


**State Bar Court of California  
Hearing Department  
San Francisco  
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Office of the Chief Trial Counsel Maria J. Oropeza, Deputy Trial Counsel 180 Howard Street, San Francisco, CA 94105 (415) 538-2569</p> <p>Bar # 182660</p>	<p>Case Number(s):</p> <p>10-O-03986; 10-O-03987; 10-O-05098; 10-O-9169; 10-O-9170; 10-O-9173; 10-O-9175; 10-O-11357; 11-O-12370; 11-O-13076; 11-O-13533; 11-O-14079</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.2em;"><b>PUBLIC MATTER</b></p> <p style="text-align: center; font-size: 1.5em;"><b>FILED</b> </p> <p style="text-align: center;">OCT 25 2011</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Piotr Reysner 331 J Street, Suite 200 Sacramento, CA 95814 (916) 669-8389</p> <p>Bar # 210937</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p><b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p>Piotr Reysner</p> <p>Bar # 210937</p> <p>A Member of the State Bar of California (Respondent)</p>		

**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 December 5, 2000.
- (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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (40) 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):
- ☒ Costs to be awarded to the State Bar.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**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**
- (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. See stipulation
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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

**Additional aggravating circumstances:**

**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.
- (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.

(Do not write above this line.)

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**Additional mitigating circumstances:**

Respondent suffered from addiction issues and from an undiagnosed medical problem during the time of the misconduct.

**D. Discipline:**        **Disbarment.**

**E. Additional Requirements:**

- (1) **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.
- (2) ☐ **Restitution:** Respondent must make restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        Piotr Reysner, Bar No. 210937

CASE NUMBER(S):        10-O-03986; 10-O-03987; 10-O-05098; 10-O-9169; 10-O-9170;  
                                 10-O-9173; 10-O-9175; 10-O-11357; 11-O-12370; 11-O-13076;  
                                 11-O-13533; 11-O-14079

**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.

The parties waive any variance between the Notice of Disciplinary Charges filed on, December 21, 2010 and the statement of facts and conclusions of law contained in this stipulation of facts.

**Statement of Facts Case No. 10-O-03987 (Count One)**

1. Piotr Reysner ("respondent") was admitted to the practice of law in the State of California on December 5, 2000, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

3. On December 5, 2009, Steve Sullivan ("Sullivan") hired respondent to pursue a bankruptcy on his behalf. Sullivan paid respondent the sum of \$2,000.

4. On December 18, 2009, respondent filed a petition for bankruptcy on Sullivan's behalf, entitled In re Steve Joseph Sullivan, case no. 09-47590 filed in the United States Bankruptcy Court, Eastern District of California, using a form for the Central District.

5. Thereafter, respondent failed to timely file the appropriate bankruptcy schedules, including schedules A, B, C, D, E, F, G, H, I, J, and respondent's rule 2016(b) fee disclosure statement. Respondent filed the schedules on January 15, 2010, 29 days after the December 17, 2009 petition date, which was fifteen days late. (Fed. R. Bankr. P. 1007(c)). Respondent failed to file a request for an extension of time to file the schedules.

6. The schedules that respondent prepared failed to list two significant assets: Sullivan's undeveloped property in Hawaii and a motor home. Sullivan had advised respondent of both of these assets.

7. After failing to appear at the initial meeting of creditors of January 20, 2010 due to a personal emergency, respondent then failed to appear at the follow-up continued meeting of creditors scheduled for February 9, 2010. Respondent was duly notified by the court clerk and was aware of the February 9, 2010 meeting date.

8. On April 13, 2010, the Court ordered respondent to disgorge his fee due to his failures to appear and failures to timely file the schedules, and failure to file accurate schedules.

Conclusions of Law: Case No. 10-O-03987 (Count One)

9. By failing to timely file the bankruptcy schedules; by failing to timely request an extension to file late schedules; by failing to appear at the February 9, 2010 continued meeting of creditors; and by failing to accurately identify and list the Hawaii property and motor home on the schedules on behalf of Sullivan, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

Statement of Facts: Case No. 10-O-03987 (Count Two)

10. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(1), by withdrawing from employment in a proceeding before a tribunal without its permission, as follows:

11. The allegations of Count One are herein incorporated by reference as if set forth in full.

12. On January 21, 2010, after respondent failed to appear at the first meeting of creditors, Sullivan terminated respondent's services.

