

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos. <b>10-O-03758-LMA</b>
	)	<b>(10-O-04169; 10-O-04418;</b>
	)	<b>10-O-05475; 10-O-05623;</b>
<b>SHARON LYNN LAPIN,</b>	)	<b>10-O-05665; 10-O-06397;</b>
	)	<b>10-O-06545; 10-O-08358;</b>
	)	<b>10-O-09720; 10-O-11062)</b>
<b>Member No. 165919,</b>	)	
	)	<b>DECISION INCLUDING DISBARMENT</b>
	)	<b>RECOMMENDATION AND ORDER OF</b>
A Member of the State Bar.	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>

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**Introduction**<sup>1</sup>

In this contested disciplinary proceeding, respondent **Sharon Lynn Lapin** is charged with 26 counts of professional misconduct for her involvement in a scheme to defraud distressed homeowners, including at least 13 of her clients. The charged misconduct includes: (1) committing acts of moral turpitude; (2) failing to support the laws of California; (3) aiding in the unauthorized practice of law; (4) sharing legal fees with a non-lawyer; (5) participating in non-legal lawyer referral service; (6) failing to perform services competently; (7) maintaining an unjust action; (8) accepting referrals from unregistered legal referral service; (9) permitting misuse of name; and (10) failing to avoid the representation of adverse interests.

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

This court finds, by clear and convincing evidence, that respondent is culpable of most of the charged allegations of misconduct. Respondent has harmed the public, damaged public confidence in the legal profession, and failed to maintain the high professional standards demanded of attorneys. Based on the serious nature and extent of culpability, as well as the applicable mitigating and aggravating circumstances, the court recommends, among other things, that respondent be disbarred from the practice of law.

### **Significant Procedural History**

The State Bar of California, Office of the Chief Trial Counsel (State Bar), initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on September 22, 2011. Respondent filed a response.

On December 27, 2011, this court granted respondent's motion to abate this matter pending the resolution of a case filed against respondent on similar grounds as this proceeding by the State of California Attorney General with no trial date yet in *The People of the State of California v. US Loan Auditors, My US Legal Services, Sharon Lapin, James Donald Sandison, et al.*, Sacramento County Superior Court, case No. 34-2010-00088873, filed October 6, 2010 (“*People v. Lapin, et al.*”).

On February 23, 2012, the Review Department issued an order on interlocutory review, reversing the abatement order on the grounds that an abatement would result in a significant delay and would be inconsistent with the need to dispose of all proceedings as promptly as possible to ensure public protection.

Accordingly, an 11-day hearing was held in June, July, and August 2012. Senior Trial Counsel Robin B. Brune represented the State Bar. Attorney Richard H. Lubetzky served as co-counsel with respondent. On August 24, 2012, following closing briefs, the court took this matter under submission.

On August 30, 2012, the parties filed a stipulated request to redact certain exhibits. On October 17, 2012, the court approved the parties' stipulation. The requested exhibits were then redacted.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on October 29, 1993, and has been a member of the State Bar of California since that time.

The findings of fact are based on the record and the evidence adduced at trial. After carefully observing and considering respondent's testimony, including, among other things, her demeanor while testifying; the manner in which she testified; the character of her testimony; her interest in the outcome in this proceeding; her capacity to perceive, recollect, and communicate the matters on which she testified; and after carefully reflecting on the record as a whole, the court finds that much of respondent's testimony lacked credibility and sincerity. (Evid. Code, § 780.) Other times, respondent's testimony appeared contrived.

For example, respondent's testimony, contradicted by documentary evidence, lacked credibility when she testified that:

- (1) Respondent did not know that staff at US Loan Audits and US Legal Services were making false representations to the clients;<sup>2</sup>
- (2) Moving to state court was all part of a loan modification strategy;
- (3) Respondent was not expecting reimbursement for court-ordered sanctions and James Donald Sandison<sup>3</sup> just offered to pay them; and
- (4) Respondent never knew what her clients were paying USLS.

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<sup>2</sup> Contrary to respondent's claim of ignorance, the client files included advertisements, flow charts, brochures – all promising foreclosure relief. And, respondent stated that she had read the client files.

<sup>3</sup> The court takes judicial notice that James Donald Sandison was disbarred on October 9, 2011.

The State Bar's witnesses were credible and reliable.

**Case Nos. 10-O-05665; 10-O-03758; and 10-O-05623 - The Scheme-to-Defraud Matter**

**Facts**

Respondent was involved in a scheme to mislead and defraud distressed homeowners, pocketing about \$177,000 between August 2009 and November 2010 without having to provide any legal services.

***Background***

With the intent to bilk troubled homeowners, James Donald Sandison, Jeffrey Allen Pulvino, and Shane Barker started an organization under various names including US Loan Auditors, LLC ("USLA"); US Loan Auditors, Inc.; My US Legal Services; and US Legal Services ("USLS"). This foreclosure rescue scam sought out homeowners and represented to them that a predatory lending lawsuit was the solution to their foreclosure issues and the means in which to obtain a loan modification.

