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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Ashod Mooradian Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004 Bar # 194283	Case Number(s): 09-O-19375; 10-O-02394; 10-O-01180; 10-O-03294; [Investigative Matter: 11-O-13293]	For Court use only PUBLIC MATTER FILED NOV 21 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Jonathan O. Sarte Malcolm Law Unit 906 Tycoon Bldg. Pearl Drive, Ortigas Center Pasig City, Metro Manilla PHILLIPINES 00-6324702067 Bar # 250743	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: JONATHAN O. SARTE Bar # 250743 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 October 13, 2007.
- (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.



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

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- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Stipulation Attachment, page 15, section "C", paragraph 1.
- (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 Stipulation Attachment, page 15, section "C", paragraph 2.
- (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, page 15, section "D", paragraph 1.
- (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, page 15, section "D", paragraph 2.
- (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 Stipulation Attachment, page 16, section "D", paragraph 3.
- (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.

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- (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 four (4) 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 one (1) year.
 - 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:
 - Substance Abuse Conditions Law Office Management Conditions
 - Medical Conditions 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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JONATHAN O. SARTE

CASE NUMBER(S): 09-O-19375; 10-O-02394; 10-O-01180; 10-O-03294
[Investigative Matter: 11-O-13293]

A. WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY:

The parties waive any variance between the Notice of Disciplinary Charges (“NDC”) filed on September 27, 2011, and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

B. FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

1. Jonathan O. Sarte (“Respondent”) was admitted to the practice of law in the State of California on October 13, 2007, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

Case No. 09-O-19375 (Complainant: SBI)

Facts:

2. In April 2009, Respondent, from his home in the Philippines, and with the assistance of Adrian Lecaros (“Lecaros”), set up Legal Solutions Group, Inc. (“LSG”), a law office specializing in loan modification.

3. The office was located in Panorama City, California. Ramil Palafox (“Palafox”), a local mortgage broker, funded the startup of LSG. At all times relevant to these charges, however, Respondent was the sole stockholder, director, and officer of LSG. Lecaros became office manager of LSG.

4. Since Respondent’s primary residence was in the Philippines, Respondent ceded management responsibility of LSG to Lecaros. Respondent only visited the office when he made infrequent visits to the United States. Lecaros interviewed and hired staff, including attorneys, and leased office space for LSG.

5. On July 17, 2009, Batkhand Zoljargal ("Zoljargal"), an attorney for LSG, filed a lawsuit on behalf of Fanny and Silverio Dominguez (the "Dominguezes") in United States District Court, Case No. 2:09-cv-05203-MMM-AJW. The lawsuit named as defendants Resmae Mortgage Corporation ("Resmae") and JLM Corporation ("JLM") and alleged violations of the Truth in Lending Act and Real Estate Settlement Procedures Act.

6. On July 17, 2009, Zoljargal recorded a *lis pendens* on the Dominguezes' house. Zoljargal filed a notice of *lis pendens* with the court in the Dominguez case.

7. On August 7, 2009, Zoljargal presented Lecaros with her letter of resignation from LSG.

8. On August 19, 2009, JLM filed a declaration of nonmonetary status in the Dominguez case. A declaration of nonmonetary status, as defined in California Civil Code Section 2924(l), may be filed by a party to an action or proceeding who is a trustee under a deed of trust and is named solely in its capacity as trustee, and not arising out of any wrongful acts or omissions on its part in the performance of its duties as trustee. The other parties to the action or proceeding have 15 days from the service of the declaration by the trustee in which to object to the nonmonetary judgment status of the trustee. If no objection is served within the 15-day period, the trustee is not required to participate any further in the action or proceeding and is not subject to any monetary awards for damages, attorneys' fees or costs.

9. On August 19, 2009, JLM served the declaration on Zoljargal by mail at LSG and electronically via the court's Case Management /Electronic Case Filing ("CM/ECF") system. Neither Zoljargal nor anyone else at LSG ever objected to JLM's declaration of nonmonetary status.

10. On September 8, 2009, Resmae filed a motion to dismiss in the Dominguez case. A hearing on the motion was set for November 16, 2009. Also, on September 8, 2009, Resmae served notice of the motion on Zoljargal by mail at LSG and electronically via CM/ECF. Neither Zoljargal nor anyone else at LSG ever responded to Resmae's motion to dismiss.