13. Thereafter, on January 22, 2010, respondent filed a Motion to Withdraw.

14. On February 9, 2010, there was a second meeting of creditors. Respondent failed to appear.

15. By failing to appear on February 9, 2010, respondent, in effect, withdrew from representing Sullivan prior to the Court's ruling on respondent's Motion to Withdraw.

Conclusions of Law: Case No. 10-O-03987 (Count Two)

16. By withdrawing from the case prior to the Court ruling on respondent's Motion to Withdraw, respondent withdrew from employment in a proceeding before a tribunal without its permission, in willful violation of Rules of Professional Conduct, rule 3-700(A)(1).

Statement of Facts: Case No. 10-O-03987 (Count Three)

17. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

18. The allegations of Counts One and Two are herein incorporated by reference as if set forth in full.

19. Respondent did not ask the trustee to continue the February 9, 2010 creditor's meeting until such time as the court could rule on his Motion to Withdraw. Respondent did not advise the trustee that he did not intend to appear at the creditor's meetings.

Conclusions of Law: Case No. 10-O-03987 (Count Three)

20. By failing to attend the creditors meeting on February 9, 2010, and by failing to take any action to protect Sullivan's interests, such as asking the trustee to continue the February 9, 2010 creditors meeting, or advising the Court and/or the trustee of his intention not to appear on Sullivan's behalf at the creditor's meeting, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Statement of Facts: Case No. 10-O-05098 (Count Four)

21. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

22. On May 20, 2007, Chad Cheatham ("Cheatham") hired respondent to defend him in a suit regarding a promissory note. In addition to defending the suit on the promissory note, respondent advised Cheatham to bring suit for compensation against a business partnership/corporation.

23. On May 6, 2008, respondent filed suit on behalf of Cheatham, entitled *Cheatham vs. Coyle*, case no 108-CV-112032, filed in Superior Court, County of Santa Clara. Respondent and Cheatham signed an undated fee agreement. (Respondent's fee agreement states "defense"- Cheatham was a defendant on the promissory note, but respondent also brought suit on Cheatham's behalf as the plaintiff). The fee agreement specified an initial \$2,500 payment as an advanced fee, with billing, due and payable upon presentation, thereafter at the rate of \$200 an hour.

24. During the course of the litigation in *Cheatham v. Coyle*, respondent failed to timely respond to discovery. On December 18, 2008, the defense served respondent with form interrogatories. On December 30, 2008, the defense served respondent with special interrogatories. In February, 2009, the defense served respondent with a request for production. Respondent received all of the discovery and was aware of their contents. Respondent requested, and obtained, extensions to the first form interrogatories to respond by February 6, 2009, but thereafter failed to respond to all discovery requests.

25. On March 19, 2009, the defense filed a Notice of Motion and Motion to Compel answers to Interrogatories and for Sanctions against Plaintiff and Plaintiff's counsel. A hearing was set for the motion, for April 17, 2009. On March 20, 2009, the defense served respondent with a copy of the Notice of Motion and Motion to Compel Answers to Interrogatories, and for Sanctions against Plaintiff and Plaintiff's counsel by mail. Respondent received the pleading and was aware of their contents. Respondent failed to file a response to the motion to compel, respondent failed to appear at the April 17, 2009 hearing, and the Court imposed sanctions against Cheatham in the sum of \$1,090, payable in twenty days. Cheatham was further ordered to file responses to the discovery within twenty days. The Court clerk duly served respondent with notice of the Court's April 17, 2009 order. Respondent received the April 17, 2009 order and was aware of its contents. Respondent failed to file responses to the discovery within twenty days or at anytime thereafter.

26. On June 8, 2009, the defense filed another Motion to Compel Responses to Discovery. The hearing was set for July 10, 2009 and thereafter continued to July 31, 2009. The defense duly served the respondent with notice of the Motion to Compel, and respondent was aware of the court hearing on the Motion to Compel. The Court clerk duly served respondent with notice of the continued hearing dates. Respondent received notice of the continued hearing dates and was aware of the July 31, 2009 date on the motion to compel. Respondent failed to appear at the July 31, 2009 hearing on the Motion to Compel and respondent failed to file any responsive pleadings to the Motion to Compel. On July 31, 2009 the Court granted the defense's Motion to Compel and awarded the defense \$1,040 in sanctions against respondent, (not his client) payable in twenty days. The Court further ordered that the plaintiff respond to the discovery within twenty days. The defense notified respondent of the Court's July 31, 2009 order by way of fax and email. Respondent received notice of the Court's order and failed to abide by the Court's order. Respondent failed to pay the fines and respondent failed to respond to the discovery as ordered by the Court.