USLA would entice homeowners to purchase a forensic loan audit, and then USLS would persuade the homeowners to pay upfront monthly legal fees to file a "predatory lending" lawsuit on their behalf.

Sales representatives who worked for USLA on commission identified themselves as "fraud investigators." These sales agents were not fraud investigators. They told the homeowners/prospective clients that a forensic loan audit was necessary to stop foreclosure and obtain a loan modification. They told the homeowners/prospective clients that if they paid 1% of the value of their mortgage for a "loan audit" (i.e., a \$500,000 loan would cost \$5,000 for a loan audit), the audit would reveal "violations" in their home loans in order to get the desired result of a loan modification and/or foreclosure relief.

However, these “loan audits” were devoid of any value or detailed analysis. The audits were prepared by nonattorneys who entered loan data into a computer program. They were just boilerplate rendition of laws. They announced Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) violations with no causal connection to the statute of limitations or the legal remedy for any violation.

Once the homeowners/prospective clients received their “loan audit,” they were told that a predatory lending lawsuit would stop a foreclosure. They were presented with brochures and advertisements that indicated that their mortgages would be “frozen” once the lawsuit was filed; that during litigation they were not required to make monthly mortgage payment; and that lenders would be unable to foreclose on the home.

Some homeowners/prospective clients were told that they should stop paying their monthly mortgage and instead, pay one-half of the value of their monthly mortgage to USLS in monthly installments in order to afford the attorney fees for the lawsuit.

### ***Respondent and USLS***

In August 2009, respondent entered into a business relationship with USLS. Respondent was hired as an independent contractor attorney to handle the predatory lending lawsuits. USLS paid her a monthly fee of \$250 per client.

After the homeowner agreed to employ USLS and paid the first monthly payment, the homeowner client would be presented with a “welcome letter” and a “Legal Services Agreement.” The agreement indicated that respondent would be representing the client in the predatory lending lawsuit. USLS referred and assigned the case to respondent without the homeowner client first having the opportunity to consult with respondent. USLS directed the client to return the “Legal Services Agreement” to USLS, but not respondent.

The \$250 monthly fee per client paid to respondent by USLS was paid from the monthly installments paid by the homeowner as attorney fees. USLS retained the remaining balance of the legal fees. USLS and respondent tried to mask these attorney fees as “costs,” but evidence and testimony showed that they were legal fees. If a homeowner client did not pay his monthly legal fees to USLS, respondent did not get paid \$250 for that month for that client.

Between August 2009 and November 2010, respondent was the attorney of record in over 130 predatory lending matters. USLS referred and assigned all of these cases to respondent; and respondent accepted them. USLS did not register their lawyer referral service with the State Bar or meet or operate in conformity with the minimum standards established by the State Bar for a lawyer referral service, as required under Business and Professions Code section 6155.

Before agreeing to represent these 130 clients, respondent entered into an agreement with USLS that prohibited her from interfering with the relationship between USLS and her homeowner clients. It stated that USLS would provide all the legal services, including drafting pleadings and preparing and responding to motions. Respondent knew that such an agreement would substantially affect the resolution of her clients’ matters and potentially create a conflict between her and each of her USLS clients.

Respondent did not provide her clients with written disclosure regarding the potential conflict.

Respondent was not present when the homeowners/prospective clients were sold the “loan audit.” Respondent was not present when misrepresentations were made to the prospective clients that a lawsuit would “freeze” their mortgage.

Respondent did not meet with the clients before the matter was filed.

Respondent became overwhelmed with such a high volume of cases. She relied on nonattorney staff of USLS to draft and file the complaints and other pleadings since she could

not manage such a large caseload. USLS served the opposing parties and drafted and filed opposition motions.

Every complaint was a boilerplate “cookie cutter” pleading and did not require respondent’s review before it was filed. Although each complaint was tailored to a specific client, it was drafted by USLS staff using a fill-in-the-blank computer template and contained identical causes of action. USLS staff filed and served the complaints.

The cases that USLS filed on respondent’s behalf were meritless and had little chance of affording the homeowners any meaningful relief. Most of the cases were dismissed at the pleading stage. Respondent relied on USLS to do an analysis to determine if the clients’ matters had merit.

In fact, the cases were filed to generate income for USLS and respondent.

Respondent’s client files were maintained by USLS in Rancho Cordova. Respondent’s office was in Greenbrae. Respondent rarely travelled to Rancho Cordova to review the client files. Respondent relied on USLS to maintain her client files and to communicate with her clients.

Many clients attempted to communicate with respondent directly to discuss their matters and to determine the status of their case. Respondent failed to communicate with her clients regarding their request for status updates. In order to keep the monthly payments flowing, respondent did not return her clients’ phone calls.

Many clients were told to call USLS with questions. Respondent allowed USLS to field and respond to her clients’ inquiries.

