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State Bar Court of California Hearing Department PUBLIC MATTER Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Ashod Mooradian Senior Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1004 Bar # 194283	Case Number(s): 10-O-02446; 12-O-11782; 12-O-14889;	For Court use only <div style="text-align: center;"> FILED DEC 09 2013 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Paul J. Virgo CENTURY LAW GROUP LLP 9909 Topanga Blvd., #282 Chatsworth, CA 91311 (310) 666-9701 Bar # 67900	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: MICHAEL MARC YELLIN Bar # 255050 A Member of the State Bar of California (Respondent)	STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

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 January 24, 2008.
- (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 16 pages, not including the order.

(Effective January 1, 2011)



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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):
 - Costs are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: Two billing cycles following the effective date of the Supreme Court order. (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 Case S200327 [09-O-14195, et al.]
 - (b) Date prior discipline effective June 22, 2012
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules 1-300(B), 3-110(A), 3-700(A)(2), 3-700(D)(1), 3-700(D)(2), 4-200(A) and B&P section 6068(m).
 - (d) Degree of prior discipline 4 years suspension, stayed, 4 years probation with standard conditions including a 2 year actual suspension and until 1.4(c)(ii), MPRE, compliance with rule 9.20 and until restitution.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (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 Attachment at pages 12-13.

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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 Attachment at page 13.
- (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.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

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- (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

See Attachment at page 13.

D. Discipline:

(1) **Stayed Suspension:**

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

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of one (1) year, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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- (6) 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.
- (7) 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 State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (8) 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.
- (9) 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 within one year. **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) **Other Conditions:**

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In the Matter of: MICHAEL MARC YELLIN	Case Number(s): 10-O-02446; 12-O-11782; 12-O-14889;
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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
Heather Marquez	\$2,495.00	April 6, 2009
Donna Bacon	\$1,995.00	March 20, 2009
Patricia J. Bishop	\$1,200.00	May 6, 2009

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 180 days from the effective date of the Supreme Court order in this case.

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:
 - 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.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MICHAEL MARC YELLIN

CASE NUMBERS: 10-O-02446; 12-O-11782; 12-O-14889;

FACTS AND CONCLUSIONS OF LAW.

Michael Marc Yellin ("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.

Case No. 10-O-02446 (Complainant: Heather Marquez)

FACTS:

1. Beginning in 2009, Respondent contracted with A Fresh Start ("AFS") to process loan modifications for his clients.
2. In March 2009, Heather Marquez ("Marquez") contacted AFS and Respondent regarding a loan modification.
3. On March 31, 2009, Marquez signed a retainer agreement employing AFS and Respondent to negotiate and obtain a home mortgage loan modification for Marquez.
4. On April 6, 2009, Marquez paid Respondent \$2,495 as a legal fee for the loan modification.
5. Between April 9, 2009 and May 8, 2009, Marquez sent AFS loan documents, bank statements, tax returns and other financial records as requested by AFS.
6. On May 8, 2009, Marquez received confirmation from a AFS representative that all of the paperwork necessary to start preparing her loan modification had been received by Respondent's office.
7. On June 5, 2009, Marquez was told by a AFS representative that AFS had not yet started work on her loan modification.
8. On July 13, 2009, Marquez notified Respondent that his loan modification legal services were terminated and requested that Respondent provide a full refund of her \$2,495 fee.
9. On July 13, 2009, Respondent responded and informed Marquez that no refund would be provided.
10. On August 17, 2009, Respondent's office contacted Marquez requesting that she resubmit her documentation because now they were too old to submit with the request for loan modification.
11. On August 18, 2009, Marquez made another request for a refund of her \$2,495 fee.

12. On August 18, 2009, Respondent responded and informed Marquez that no refund would be provided.

13. After August 18, 2009, Marquez sent Respondent several emails requesting status of her refund. Respondent received all of Marquez's emails but did not respond.