11. In September 2009, during one of Respondent's trip to the United States, Zoljargal talked to Respondent about her need to withdraw from the Dominguez Case because she was no longer employed by LSG. Respondent told her would take care of the situation but never took any action.

12. On October 2, 2009, Resmae filed a motion to expunge the *lis pendens*. On October 2, 2009, Resmae's attorney served notice of the October 2, 2009 motion by mail on Respondent at the address at LSG. Staff at LSG received the letter. Neither Respondent nor anyone else at LSG ever filed a response to the motion to expunge the *lis pendens*.

13. On November 4, 2009, Zoljargal filed a notice of change of attorney with the court in the Dominguez case via CM/ECF. Zoljargal sought to be removed from the Dominguez

case because she was no longer employed by LSG and because Respondent had not found an attorney to substitute into the Dominguez case in her place.

14. On November 5, 2009, the court terminated Zoljargal as counsel of record in the Dominguez case and made Respondent attorney of record.

15. On November 5, 2009, the Court issued an order to show cause ("OSC") why defendant JLM should not be dismissed for lack of prosecution. The court asked for a written response to the OSC by November 16, 2009. The court served Respondent via CM/ECF with the OSC on dismissal for lack of prosecution on November 5, 2009. Neither Respondent nor anyone else at LSG ever responded to the OSC.

16. On November 9, 2009, Resmae filed a motion in the Dominguez Case requesting that the court grant Resmae's motion to dismiss because of plaintiff's failure to oppose the motion to dismiss. On November 9, 2009, Resmae's attorney served the November 9, 2009 motion by mail on Respondent at the address of LSG and electronically via CM/ECF to Respondent's e-mail address. Respondent received service of the November 9, 2009 motion electronically. Neither Respondent nor anyone else at LSG ever responded to Resmae's motion to dismiss.

17. On December 9, 2009, the court issued an order dismissing JLM without prejudice as a defendant in the Dominguez case because neither Respondent nor anyone else at LSG ever responded to the OSC for lack of prosecution on behalf of the Dominguezes. On December 9, 2009, the court served the December 9, 2009 order on Respondent via CM/ECF. Respondent received the December 9, 2009 order.

18. On December 15, 2009, because no opposition to Resmae's motion to dismiss and motion to expunge the lis pendens had been filed, a deputy clerk from the court in the Dominguez case attempted to contact Respondent at LSG and that Respondent was out of the country.

19. On December 16, 2009, the deputy clerk again called LSG and requested the Dominguezes' telephone number so she could advise them of the pending motion proceedings and uncertain state of their representation, but the staff at LSG declined to provide it.

20. Consequently, on December 16, 2009, the court issued an order directing LSG to contact the Dominguezes by December 18, 2009 at 4:30 p.m. to advise them of the pending motion to dismiss, and pending motion to expunge the lis pendens.

21. The court order also directed an attorney employed by LSG to file a declaration under penalty of perjury no later than Monday, December 21, 2009 at 12:00 p.m., confirming that someone from LSG had contacted the Dominguezes and stating whether LSG would continue to represent the Dominguezes, or seek leave to withdraw from the representation. The declaration was also to provide the address and telephone number of the Dominguezes as reflected in LSG's file.

22. The court cautioned counsel that unless and until a motion to withdraw was filed and granted, LSG remained counsel of record in the Dominguez case and was responsible for the outcome and consequences of the action. Neither Respondent nor anyone else at LSG ever responded to the Motion to Dismiss.

23. The December 16, 2009 court order was served on Respondent via CM/ECF to Respondent's e-mail address. Respondent received the electronic service of the December 16, 2009 court order. Neither Respondent nor anyone else at LSG ever responded to the December 16, 2009 court order.

24. On August 9, 2010, the court granted Resmae's motion to dismiss the Dominguez case with prejudice. The court also granted Resmae's motion to expunge the lis pendens. The court denied Resmae's request for attorneys' fees and costs, stating "plaintiffs relied on lawyers who most probably did not advise them as to the nature of the claims that were to be filed or the effect of recording a lis pendens, and who subsequently abandoned them."

25. As attorney of record, Respondent was required to respond to the court order. As owner of LSG, Respondent was responsible for responding, or designating someone to respond, to the court order.