In many of respondent’s cases, the defendants filed motions to dismiss in federal court. Respondent did not oppose the motions to dismiss and as a result, the cases were dismissed. Respondent did not notify the clients that their matters were dismissed.

Respondent was sanctioned in federal court for failing to oppose the motions to dismiss.

Respondent was reimbursed from USLS for the sanctions that she was required to pay.

Respondent was sanctioned in several matters, including, but not limited to the following:

- *Leiva v. Citi Mortgage, et al.*, U.S. District Court, Northern District, Case No. 3:09-CV05571-JSW
- *Topete v. HSBC Mortgage Services, Inc., et al.*, U.S. District Court, Eastern District, Case No. CIV.S-09-2367 FCD-GGH
- *De Dios, et al. v. HSBC Mortgage Services, et al.*, U.S. District Court, Eastern District, Case No. 2:09-CV-2430 FCD-GGH
- *Borja v. CountryWide Home Loans, et al.*, U.S. District Court, Eastern District, Case No. 2:09-CV-03179-JAM-JFM
- *Covello v. Washington Mutual Home Loans, et al.*, U.S. District Court, Eastern District, Case No. 2:09-CV-02339 JAM-GGH
- *Williams v. Bank of America, et al.*, U.S. District Court, Eastern District, Case No. 09-cv03060-JAM-KIN
- *Reyes v. Indymac Federal Bank, et al.*, U.S. District Court, Eastern District, Case No. 093382
- *Lopez v. Wachovia Mortgage, et al.*, U.S. District Court, Eastern District, Case No. 2:09- CV-02340-JAM-KJN
- *Iniguez v. Bank of America*, U.S. District Court, Eastern District, Case No. 09-2903
- *Ramirez v. Bank of America*, U.S. District Court, Eastern District, Case No. 2:09-CV03362-FCD-KJN
- *Cruz v. Aurora Loan Services*, U.S. District Court, Eastern District, Case No. 2:09-cv03212-MCE-KJM
- *Mejia v. Countrywide Home Loans, et al.*, U.S. District Court, Eastern District, Case No. CIV. S-09-2346 LKK/DAD
- *Mensah v. GMAC Mortgage et al.*, U.S. District Court, Eastern District, Case No. CIV 5-093196 LKK/EFB
- *Peay v. Midland Mortgage Company, et al.*, U.S. District Court, Eastern District, Case No. 2:09-cv-02228-WBS-KJM
- *McDowell v. Litton Loan Servicing, et al.*, U.S. District Court, Eastern District, Case No. 2:09-cv-02229-MCE-DAD
- *Stone v. IndyMac, et al.*, U.S. District Court, Eastern District, Case No. 2:09-cv-02394
- *Cempa, et al. v. Saxon Mortgage, et al.*, U.S. District Court, Eastern District, Case No. 2:09- cv-02235



- *Jiminez, et al. v. Bank of America, et al.*, U.S. District Court, Eastern District, Case No. 2:09-cv-02394

Between August 2009 and November 2010, respondent collected over \$170,000 from USLS for representation of clients referred and assigned to her by USLS.

### **Conclusions**

#### ***Counts One (A) – (§ 6106 [Moral Turpitude])***

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

Respondent participated in a fraudulent business with USLA and USLS that enticed troubled homeowners to purchase a forensic loan audit and then pay monthly legal fees for a predatory lending lawsuit by falsely promising them that their homes would not be foreclosed and that they would obtain a loan modification. And when these lawsuits were dismissed, respondent and USLS would avoid their phone calls in order to keep the automatic monthly payments flowing to USLS and in turn, the monthly \$250 per client to respondent. As part of this deceitful business arrangement, USLS paid respondent as much as \$32,500 a month (\$250 x 130 clients), if not more.

Therefore, there is clear and convincing evidence that respondent committed acts of moral turpitude in willful violation of section 6106 by engaging in a scheme to swindle distressed homeowners.

#### ***Count One (B) – (§ 6068, subd. (a) [Attorney's Duty to Support Constitution and Laws of United States and California])***

Section 6068, subdivision (a), provides that an attorney has a duty to support the Constitution and laws of the United States and California.

Section 17200 provides that “unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading

advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.”

The State Bar alleged that respondent, by engaging in the scheme to defraud, respondent violated section 17200. Thus, by violating section 17200, respondent failed to support the law of this state in willful violation of section 6068, subdivision (a).<sup>4</sup>

The Unfair Competition Law (UCL) prohibits “anything that can properly be called a business practice and that at the same time is forbidden by law.” (*Cel-Tech Communications, Inc. v. Los Angeles Cellular Tel. Co.* (1998) 20 Cal.4<sup>th</sup> 163, 180.) “A business practice is unfair within the meaning of the UCL if it violates established public policy or if it is immoral, unethical, oppressive or unscrupulous and causes injury to consumers which outweighs its benefits.” (*McKell v. Washington Mutual* (2006) 142 Cal.App.4<sup>th</sup> 1457, 1473.)