27. On November 2, 2009 the Court issued a minute order setting the matter for further status hearing on December 10, 2009. The Court clerk duly served respondent with notice of the December 10, 2009 hearing date. Respondent received notice of the December 10, 2009 hearing date and was aware of its contents. On December 10, 2009 respondent failed to appear at the continued status hearing in the matter.

28. On December 10, 2009, the Court issued an Order to Show Cause to determine why the case should not be dismissed for respondent's and plaintiff's failure to appear at the December 10, 2009 hearing. The Court set the hearing on the OSC for January 14, 2010. The Court clerk duly notified respondent of the January 14, 2010 hearing date and he received notice and was aware of the date. Respondent failed to appear at the OSC re: dismissal on January 14, 2010 as ordered by the Court. (Cheatham appeared).

29. On May 7, 2010 the defense filed a Motion for Terminating Sanctions with a hearing date set for June 4, 2010. The defense duly served respondent with a copy of its Motion for Terminating Sanctions. Respondent received the notice and was aware of the hearing date of June 4, 2010 on the motion for terminating sanctions. Respondent failed to appear at the June 4, 2010 hearing on the motion for terminating sanctions. The Court granted the motion as to the defendant John Coyle and also issued sanctions against Cheatham and respondent in the sum of \$1,615 payable to the defense counsel within twenty days. On July 2, 2010, the Court issued a Order re: Discovery Motion, stating that the case against defendant John Coyle was dismissed and that plaintiff and his counsel shall pay \$1,615 to counsel for defendant within twenty days.

Conclusions of Law: Case No. 10-O-05098 (Count Four)

30. By repeatedly failing to comply with discovery requests and failing to respond, resulting in sanctions and the dismissal of the action against Coyle, by repeatedly failing to appear at Court scheduled matters in the case, and by failing to file pleadings in response to the various defense motions on behalf of Cheatham, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

Statement of Facts: Case No. 10-O-05098 (Count Five)

31. Respondent willfully violated Business and Professions Code, section 6103, by wilfully disobeying or violating 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, as follows:

32. The allegations of Count Four are herein incorporated by reference as if set forth in full.

33. Respondent received all the Court orders identified in Count Four.

Conclusions of Law: Case No. 10-O-05098 (Count Five)

34. By failing to appear on April 17, 2009 on the motion to compel, as ordered by the court, by failing to file the discovery responses within twenty days of the Court's April 17, 2009 Order, as ordered by the Court; by failing to appear at the July 31, 2009 OSC as ordered by the Court; by failing to pay the defense \$1,040 in sanctions ordered by the Court on July 31, 2009; by failing to appear on December 10, 2009, January 14, 2010, and June 4, 2010, as ordered by the Court; and by failing to pay \$1,615 as ordered by the Court on July 2, 2010, respondent willfully disobeyed or violated orders 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 willful violation of Business and Professions Code, section 6103.

Statement of Facts: Case No. 10-O-05098 (Count Six)

35. Respondent willfully violated Business and Professions Code, section 6068(m), by failing to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, as follows:

36. The allegations of Counts Four and Five are herein incorporated by reference as if set forth in full.

37. Respondent failed to advise Cheatham of the defense's March 19, 2009 Motion to Compel, the April 17, 2009 hearing date on the Motion to Compel; and the Court's April 17, 2009 ruling on the Motion to Compel, including sanctions against Cheatham.

Conclusions of Law: Case No. 10-O-05098 (Count Six)

38. By failing to advise Cheatham of the Motion to Compel, the court dates on the motion to compel, and the subsequent sanctions, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

Statement of Facts: Case No. 10-O-05098 (Count Seven)

39. Respondent willfully violated Rules of Professional Conduct, rule 4-100(A), by failing to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, as follows:

40. The allegations of Counts Four through Six are herein incorporated by reference as if set forth in full.

41. On January 28, 2009, Cheatham gave respondent the sum of \$3,000 by way of check, for advanced costs for depositions. The depositions never took place.

42. Respondent received the funds from Cheatham and deposited them into account number xxxxxxxx7776 at U.S. Bank. This account was not an attorney-client trust account.

