code section 6106.3.
3. By failing to refund \$2,490 in unearned fees to Flinn, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.
4. Respondent willfully failed to supervise his non-attorney staff in violation of rule 3-110(A) of the Rules of Professional Conduct.
5. By allowing his non-attorney staff to convey legal advice Flinn with insufficient supervision, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A) of the Rules of Professional Conduct.

CASE NO. 11-O-18632- The Stiller matter

FACTS

1. In June 2010, respondent was hired by Eric Stiller ("Stiller") to file a Chapter 7 bankruptcy petition ("bankruptcy matter"). On September 29, 2010, Stiller paid respondent \$1,750 as advanced fees in the bankruptcy matter.
2. Aside from filing a Chapter 7 bankruptcy petition on behalf of Stiller, respondent failed to perform any further work on the bankruptcy matter. Thereafter, respondent was informed that the court dismissed Stiller's case. At no time did respondent advise Stiller that his bankruptcy case had been dismissed.

CONCLUSIONS OF LAW

1. By failing to perform any work on behalf of Stiller in the bankruptcy matter after filing the bankruptcy petition, respondent repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.
2. By failing to notify Stiller that his bankruptcy case was dismissed, respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was December 21, 2011.

STATE BAR ETHICS SCHOOL & CLIENT TRUST ACCOUNTING SCHOOL

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

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the State Bar has informed respondent that as of December 16, 2011, the estimated prosecution costs in this matter are approximately \$15,557.12. 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.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(iii). Respondent committed multiple acts of misconduct.

Standard 1.2(b)(iv). Respondent's misconduct caused significant harm to his clients.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(i). Respondent has been practicing law since 1997, and has no prior record of discipline.

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse and recognition of wrongdoing for his misconduct.

Standard 1.2(e)(iv). Respondent suffered from extreme difficulties in his personal life which expert testimony would establish were directly responsible for the misconduct and have since been resolved. During the time of the misconduct, respondent was having marital difficulties. Respondent has since resolved these issues.

The misconduct recited in this stipulation occurred when respondent and his former spouse were partners in the Flahive Law Corporation (FLC). Respondent and his former spouse are in the process of winding down FLC. (See *Demain v. State Bar* (1970) 3 Cal.3d 381, 387.)

SUPPORTING AUTHORITY

Standard 2.4(b) requires reproof or suspension for a respondent who has wilfully failed to perform services in which he was retained.

Standard 2.6 requires that a violation of Business and Professions Code section 6103 shall result in disbarment or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Standard 2.10 requires that a violation of any provision of the Rules of Professional Conduct not specified in the standards (e.g., rules 1-300, 3-700(D)(1), 3-700(D)(2)) shall result in reproof or suspension according to the gravity of the offense or harm, if any, to the victim, with due regard to the purpose of imposing discipline set forth in standard 1.3.

Based on the multiple instances of misconduct, this matter should result in disbarment. However, taking into account the mitigating circumstances, most significantly respondent's lack of prior discipline, the parties agree that the appropriate level of discipline is a three-year actual suspension with a requirement that respondent prove rehabilitation, present fitness to practice and present learning and ability in the law before he can be relieved from actual suspension (see standard 1.4(c)(ii).)

Respondent is aware that should he commit any additional misconduct, or violate the conditions of probation in this matter, disbarment is likely.

(Do not write above this line.)

In the Matter of:
GREGORY T. FLAHIVE

Case Number(s):
09-O-18811 [10-O-02066; 10-O-02669;
10-O-05158; 10-O-07358; 10-O-07801;
10-O-07949; 10-O-08384; 10-O-08385;
10-O-10919; 11-O-10760; 11-O-11533;
11-O-14517; 11-O-15967; 11-O-16180;
11-O-18632]

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
Soheil Chini	\$1,450.00	3/26/09
Kuldeep Singh	\$1,295.00	5/5/09
Nathaniel Giles	\$995.00	11/19/09
Michael Glover	\$500.00	5/18/09

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than three (3) years from the effective date of discipline herein.