Here, there is clear and convincing evidence that respondent engaged in a business practice that was “unlawful, unfair or fraudulent” and that was “unethical, oppressive or unscrupulous,” causing serious injury to the homeowners. As found in count one (A), respondent engaged in a scheme to scam hundreds of struggling distressed homeowners. USLA charged consumers thousands of dollars for a forensic audit of their loan documents that proved to be valueless. USLS and respondent filed “cookie-cutter” lawsuits that were mostly dismissed. Respondent entered into an unethical contract with USLS that prohibited her from interfering with the relationship between USLS and her clients, which clearly compromised her fiduciary duty to her clients. Such noninterference of the business relationship insured her to collect \$250 monthly fees for each client. At the same time, respondent did not disclose her relationship with

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<sup>4</sup> As mentioned in the procedural history of this proceeding, there is a pending civil law enforcement action against respondent and other parties, alleging, among other things, the same violation of the Unfair Competition Law, section 17200 et seq., in *People v. Lapin, et al.*

USLS to any homeowners. In short, her business practice was rife with fraudulent acts and false promises to the troubled homeowners/clients.

Therefore, the court concludes that respondent violated section 17200 by participating in a scheme to scam struggling homeowners, many of whom were facing foreclosure.<sup>5</sup> Thus, by violating section 17200, respondent violated section 6068, subdivision (a), for failing to support the law of this state.

However, since identical facts established respondent's culpability under sections 6068, subdivision (a), and 6106 (count one (A)), the charges are duplicative and this court assigns no additional weight to the section 6068, subdivision (a) violation in determining the appropriate discipline to recommend. (*In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 175 [where same facts underlie violations of both 6106 and 6068, subdivision (d), no weight given to the section 6106 violation in determining the appropriate discipline]; see also *Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060.)

***Count One (C) – (Rule 1-300(A) [Aiding the Unauthorized Practice of Law]***

Rule 1-300(A) provides that an attorney must not aid any person or entity in the unauthorized practice of law.

Respondent argued that she did not aid the USLS nonattorney staff in the unauthorized practice of law, claiming that she did review and revise complaints before they were filed. However, the nonattorney staff testified that respondent rarely reviewed the complaints. The complaints were “cookie-cutter” pleadings and were not specific to the facts of each homeowner.

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<sup>5</sup> In *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, the court concluded that an attorney may be found culpable of professional misconduct, based on charges of failing to obey state law by failing to file tax returns, even if the attorney has not been convicted of a crime based on that conduct. Here, respondent has been charged with violating section 17200 (UCL) in *People v. Lapin, et al.*, but the case is still pending.

The court rejects respondent's arguments and finds her testimony incredulous and that of the nonattorney staff credible. Therefore, by failing to supervise the nonattorney staff and their work and by allowing them to practice law on her behalf (such as drafting and filing complaints and motions without respondent's review or input), respondent aided and abetted the unauthorized practice of law in willful violation of rule 1-300(A).

***Count One (D) – (Rule 1-320(A) [Sharing Fees with a NonLawyer])***

Rule 1-320(A) provides, with limited exceptions, that an attorney must not directly or indirectly share legal fees with a nonlawyer.

Respondent's claims that the \$250 monthly fees per client were costs and expenses and that she did not expect any payment until the cases settled are without merit. She collected \$250 as legal fees from the homeowners/clients and USLS kept the remainder of the legal fees from those homeowners.

Thus, by sharing the monthly legal fees with USLS, a nonattorney entity, respondent clearly and convincingly violated rule 1-320(A).

***Count One (E) – (Rule 1-600(A) [Participating in Non-Legal Lawyer Referral Service])***

Rule 1-600(A) provides that an attorney must not participate in a nongovernmental program, activity, or organization furnishing, recommending, or paying for legal services, which allows any third person or organization to interfere with the attorney's independence of professional judgment, or with the client-lawyer relationship, or allows unlicensed persons to practice law, or allows any third person or organization to receive directly or indirectly any part of the consideration paid to the attorney except as permitted by these rules, or otherwise violates the State Bar act or these rules.

USLS provided lawyer referral services. Respondent had a business contract with USLS in that they provided her with legal fees of \$250 per client in exchange for her noninterference with their relationship with her clients.

Therefore, by permitting USLA, USLS and their nonattorney employees to manage and handle her client matters and by permitting them to interfere with her independence and judgment, respondent willfully violated rule 1-600(A).

***Count One (F) – (Rule 3-110(A) [Failure to Perform Legal Services with Competence])***

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

Respondent admitted to being overwhelmed with huge caseload, and was sanctioned in at least 18 matters for not responding timely to motions to dismiss.

By taking on a large caseload of over 130 matters that she was not able to manage and handle, by failing to control and maintain client files, and by failing to respond to the motions to dismiss in at least 18 matters and thereby resulting in their dismissals, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A).

***Count One (G) – (§ 6068, subd. (c) [Attorney's Duty to Counsel/Maintain Only Legal or Just Actions or Defenses])***

Section 6068, subdivision (c), provides that an attorney has a duty to counsel or maintain those proceedings, actions, or defenses only as appear to the attorney legal or just, except the defense of a person charged with a public offense.