14. Respondent did not submit a loan modification request for Marquez.

15. Respondent failed to provide any legal services of value for Marquez.

16. Respondent failed to earn the \$2,495 in fees paid by Marquez.

17. To date, Respondent has failed to refund any portion of the \$2,495 in fees paid by Marquez.

18. To date, Respondent has failed to provide Marquez with an accounting for the \$2,495 in fees she paid to him.

CONCLUSIONS OF LAW:

19. By not submitting a loan modification request for Marquez and by not providing any legal services of value for Marquez, Respondent intentionally failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

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

21. By failing to provide Marquez with an accounting for the \$2,495 in fees that she paid to him, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

22. By failing to respond to any of Marquez's emails requesting status of her refund, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code, section 6068(m).

Case No. 12-O-11782 (Complainant: Donna Bacon)

FACTS:

23. In 2009, Respondent advertised his availability to perform loan modifications in Ohio. In addition, AFS maintained a website advertising Respondent's availability to perform loan modifications in Ohio.

24. In February 2009, Donna Bacon ("Bacon"), in response to Respondent's and/or AFS's advertisements, contacted AFS and Respondent regarding a loan modification for her Ohio property.

25. On March 12, 2009, Bacon signed a retainer agreement employing AFS and Respondent to negotiate and obtain a home mortgage loan modification for her Ohio property.

26. On March 20, 2009, Bacon paid Respondent \$1,995 as a legal fee for the loan modification of her Ohio property.

27. On July 23, 2009, Bacon notified Respondent that his loan modification legal services were terminated and requested that Respondent provide a full refund of her \$1,995 fee.

28. Ohio Rules of Professional Conduct, rule 5.5(b), states, in relevant part, that "a lawyer who is not admitted to practice law in this jurisdiction shall not ... hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction."

29. Respondent is not presently, and never has been, admitted to practice law in the state of Ohio.

30. By advertising or authorizing the advertising of Respondent's availability to provide loan modification services in Ohio and by accepting Bacon's representation in order to negotiate and obtain for Bacon a home mortgage loan modification for her Ohio property, Respondent effectively held himself out as licensed to practice law in Ohio.

31. To date, Respondent has failed to refund any portion of the \$1,995 in fees paid by Bacon.

CONCLUSIONS OF LAW:

32. By holding himself out as licensed to practice law in Ohio when he was not so licensed, and accepting Bacon as a client, Respondent willfully violated the regulations of the profession in Ohio in willful violation of Rules of Professional Conduct, rule 1-300(B).

33. By entering into an agreement for, charging, and collecting fees from Bacon, when he was not licensed to practice law in Ohio, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Bacon in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-14889 (Complainant: Patricia J. Bishop)

FACTS:

34. In 2009, Respondent advertised his availability to perform loan modifications in Mississippi. In addition, AFS maintained a website advertising Respondent's availability to perform loan modifications in Mississippi.

35. In April 2009, Patricia Bishop ("Bishop"), in response to Respondent's and/or AFS's advertisements, contacted AFS and Respondent regarding a loan modification for her Mississippi property.

36. On April 22, 2009, Bishop signed a retainer agreement employing AFS and Respondent to negotiate and obtain a home mortgage loan modification for her Mississippi property.

37. On May 6, 2009, Bishop paid Respondent \$1,200 as a legal fee for the loan modification of her Mississippi property.

38. On July 20, 2009, Bishop notified Respondent that his loan modification legal services were terminated and requested that Respondent provide a full refund of her \$1,200 fee.

39. Mississippi Rules of Professional Conduct, rule 5.5(b), states, in relevant part, that "a lawyer who is not admitted to practice law in this jurisdiction shall not ... hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction."

40. Respondent is not presently, and never has been, admitted to practice law in the state of Mississippi.

41. By advertising or authorizing the advertising of Respondent's availability to provide loan modification services in Mississippi and by accepting Bishop's representation in order to negotiate and obtain for Bishop a home mortgage loan modification for her Mississippi property, Respondent effectively held himself out as licensed to practice law in Mississippi.