Conclusions of Law:

26. By failing to respond to the motion to dismiss, motion to expunge, the OSC, and the court order, resulting in the court dismissing the Dominguez case with prejudice, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

27. By failing to respond to the court order, or designate someone to do so, 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 wilful violation of Business and Professions Code, section 6103.

Case No. 10-O-01180 (Complainant: Salvador Huevo)

Facts:

28. In July or August 2009, Palafox informed Respondent that Lecaros was stealing money from LSG. Respondent fired Lecaros, and appointed Palafox, a non-attorney, as "Chief Finance Officer" of LSG. Palafox maintained LSG's bank accounts, including the client trust account. In addition, Palafox handled the hiring of staff, including attorneys. Palafox also interviewed prospective clients and gave legal advice to current clients.

29. On September 21, 2009, Salvador Huevo ("Huevo") went to the offices of LSG and spoke to Palafox about problems related to his home mortgage with American Home Mortgage ("AHM"). Palafox told Huevo that his attorneys could sue AHM because the loan was fraudulent.

30. On September 21, 2009, Huezo signed a fee agreement with LSG for legal services. No attorney at LSG ever discussed Huezo's legal options with him. Huezo paid LSG a total of \$5,000 in legal fees.

31. Shortly thereafter, Huezo met Respondent for the first time. Respondent told Huezo the office will take care of his case.

32. At no time did Respondent or anyone else at LSG ever file a civil action on behalf of Huezo or otherwise advise Huezo of his legal options.

33. Respondent never filed a lawsuit and performed no other legal services on behalf of Huezo.

34. At no time did Respondent refund any of the \$5,000 paid by Huezo.

Conclusions of Law:

35. By allowing Palafox to evaluate Huezo's case and give legal advice to Huezo, Respondent aided a person or entity in the unauthorized practice of law in wilful violation of Rules of Professional Conduct, rule 1-300(A).

36. By failing to take legal action on behalf of Huezo, or advise him of his legal options, Respondent intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

37. By not refunding the \$5,000 to Huezo, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 10-O-02394 (Complainant: Juliet Sulian)

Facts:

38. On June 19, 2009, Juliet Sulian and her husband (the "Sulians") employed LSG to provide legal services to avoid foreclosure on their house. The Sulians paid LSG a total of \$14,000.

39. At their initial meeting with LSG, the Sulians met with Palafox, who introduced them to Zoljargal. Zoljargal explained the loan modification process and claimed she had a 99% success rate with loan modification cases.

40. On October 28, 2009, employees of LSG gave the Sulians a draft of a complaint against their lender for violations of the Truth in Lending Act and Real Estate Settlement Procedures Act.

41. On November 20, 2009, the Sulians discovered that LSG had moved its office without notifying them.

42. On November 20, 2009, the Sulians hired new counsel and were able to get a loan modification approved by their lender and keep their house.

43. On November 23, 2009, the Sulians met with employees of LSG. The employees of LSG again gave the Sulians a draft of a complaint against their lender for violations of the Truth in Lending Act and Real Estate Settlement Procedures Act.

44. The November 23, 2009 draft complaint bore Respondent's name and State Bar member number in the caption. However, neither Respondent nor anyone else at LSG ever filed the lawsuit.

45. The only other action taken on the Sulians' behalf was a request for documents from the Sulians' lender.

46. Respondent did not earn any of the advanced fees paid by the Sulians.

47. At no time did Respondent refund any of the \$14,000 paid by the Sulians.

Conclusions of Law:

48. By failing to do any work on behalf of the Sulians, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

49. By not refunding the \$14,000 to the Sulians, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 10-O-03294 (Complainant: Svetlana Sarkisian)

Facts:

50. On June 19, 2009, Svetlana Sarkisian and her husband (the "Sarkisians") employed LSG to provide legal services to avoid foreclosure on their house. The Sarkisians paid a total of \$5,500 to LSG.

51. At their initial meeting with Palafox, the Sarkisians met Zoljargal, who told them about the loan modification process. Zoljargal claimed she had a 99% success rate with loan modification cases.