The causes of action that USLS filed in federal court on behalf of respondent were frivolous. Respondent's claim that she intended to transfer the cases from federal court into state court is not credible. The court filings and other documentary evidence showed that respondent

and USLS were still filing new complaints in federal court even after the other cases were dismissed.

By permitting nonattorney staff to file the actions without her input or review and by permitting them to file frivolous lawsuits, respondent failed to counsel or maintain such action, proceedings, or defenses only as appear to her legal or just in willful violation of section 6068, subdivision (c).

***Count One (H) – (§ 6155 [Unregistered Legal Referral Service])***

Section 6155 provides that a partnership, corporation, or any other entity must not operate for the direct or indirect purpose of referring potential clients to attorneys, and no attorney may accept a referral of such potential clients unless the service is registered with the State Bar and is operated in conformity with the minimum standards for a lawyer referral service established by the State Bar.

USLS was not registered with the State Bar or met or operated in conformity with the minimum standards for a lawyer referral service established by the State Bar.

By accepting referrals from USLS, an unregistered lawyer referral service that did not meet or operate in conformity with the minimum standards for a lawyer referral service, respondent accepted referrals of potential clients from an entity that was not entitled to operate a lawyer referral service in willful violation of section 6155.

***Count One (I) – (§ 6105 [Permitting Misuse of Name])***

Section 6105 provides that lending her name to be used as attorney by another person who is not an attorney constitutes a cause for disbarment or suspension.

Respondent was hired as an independent contractor attorney to handle predatory lending lawsuits for USLS. But there is no clear and convincing evidence that respondent lent her name to be used by USLS in willful violation of section 6105.

***Count One (J) – (Rule 3-310(B)(3) [Avoiding Representation of Adverse Interests, Written Disclosure])***

Rule 3-310(B)(3) provides that an attorney must not accept or continue representation of a client without providing written disclosure to the client where the attorney has or had a business, legal, professional, financial, or personal relationship with another person or entity whom the attorney knows or reasonably should know would be substantially affected by resolution of the matter.

Respondent had a business agreement with USLS that prohibited her from interfering with the relationship between USLS and her clients. Such an agreement created a conflict between her and each of her clients. Yet she failed to provide her clients with written disclosure regarding the conflict. By failing to provide her clients with written disclosure of the conflict, respondent willfully violated rule 3-310(B)(3).

***The Kaleb, Mejia, Miranda, Graves, Covello, Pelina, Cruz, and Satchell Client Matters***

**Facts**

The following eight client matters involved similar misconduct of fraud and deceit under the guise of rescuing these troubled homeowners from foreclosures and providing them with loan modifications. Each of these clients fell victim to respondent's chicanery.

**Case No. 10-O-06545 – The Kaleb Matter**

In September 2009, Vanessa Kaleb, M.D., was facing foreclosure. On October 23, 2009, Kaleb signed a contract with USLA to provide her with a forensic loan audit and paid USLA \$20,025 pursuant to the terms of her contract.

Kaleb employed USLA and USLS because she was assured that they could prevent foreclosure of her home.

On December 1, 2009, Kaleb agreed to employ USLS and paid USLS her first monthly payment of \$5,984.

On December 15, 2009, Kaleb received notice that respondent was the attorney assigned to her matter.

Between December 2009 and May 2010, Kaleb paid USLS a total of approximately \$35,975.

In December 2009, Kaleb sent an email to respondent advising her of the trustee's sale on her home. Kaleb received no response from respondent. She emailed respondent again in January 2010 asking for status updates and telephoned respondent several times. She could not reach respondent. On March 8, 2010, Kaleb drove up from Southern California to offices of USLS to talk to respondent about her case because she could not reach respondent. On March 12, 2010, respondent finally responded to Kaleb and informed her that the suit would not stop the pending foreclosure. On March 26, 2010, Kaleb's bank sent Kaleb a request for documents to support a loan modification. Kaleb emailed respondent asking her what to do. Respondent failed to respond to this email.

Kaleb received no services of value from respondent, USLA or USLS.

On May 27, 2010, Kaleb's lender successfully foreclosed on her home.

In July 2010, Kaleb terminated her relationship with USLA and USLS and hired her own counsel. Kaleb's new counsel did obtain a confidential settlement on behalf of Kaleb.

#### **Case No. 10-O-04418 – The Mejia Matter**

On April 18, 2009, Debra Mejia signed a contract with USLA to provide her with a forensic loan audit and paid USLA approximately \$3,000 pursuant to the terms of her contract.

Mejia employed USLA and USLS because she was assured that they could prevent foreclosure of her home and assist her with a loan modification. USLS assured Mejia that the mortgage would be "frozen."



On May 29, 2009, Mejia agreed to employ USLS and authorized USLS to make monthly debits of \$1,180 from her bank account.