42. To date, Respondent has failed to refund any portion of the \$1,200 in fees paid by Bishop.

CONCLUSIONS OF LAW:

43. By holding himself out as licensed to practice law in Mississippi when he was not so licensed, and accepting Bishop as a client, Respondent willfully violated the regulations of the profession in Mississippi in willful violation of Rules of Professional Conduct, rule 1-300(B).

44. By entering into an agreement for, charging, and collecting fees from Bishop, when he was not licensed to practice law in Mississippi, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Bishop in willful violation of Rules of Professional Conduct, rule 4-200(A).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): Respondent has a prior record of discipline that is not remote in time and that involved serious misconduct. In the prior matter, Respondent stipulated to misconduct in 23 loan modification matters. Between January 2009 and October 2011, Respondent worked with five different loan modification processing centers (including AFS) as either general counsel or by contracting them to process his files. Respondent handled properties both in and outside California although he is not licensed in any other jurisdiction. Respondent failed to complete the work promised and his clients were unable to contact him. He did not refund advance fees. Respondent stipulated that he engaged in the unauthorized practice of law, did not take steps to avoid prejudice to his clients when his services were terminated, failed to release client files, refund unearned fees, perform legal services competently or communicate with clients, and he collected illegal fees by working in jurisdictions where he was not licensed. As discussed supra., pursuant to the holding in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, the aggravating weight of this prior record of discipline is diminished because the prior discipline was imposed for similar misconduct committed before or during the same time period as charged in the present proceeding. (See *Matter of Sklar*, supra., 2 Cal. State Bar Ct. Rptr. at p. 619.)

Harm (Std. 1.2(b)(iv)): Respondent's misconduct significantly harmed several clients. Respondent continues to fail to refund unearned or illegal fees to the clients herein causing them significant ongoing

financial harm. (*In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 417 [failure to make restitution to a client is an aggravating factor]).

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent's misconduct evidences multiple acts of wrongdoing. Respondent's misconduct herein involved ten counts of misconduct including violations of the Rules of Professional Conduct, rules 1-300(B), 3-110(A), 3-700(D)(2), 4-100(B)(3) and 4-200(A) and a violation of the State Bar Act, Business and Professions Code section 6068(m). (*In the Matter of Elkins* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 160, 168 [multiple acts of misconduct are an aggravating factor]).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Pre-Filing Stipulation (Std. 1.2(e)(v)): Respondent has agreed to enter into this pre-filing stipulation to fully resolve this matter without the necessity of a trial, thereby saving the State Bar time and resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

As discussed above, Respondent has one prior resulting in a two year actual suspension and until 1.4(c)(ii). The 23 matters stipulated to in the prior all involved misconduct related to loan modification services. The misconduct at issue in the three pending matters also involve misconduct related to loan modification services.

The Review Department opinion in *In the Matter of Sklar*, supra., 2 Cal. State Bar Ct. Rptr. 602, stated that the fact of whether misconduct in the pending matter occurred before, contemporaneously with or after the misconduct in a prior record of discipline is significant to the level of discipline analysis. "Since part of the rationale for considering prior discipline as having aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms [citation], it is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case." (See *Matter of Sklar*, supra., 2 Cal. State Bar Ct. Rptr. at p. 619.)

The Review Department went on to hold that under such circumstances, the Court would consider the totality of the charges brought in both cases in order to determine the appropriate discipline, had both cases been brought together. (*Id.*)

The current matter involves misconduct that is virtually identical to the misconduct stipulated to in the prior matter in 2012. That is, in the prior matter, Respondent stipulated to violations of RPC 3-110(A), 3-700(D)(2), 1-300(B), 4-200(A) and B&P 6068(m). Similarly, in the current matter all these same violations exist as well as one additional violation of RPC 4-100(B)(3). Also, the misconduct in the current matter occurred within the same time period as the misconduct in the prior matter. That is, in the prior matter, Respondent's misconduct began in January 2009 and continued through October 2010. Similarly, the misconduct in the current matter began in March 2009 and continued up through January 2010. Finally, both the current and the prior matters involved both California and out-of-state CWs serviced by the same non-attorney processor AFS.