52. On July 16, 2009, an employee of LSG sent a letter to the Sarkisians' lender requesting loan documents.

53. LSG never filed a lawsuit on behalf of the Sarkisians.

54. The only work LSG performed on behalf of the Sarkisians was requesting loan documents from their lender.

55. On August 24, 2009, the Sarkisians discovered that LSG had moved its office without notifying them.

56. In August 2009, the Sarkisians contacted a loan modification specialist at a company called Financial Experts who was able to stop the foreclosure on their home.

57. Respondent did not earn any of the advanced fees paid by the Sarkisians.

58. At no time did Respondent refund any of the \$5,500 paid by the Sarkisians.

Conclusions of Law:

59. By failing to do any work on behalf of the Sarkisians, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

60. By not refunding the \$5,500 to the Sarkisians, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 11-O-13293 (Complainants: Azat and Vardan Torosyan)

Facts:

61. On April 14, 2009, after consultation with LSG employees, Vardan Torosyan ("Vardan") retained LSG to assist him in his mortgage loan default and foreclosure of his house located in Studio City, CA. On April 14, 2009, Vardan signed a retainer for litigation against his lender Washington Mutual and other defendants.

62. Between April and May 2009, Vardan paid LSG and/or Palafox a total of \$13,000 for the service.

63. On September 8, 2009, LSG filed a lawsuit in United States District Court, Central District of California, case number 2:09-cv-06516-SJO-RC, on Vardan's behalf against his lender Washington Mutual and other defendants for an alleged violation of TILA and RESPA, among other causes of action ("Vardan's Lawsuit"). Respondent was identified as plaintiff's counsel in Vardan's Lawsuit.

64. On September 18, 2009, after consultation with LSG employees, Azat Torosyan ("Azat") retained LSG to assist him in his mortgage loan default and foreclosure of his house

located in Sun Valley, CA. On September 18, 2009, Azat signed a retainer for litigation against his lender Washington Mutual and other defendants.

65. On October 27, 2009, LSG filed a lawsuit in United States District Court, Central District of California, case number 2:09-cv-07836-ODW-FMO, on Azat's behalf against his lender Washington Mutual and other defendants for an alleged violation of TILA and RESPA, among other causes of action ("Azat's Lawsuit"). Respondent was identified as plaintiff's counsel in Azat's Lawsuit.

66. On November 10, 2009, a defendant in Vardan's Lawsuit filed a Motion to Dismiss. The Motion to Dismiss was scheduled for hearing on December 14, 2009. Plaintiff's counsel was required to file an opposition at least fourteen days prior to the scheduled hearing date. An opposition to the Motion to Dismiss was never filed. The court granted defendant's Motion to Dismiss Vardan's Lawsuit.

67. In November 2009, the court in Azat's Lawsuit issued an Order to Show Cause why the case should not be dismissed for plaintiff's failure to pay the required fee. Plaintiff's counsel was ordered to file a response to the court's Order to Show Cause in writing no later than November 25, 2009.

68. At the hearing on November 20, 2009, the court in Azat's Lawsuit issued an order stating that plaintiff's counsel could pay the \$395 filing fee, plus a \$45 returned check processing fee as a satisfactory response to the November 2009 Order to Show Cause.

69. On December 1, 2009, Azat paid Palafox \$6,000 in cash for legal services related to Azat's Lawsuit.

70. On December 16, 2009, after there was no response to the court's November 2009 Order to Show Cause, the court dismissed Azat's Lawsuit.

71. Respondent did not earn any of the advanced fees paid by Vardan or Azat.

72. At no time did Respondent refund any of the \$13,000 paid by Vardan. At no time did Respondent refund any of the \$6,000 paid by Azat.

73. Respondent ultimately fired Palafox, the office manager, Leslie Velasco-Capps, and the secretary, Marites Sipagan and closed his office to conduct an audit. Subsequently, Respondent discovered that he could not access the CM/ECF system because his user name and password had been changed by his former office manager Leslie Velasco-Capps, (Respondent had previously delegated control of his CM/ECF account to her). Respondent thereafter regained control over the CM/ECF account and began to receive emails. However, at this time Respondent was already back in the Philippines and did not know what to do, other than to forward the messages to Ms. Whitfield, his paralegal, for her appropriate action or response.