Mejia received a “Welcome Letter” from USLS advising her that respondent was the attorney assigned to her matter. Mejia reasonably believed that USLS was respondent and that respondent was USLS. Respondent never met with or call Mejia.

From May 2009 to March 2010, Mejia paid USLS a total of approximately \$11,800.

Mejia received no services of value from respondent, USLA or USLS.

In March 2010, Mejia terminated her relationship with USLA and USLS.

**Case No. 10-O-05475 – The Miranda Matter**

In early 2009, Angel and Lupe Miranda met with Shane Barker of USLA and USLS. Barker told her that there was no way she would lose her home.

On May 18, 2009, the Mirandas signed a contract with USLA to provide them with a forensic loan audit and paid USLA approximately \$4,000 pursuant to the terms of their contract.

The Mirandas employed USLA and USLS because they were assured that they could prevent foreclosure of their home.

On July 20, 2009, the Mirandas agreed to employ USLS and paid USLS their first monthly payment of \$1,200. The Mirandas did not hear from USLS, so they started calling.

In September 2009, staff at USLS told the Mirandas that respondent was the attorney assigned to their matter.

Between July 2009 and February 2010, the Mirandas paid USLS approximately \$7,000.

The Mirandas received no services of value from respondent, USLA or USLS.

In February 2010, the Mirandas terminated their relationship with USLA and USLS.

**Case No. 10-O-08358 – The Graves Matter**

On May 27, 2009, Peter and Gina Graves signed a contract with USLA to provide them with a forensic loan audit and paid USLA approximately \$2,600 pursuant to the terms of their contract.

On June 20, 2009, the Graves agreed to employ USLS and paid USLS their first monthly payment of \$1,000.

In August 2009, respondent was the attorney assigned to the Graves' matter. Respondent filed suit on Graves' behalf in August 2009. Respondent never contacted the Graves to discuss their goals for litigation, never reviewed their case with them and never advised them of filing suit or the progress of their suit.

Between June 2009 and February 2010, the Graves paid USLS approximately \$10,000.

The Graves received no services of value from respondent, USLA or USLS.

In February 2010, the Graves terminated their relationship with USLA and USLS.

**Case No. 10-O-11062 – The Covello Matter**

In 2009, John Covello, a 76-year-old retired mechanic, and his wife were facing foreclosure. On May 19, 2009, the Covellos signed a contract with USLA to provide them with a forensic loan audit and paid USLA approximately \$2,700 pursuant to the terms of their contract.

The Covellos employed USLA and USLS because they were assured that USLA and USLS could prevent foreclosure of their home.

In June 2009, the Covellos agreed to employ USLS and paid USLS their first monthly payment of \$1,000.

In August 2009, the Covellos received a “Welcome Letter” from USLS advising them that respondent was the attorney assigned to the Covellos’ matter. The Covellos reasonably believed that USLS was respondent and that respondent was USLS.

Between July 2009 and March 2010, the Covellos paid USLS approximately \$9,000. Mr. Covello tried several times to contact respondent in an effort to discuss his case. But they never spoke to respondent.

The Covellos were not informed of any arrangements between USLS and respondent and were not aware of how respondent got paid.

The Covellos received no services of value from respondent, USLA or USLS.

In February 2010, the Covellos’ home was in foreclosure. They sought respondent’s advice and sent respondent a letter on March 4, 2010, seeking an update on their situation. The March 4, 2010 letter stated: “Please get in touch with us yourself as soon as possible as this is putting a great deal of strain on both of us. We have been in our home over 23 years and we don’t want to lose it.” The March 4, 2010 letter described how they were paying \$1,000 of their \$2,700 monthly income for respondent’s help. Respondent never replied to their letter.

In March 2010, the Covellos terminated their relationship with USLA and USLS.

In December 2010, the Covellos’ lender successfully foreclosed on their home.

#### **Case No. 10-O-04169 – The Pelina Matter**

On June 17, 2009, Armando and Maria Pelina signed a contract with USLA to provide them with a forensic loan audit and paid USLA approximately \$4,000 pursuant to the terms of their contract.

The Pelinas employed USLA and USLS because they were assured that USLA and USLS could prevent foreclosure of their home.

On October 2, 2009, the Pelinas agreed to employ USLS and authorized USLS to make monthly debits of \$1,812 from their bank account.

Respondent was the attorney assigned to the Pelinas' matter. The Pelinas never spoke to respondent. Respondent did not advise them of the lawsuit.

Between October and December 2009, the Pelinas paid USLS approximately \$5,436.

The Pelinas received no services of value from respondent, USLA or USLS.

In December 2009, the Pelinas terminated their relationship with USLA and USLS.

**Case No. 10-O-09720 – The Cruz Matter**

Constantino Cruz, a Spanish speaker, received an advertisement in the mail which told him that there was something wrong with his loan. He called and received a house call from a salesman. He was persuaded by the sales pitch that when he was finished suing the bank, the bank would pay him money and he would not have to pay the bank.