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:

(Do not write above this line.)

In the Matter of: GREGORY T. FLAHIVE	Case Number(s): 09-O-18811 [10-O-02066; 10-O-02669; 10-O-05158; 10-O-07358; 10-O-07801; 10-O-07949; 10-O-08384; 10-O-08385; 10-O-10919; 11-O-10760; 11-O-11533; 11-O-14517; 11-O-15967; 11-O-16180; 11-O-18632]
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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
William Brazil	\$1,795.00	9/4/09
Lewis Roper	\$880.25	3/15/10
John and Irene Di Schiavi	\$897.50	10/6/09
Bill and Karen Moore	\$300.00	10/2/09

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than three (3) years from the effective date of discipline herein.

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:

(Do not write above this line.)

In the Matter of: GREGORY T. FLAHIVE	Case Number(s): 09-O-18811 [10-O-02066; 10-O-02669; 10-O-05158; 10-O-07358; 10-O-07801; 10-O-07949; 10-O-08384; 10-O-08385; 10-O-10919; 11-O-10760; 11-O-11533; 11-O-14517; 11-O-15967; 11-O-16180; 11-O-18632]
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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
Vincent Vong	\$995.00	6/10/10
Edward Boe	\$995.00	12/8/10
Howard and JoAnn Lytle	\$1,795.00	7/12/10
Denise Flinn	\$2,490.00	3/16/10

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than three (3) years from the effective date of discipline herein.

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:

(Do not write above this line.)

In the Matter of: GREGORY T. FLAHIVE	Case Number(s): 09-O-18811 [10-O-02066; 10-O-02669; 10-O-05158; 10-O-07358; 10-O-07801; 10-O-07949; 10-O-08384; 10-O-08385; 10-O-10919; 11-O-10760; 11-O-11533; 11-O-14517; 11-O-15967; 11-O-16180; 11-O-18632]
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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
Eric Stiller	\$1,750.00	9/29/10

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than three (3) years from the effective date of discipline herein.

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:

(Do not write above this line.)

- 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.

(Do not write above this line.)

In the Matter of:
Gregory T. Flahive

Case number(s):
09-O-18813 [10-O-02066; 10-O-02669; 10-O-05158; 10-O-07358; 10-O-07801; 10-O-07949; 10-O-08384; 10-O-08385; 10-O-10919; 11-O-10760; 11-O-11533; 11-O-14517; 11-O-15967; 11-O-16180; 11-O-18632]

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.

12/27/11

Date

12/27/11

Date

12/28/11

Date


Respondent's Signature

Gregory T. Flahive

Print Name


Respondent's Counsel Signature

Jerome Fishkin

Print Name


Deputy Trial Counsel's Signature

Susan I. Kagan

Print Name

(Do not write above this line.)

In the Matter of:
GREGORY T. FLAHIVE

Case Number(s):
09-O-18811-PEM et al.

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:

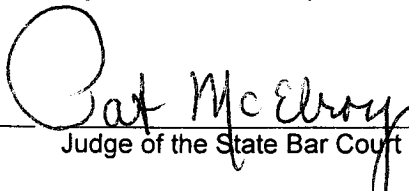
- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

1. On page 4, D. (3)(a)(i) in the box insert an "x."
2. On page 4, E.(1).in the box delete the "x."

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

Jan 18, 2012


Judge of the State Bar Court

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 January 19, 2012, 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:

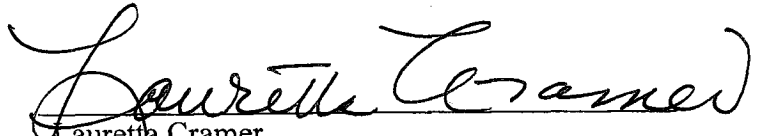
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JEROME FISHKIN
FISHKIN & SLATTER LLP
1111 CIVIC DR STE 215
WALNUT CREEK, CA 94596

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

SUSAN I. KAGAN , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 19, 2012.


Lauretta Cramer
Case Administrator
State Bar Court