Conclusions of Law:

74. By allowing LSG staff and/or Palafox to enter into a retainer for legal services, by allowing LSG staff and/or Palafox to file Vardan's Lawsuit on behalf of Vardan naming Respondent as plaintiff's counsel and by allowing LSG staff and/or Palafox to accept fees for legal services from Vardan, Respondent aided a person or entity in the unauthorized practice of law in wilful violation of Rules of Professional Conduct, rule 1-300(A).

75. By allowing LSG staff and/or Palafox to enter into a retainer for legal services, by allowing LSG staff and/or Palafox to file Azat's Lawsuit on behalf of Azat naming Respondent as plaintiff's counsel and by allowing LSG staff and/or Palafox to accept fees for legal services from Azat, Respondent aided a person or entity in the unauthorized practice of law in wilful violation of Rules of Professional Conduct, rule 1-300(A).

76. By not refunding the \$13,000 to Vardan and by not refunding the \$6,000 to Azat, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

C. FACTS SUPPORTING AGGRAVATION.

1. Respondent's clients were seriously harmed by the above described misconduct.¹ Respondent's clients needed an attorney because they were financially distressed and/or in danger of losing their home to foreclosure. Thus, the loss of the use of the money they paid for services that were not performed or had no value, caused significant harm to Respondent's clients.

2. Respondent's misconduct involved five (5) separate client matters and twelve (12) counts alleging violations of the Rules of Professional Conduct and the State Bar Act, which constitute multiple acts of misconduct.²

D. FACTS SUPPORTING MITIGATION.

1. Respondent has no prior record of discipline. However, the weight of this factor is diminished by the seriousness of his misconduct and by the fact that Respondent has been admitted only for four years.³

2. Respondent has exhibited candor and significant cooperation with the State Bar of California.⁴ During the pendency of this matter, Respondent cooperated with the State Bar, informally providing information that assisted the State Bar in its understanding of Respondent's misconduct herein. Finally, Respondent also cooperated in that he has stipulated to facts, conclusions of law and level of discipline, including an additional investigative matter.

¹ Standard 1.2(b)(iv).

² Standard 1.2(b)(ii).

³ Standard 1.2(e)(i).

⁴ Standard 1.2(e)(v).

3. Respondent has expressed remorse to the State Bar for his misconduct and acknowledged his wrongdoing.⁵ The State Bar is satisfied that Respondent's remorse is genuine and demonstrates that Respondent has taken a significant and meaningful step towards ensuring that ethical misconduct will not recur in the future.

E. AUTHORITIES SUPPORTING DISCIPLINE.

Applicable Standards:

Standard 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 1.6(a) provides that if two or more acts of misconduct are found in the same proceeding, the sanction imposed shall be the more or most severe of the different applicable sanctions. Standard 1.6(b) provides that a greater or lesser degree of discipline than the appropriate sanction prescribed by these standards shall be imposed or recommended, depending on the net effect of the aggravating and mitigating circumstances, if any.

Standard 2.4(b), in relevant part, provides that culpability of a member of wilfully failing to perform services in an individual matter or 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.

Standard 2.6 provides that culpability of a member of a violation of any of the following provisions of the *Business and Professions Code* shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3:...a) Sections 6067 and 6068; (b) Sections 6103 through 6105;....

Standard 2.10 provides that the culpability of a member for violation of any provision of the Business and Professions Code or any Rule of Professional Conduct not specified in the Standards 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 purposes of imposing discipline set forth in Standard 1.3.

Based on Standard 1.6(a), the most severe sanction for Respondent's misconduct herein is found in Standard 2.6, which provides for suspension or disbarment.

Aggravating & Mitigating Circumstances:

Standard 1.2(b) provides for a greater degree of sanction set forth in the standards where aggravating circumstances exist. As discussed above,⁶ in this matter there are two aggravating circumstances. First, pursuant to Standard 1.2(b)(iv), Respondent's clients were seriously

⁵ Standard 1.2(e)(vii).

⁶ See Section "B," *infra*.

harmful by the above described misconduct. Second, pursuant to Standard 1.2(b)(ii), Respondent's misconduct involved multiple acts of misconduct.

Standard 1.2(e) provides for a more lenient degree of sanction than set forth in the standards where mitigating circumstances exist. As discussed above,⁷ in this matter there are three mitigating circumstances. First, pursuant to Standard 1.2(e)(i), Respondent has no prior record of discipline (as discussed above the weight of this circumstance is limited). Second, pursuant to Standard 1.2(e)(v), Respondent has exhibited candor and cooperation with the State Bar of California. Third, pursuant to Standard 1.2(e)(vii), Respondent has expressed remorse to the State Bar for his misconduct and acknowledged his wrongdoing.