On May 2, 2009, Constantino Cruz signed a contract with USLA to provide him with a forensic loan audit and paid USLA approximately \$2,500 pursuant to the terms of his contract.

Cruz employed USLA and USLS because he was assured that USLA and USLS could prevent foreclosure of his home and would assist him with a loan modification.

In July 2009, Cruz agreed to employ USLS and paid USLS his first monthly payment of \$1,000.

In November 2009, Cruz received the Legal Services Agreement assigning respondent to the Cruz matter. Respondent never spoke with him and she never consulted with him regarding his goals for litigation.

Between July and October 2009, Cruz paid USLS approximately \$4,000.

Cruz received no services of value from respondent, USLA or USLS.

On March 26, 2010, Cruz terminated his relationship with USLA and USLS.

**Case No. 10-O-06397 – The Satchell Matter**

On September 17, 2009, Derrick and Carla Satchell signed a contract with USLA to provide them with a forensic loan audit and paid USLA approximately \$3,700 pursuant to the terms of their contract.

The Satchells employed USLA and USLS because they were assured that USLA and USLS could prevent foreclosure of their home.

On November 3, 2009, the Satchells agreed to employ USLS and authorized USLS to make monthly debits of \$1,000 from their bank account.

Respondent was the attorney assigned to the Satchells' matter. Respondent did not meet with the Satchells before filing suit or advise the Satchells that their suit had been dismissed.

Between November 2009 and February 2010, the Satchells paid USLS approximately \$7,580.

The Satchells received no services of value from respondent, USLA or USLS.

In February 2010, the Satchells terminated their relationship with USLA and USLS.

**Conclusions**

***Counts 2(A), 3(A), 4(A), 5(A), 6(A), 7(A), 8(A), and 9(A) – (§ 6106 [Moral Turpitude])***

By engaging in a scheme to defraud her homeowner clients, Kaleb, Mejia, Miranda, Graves, Covello, Pelina, Cruz, and Satchell, there is clear and convincing evidence that respondent committed acts of moral turpitude in willful violation of section 6106 in counts 2(A), 3(A), 4(A), 5(A), 6(A), 7(A), 8(A), and 9(A).

***Counts 2(B), 3(B), 4(B), 5(B), 6(B), 7(B), 8(B), and 9(B) – (§ 6068, subd. (a) [Attorney's Duty to Support Constitution and Laws of United States and California])***

Respondent violated section 17200 by participating in a scheme to scam her homeowner clients, Kaleb, Mejia, Miranda, Graves, Covello, Pelina, Cruz, and Satchell. Thus, by violating

section 17200, respondent violated section 6068, subdivision (a), for failing to support the law of this state in counts 2(B), 3(B), 4(B), 5(B), 6(B), 7(B), 8(B), and 9(B).

However, since identical facts established respondent's culpability under sections 6068, subdivision (a), and 6106 (counts 2(A), 3(A), 4(A), 5(A), 6(A), 7(A), 8(A), and 9(A)), the charges are duplicative and this court assigns no additional weight to the section 6068, subdivision (a) violation in determining the appropriate discipline to recommend.

### **Aggravation<sup>6</sup>**

#### **Prior Record of Discipline (Std. 1.2(b)(i).)**

Respondent has a prior record of discipline. By order filed May 17, 2006, respondent stipulated to a one-year suspension, execution stayed, and a two-year probation for her misconduct in three client matters from 2003 to 2005, which included failure to perform services competently, failure to communicate, failure to refund unearned fees, improper withdrawal from employment, failure to return client file, failure to cooperate with the State Bar, seeking an agreement to withdraw a State Bar complaint, and failure to comply with an agreement in lieu of discipline. (Supreme Court case No. S140357; State Bar Court case Nos. 04-O-13205 et al.)

#### **Multiple Acts/Pattern of Misconduct (Std. 1.2(b)(ii).)**

Respondent's multiple acts of misconduct are an aggravating factor. She participated in a scheme to defraud hundreds of homeowners; committed acts of moral turpitude; failed to support the laws of California; aided in the unauthorized practice of law; shared legal fees with nonattorneys; participated in nonlegal lawyer referral service; failed to perform services competently; maintained an unjust action; accepted referrals from unregistered legal referral service; and failed to avoid the representation of adverse interests.

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<sup>6</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

**Misconduct Surrounded/Followed by Bad Faith, Dishonesty, Concealment, Overreaching or Other Violations of State Bar Act/ Rules of Professional Conduct; If Trust Funds/Property Involved, Refusal/Inability to Account to Client/Other Person for Improper Conduct Toward Funds/Property (Std. 1.2(b)(iii).)**

Respondent's fraudulent acts have been included in finding violations of section 6106 and, therefore, will not be considered as an aggravating factor.