In *Pineda v. State Bar* (1989) 49 Cal.3d 753, the attorney admitted in 1974, committed misconduct between 1978 and 1986 in seven separate client matters. Pineda accepted fees from the clients, failed to perform on their behalf, did not respond to their inquiries, and did not refund advance fees. Pineda also made misrepresentations to one client. The Supreme Court found that Pineda's repeated acceptance of advanced fees followed by his abandonment of the clients without communicating with them and combined with misrepresentations to one client may support disbarment, it also found that a number of mitigating factors weighed against disbarment, including Pineda's willingness to accept the State Bar's recommendation of discipline, the reforms he had undertaken in the managing of his practice, and the personal and professional problems that culminated in the dissolution of his marriage. Pineda received five years stayed, five years probation, and two years actual suspension.

Similarly, in the current matter, Respondent was admitted in 2008 and committed misconduct between January 2009 and October 2010 that involved failures to perform and failures to respond to client inquiries and a failure to refund unearned advance fees. However, Respondent's misconduct in the current and prior matter occurred over a significantly shorter period of time than was the case in *Pineda*. In addition, Respondent, like the attorney in *Pineda*, has stipulated to facts, conclusions of law and disposition in this matter as well as in the prior matter. Further, although Respondent's prior and current matters involved twenty-six client matters as opposed to the seven client matters at issue in *Pineda*, Respondent's misconduct, unlike the misconduct in *Pineda*, did not involve abandonment of clients or misrepresentation to a client. It is the absence of these serious acts of misconduct that explains the similarity of dispositions between this matter and *Pineda*.

Thus, had these three cases been brought together with the prior twenty-three cases, there would not have been any incremental change to the two-year actual suspension outcome. Further, pursuant to *Sklar*, the aggravating weight of the prior is diminished because there is no evidence that Respondent's misconduct in this matter, even though it is similar to the misconduct in the prior matter, reflects a failure on the part of Respondent to learn from his prior misconduct.

Therefore, no additional actual suspension need be imposed and the stayed suspension on conditions outlined herein are sufficient for public protection.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 18, 2013, the prosecution costs in this matter are approximately \$4,791. 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.

EXCLUSION FROM MCLE CREDIT

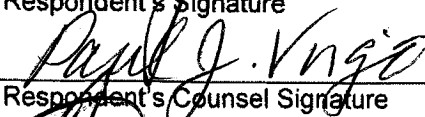
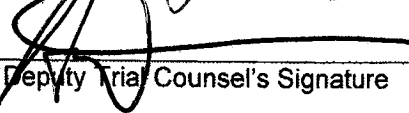
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: MICHAEL MARC YELLIN	Case number(s): 10-O-02446; 12-O-11782; 12-O-14889;
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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.

<u>10/28/13</u> Date	 Respondent's Signature	<u>Michael Marc Yellin</u> Print Name
<u>11/8/2013</u> Date	 Respondent's Counsel Signature	<u>Paul J. Virgo, Esq.</u> Print Name
<u>11/15/2013</u> Date	 Deputy Trial Counsel's Signature	<u>Ashod Mooradian</u> Print Name

(Do not write above this line.)

In the Matter of: MICHAEL MARC YELLIN	Case Number(s): 10-O-02446; 12-O-11782; 12-O-14889;
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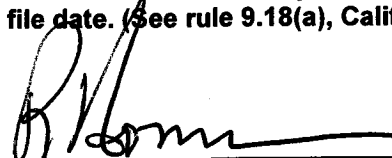
STAYED SUSPENSION ORDER

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.)**

12-6-13
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 Los Angeles, on December 9, 2013, 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 Los Angeles, California, addressed as follows:

**PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311**

- 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 Los Angeles, California, on December 9, 2013.



Paul Barona
Case Administrator
State Bar Court