Caselaw:

In *Matter of Jones*,⁸ involved an agreement for the compensation of a non-attorney. In *Jones*, the attorney allowed a non-attorney to conduct a large scale personal injury practice involving capping, forgery, and other fraudulent practices in the attorney's name. The non-attorney handled all aspects of the personal injury practice without any supervision from Jones. Nearly \$60,000.00 withheld from client settlements was misused. In mitigation, Jones turned the non-attorney in to the police and cooperated with the authorities, established his good character and community activities and paid nearly \$57,000.00 of his own money to medical providers to remedy the non-attorney's misconduct. In aggravation, Jones committed multiple acts of misconduct and caused considerable harm to medical providers. Jones was suspended for three years, stayed, with three years probation and a two years actual suspension.

In this matter, Respondent, like the attorney in *Jones*, allowed non-attorneys to handle all aspects of his practice without any supervision. However, Respondent's activities were not on a large scale and did not involve outright forgery justifying a lesser level of discipline.

F. PENDING PROCEEDINGS.

The disclosure date referred to on page two, paragraph A. (7) was October 5, 2011.

G. CLIENT SECURITY FUND WAIVER.

Respondent waives any objection to payment by the State Bar Client Security Fund upon the claim for the principal amount of restitution set forth herein.

H. COSTS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed him that as of October 5, 2011, the estimated prosecution costs in this matter are approximately \$7,254.00. Respondent acknowledges that this figure is an estimate only. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

⁷ See Section "C," *infra*.

⁸ (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411.

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In the Matter of: JONATHAN O. SARTE	Case Number(s): 09-O-19375; 10-O-02394; 10-O-01180; 10-O-03294 [Investigative Matter: 11-O-13293]
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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
Salvador Huezo	\$5,000.00	September 21, 2009
Juliet Sulian	\$14,000.00	June 19, 2009
Svetlana Sarkisian	\$5,500.00	June 19, 2009
Vardan Torosyan	\$13,000.00	June 1, 2009
Azat Torosyan	\$6,000.00	December 1, 2009

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days prior to the expiration of the period of probation.

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.

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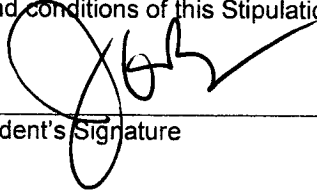
In the Matter of: JONATHAN O. SARTE	Case number(s): 09-O-19375; 10-O-02394; 10-O-01180; 10-O-03294 [Investigative Matter: 11-O-13293]
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SIGNATURE OF THE PARTIES

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.

October 17, 2011

Date



Respondent's Signature

Jonathan O. Sarte

Print Name

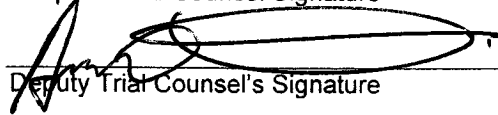
Date

Respondent's Counsel Signature

Print Name

October 20, 2011

Date



Deputy Trial Counsel's Signature

Ashod Mooradian

Print Name

(Do not write above this line.)

In the Matter of: JONATHAN O. SARTE	Case Number(s): 09-O-19375; 10-O-02394; 10-O-01180; 10-O-03294 [Investigative Matter: 11-O-13293]
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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.)**

November 21, 2011 Cat McElroy
Date 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 November 21, 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:

JONATHAN O. SARTE
MALCOLM LAW
UNIT 906 TYCOON BLDG
PEARL DR, ORTIGAS CENTER
PASIG CITY, METRO MANILA, PHILIPPINES

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

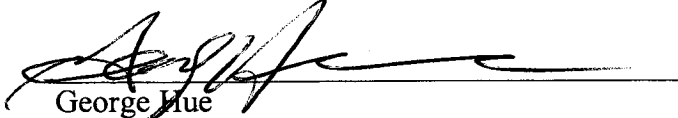
- by overnight mail at , California, addressed as follows:

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

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

Ashod Mooradian, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 21, 2011.


George Hue
Case Administrator
State Bar Court