**Harm to Client/Public/Administration of Justice (Std. 1.2(b)(iv).)**

Respondent's misconduct harmed the clients, the public and the administration of justice. Her vulnerable clients were desperate to keep their homes and respondent took advantage of their misfortune. Facing foreclosure and bankruptcy, these distressed homeowners fell prey to respondent, USLS and USLA and were further victimized by the loss of their savings. Moreover, respondent's filing the meritless lawsuits adversely impacted the legal system.

**Indifference Toward Rectification/Atonement (Std. 1.2(b)(v).)**

Respondent demonstrated lack of insight into her wrongdoing. She has no remorse and does not accept responsibility for her actions. She continued to make excuses and rationalized her fraud. When asked if there was any value that clients received, respondent testified that they were able to stay in their homes that much longer. She insisted, despite overwhelming evidence to the contrary, that she was entitled to the monies as reimbursement for costs. Yet she could not explain how costs could exceed \$34,000 per month. She kept no time records of her alleged hourly services to justify her \$350 hourly fee.

“The law does not require false penitence. [Citation.] But it does require that the respondent accept responsibility for [her] acts and come to grips with [her] culpability. [Citation.]” (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.)

## **Mitigation**

### **Good Character (Std. 1.2(e)(vi).)**

Little weight is afforded to the testimony of respondent's good character witnesses because they did not know the full extent of her misconduct.

## **Discussion**

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

In determining the appropriate level of discipline, this court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Second, the court looks to decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

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

Standards 2.3, 2.4(b), 2.6 and 2.10 apply in this matter. The most severe sanction is found at standard 2.3 which recommends actual suspension or disbarment for culpability of an act of moral turpitude, fraud, intentional dishonesty or of concealment of a material fact from a court, client or other person, depending on the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to



which it relates to the attorney's acts within the practice of law.

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

The State Bar urged that respondent be disbarred from the legal profession.

Respondent maintained that there is no clear and convincing evidence that she had committed these acts of moral turpitude against the distressed homeowners/clients. She argued, in her closing brief, that she “got involved with a bad bunch of people ... became a victim of USLS, much like her clients ... [and that] the real wrongdoers remain unscathed, and free to continue to victimize the public.”

The court rejects respondent's contentions and agrees with the State Bar's recommendation.

“In a society where the use of a lawyer is often essential to vindicate rights and redress injury, clients are compelled to entrust their claims, money, and property to the custody and control of lawyers. In exchange for their privileged positions, lawyers are rightly expected to exercise extraordinary care and fidelity in dealing with money and property belonging to their clients. [Citation.] Thus, taking a client's money is not only a violation of the moral and legal standards applicable to all individuals in society, it is one of the most serious breaches of professional trust that a lawyer can commit.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221.)

The court found instructive *In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411. In *Jones*, the attorney was relatively inexperienced and had been admitted about

two years when his misconduct began. Respondent Jones was a full-time associate at a law firm. At the same time and for a two-year period, he entered into an agreement with a nonlawyer to establish a law corporation and to split fees. The nonlawyer handled all aspects of the personal injury practice without appropriate supervision. The nonlawyer used illegal means to solicit clients and, without respondent's knowledge, practiced law, collected over \$600,000 in attorney fees although no attorney had performed services and misused nearly \$60,000 in settlement funds withheld to pay medical providers, all in respondent's name. Respondent did not take realistic action to stop these practices even after receiving reliable information that they were occurring. Respondent eventually reported the nonlawyer to the police, turned himself in to the State Bar and cooperated fully in the prosecution of his discipline case as well as the criminal case against the nonlawyer. Mitigating factors include substantial, spontaneous candor and cooperation, good character, community activities and paying \$57,000 from his own funds to lienholders unpaid by the nonlawyer.

The Review Department suspended the attorney for three years, stayed, placed him on a three-year probation and actually suspended him for two years and until he complied with standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, for abdicating "basic professional responsibilities and allow[ing] a non-lawyer almost free rein to perform such responsibilities in the lawyer's name." (*Id.* at p. 415.) *Jones* is distinguishable from the present case by the significant mitigation offered by respondent Jones, notably, his substantial, spontaneous candor and cooperation and restitution.

In the present case, respondent caused significant harm to vulnerable, desperate clients, the public and the administration of justice. The serious nature of the misconduct as well as the self-interest underlying respondent's actions suggest that she is capable of future wrongdoing and raise concerns about her ability or willingness to comply with her ethical responsibilities to

the public and to the State Bar. Having considered the evidence, the standards and other relevant law, the court believes that disbarment is the only adequate means of protecting the public from further wrongdoing by respondent. Accordingly, the court so recommends.

There is the unsettled issue of respondent's unjust enrichment of at least \$170,000. Since a complaint for civil penalties has been filed against respondent in *People v. Lapin, et al.*, justice will be done.

### **Recommendations**

It is recommended that respondent **Sharon Lynn Lapin**, State Bar Number 165919, be disbarred from the practice of law in California and respondent's name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

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

### **Order of Involuntary Inactive Enrollment**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule

5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: November \_\_\_\_\_, 2012

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**LUCY ARMENDARIZ**  
Judge of the State Bar Court