Conclusions of Law: Case No. 10-O-05098 (Count Seven)

43. By failing to deposit the advanced costs of \$3,000 from Cheatham into a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

Statement of Facts: Case No. 10-O-05098 (Count Eight)

44. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4), by failing to pay promptly, as requested by a client, any funds in respondent's possession which the client is entitled to receive, as follows:

45. The allegations of Counts Four through Seven are herein incorporated by reference as if set forth in full.

46. On July 28, 2009, Cheatham asked respondent for a refund of the \$3,000 of advanced costs.

47. Respondent failed to refund the \$3,000, claiming that they were applied to outstanding fees.

48. Cheatham never agreed to divert the advanced costs for the deposition to outstanding fees.

Conclusions of Law: Case No. 10-O-05098 (Count Eight)

49. By failing to refund the \$3,000 advanced costs to Cheatham, respondent failed to pay promptly, as requested by a client, any funds in respondent's possession which the client is entitled to receive, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

Statement of Facts: Case No. 10-O-05098 (Count Nine)

50. Respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

51. The allegations of Counts Four through Eight are herein incorporated by reference as if set forth in full.

52. To date, respondent has not refunded the \$3,000.00 in advanced costs to Cheatham.

Conclusions of Law: Case No. 10-O-05098 (Count Nine)

53. By failing to maintain the \$3,000 for advanced costs (depositions) in his attorney-client trust account, and by diverting these funds to purported fees without his client's consent, respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

Statement of Facts: Case No. 10-O-03986 (Count Ten)

54. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

55. On August 14, 2008, Bridgit Nelson ("Nelson") hired respondent to represent her in her divorce. Nelson paid respondent the sum of \$1,000. Respondent prepared an Attorney-Client Representation Costs & Expense Deposit, Legal Fee Contract and Arbitration Agreement, which Nelson executed. The Agreement specified a \$1,000 advanced fee, to be charged at \$180 hourly rate for attorney time. Nelson indicated to respondent that the parties wished to pursue an uncontested divorce.

56. On June 30, 2008, Nelson's spouse, Justin Nelson, had filed a petition for Dissolution, *Nelson v. Nelson*, Case No. SDR032044, filed in Superior Court, County of Placer.

57. On October 27, 2008, respondent filed a response on behalf of Nelson.

58. On November 26, 2008, respondent filed a case management conference statement on behalf of Nelson.

59. On December 5, 2008, the Court held a status conference. No parties were present. The Court continued the matter to March 6, 2009.

60. On July 1, 2009, the Court Clerk served respondent with a notice to appear on August 7, 2009 for a mandatory trial setting conference. Respondent received the notice and was aware of its contents.

61. On August 7, 2009, the Court held the trial setting conference. Respondent failed to appear at the mandatory trial setting conference. The Court set the matter for trial in October.

62. On September 14, 2009, Nelson terminated respondent.

63. In September 2009, Nelson was unable to negotiate on her own behalf in pro per with her spouse's attorney because respondent failed to resolve the substitution of attorney.

64. On October 20, 2009, respondent sent Nelson a substitution of attorney form. Nelson never received the document.

65. Thereafter, Nelson made numerous efforts to obtain a substitution of attorney from respondent.

66. In August, 2010, Nelson went to respondent's office un-announced and obtained an executed substitution of attorney from respondent.

Conclusions of Law: Case No. 10-O-03986 (Count Ten)

67. By taking no further action to confirm that the client had received and executed the substitution of attorney, and by failing to respond to Nelson's numerous efforts to obtain a substitution of attorney until August, 2010, respondent failed, upon termination of employment, to take reasonable

steps to avoid reasonably foreseeable prejudice to his client, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

Statement of Facts: Case No. 10-O-03986 (Count Eleven)

68. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

69. The allegations of Count Ten are herein incorporated by reference as if set forth in full.

70. On September 14, 2009, Nelson sent respondent an email and terminated his services.

71. On September 14, 2009, respondent received Nelson's email and sent an email response. In his response, respondent advised Nelson that he would provide her with a breakdown of work done and charges to her retainer (an accounting).

72. On September 25, 2009, Nelson requested a refund of her \$1,000 from respondent. Respondent received Nelson's September 25, 2009 request.

73. Respondent failed to provide Nelson with either a refund, or an accounting.

Conclusions of Law: Case No. 10-O-03986 (Count Eleven)

74. By failing to account to Nelson for the \$1,000 advanced fee, 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).

Statement of Facts: Case No. 10-O-9169 (Count Twelve)

75. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

76. In December 2009, Khatuna Machabeli ("Machabeli") approached Chase Bank, the new servicer of her loan, which she had obtained from Country Wide, for a loan modification. At the time she was not in arrearages, but anticipated that she might need a loan modification in the near future.

77. In January 2010, Machabeli received an unsolicited letter from a company named Veritas, offering loan modification and/or predatory lending evaluation.

78. Machabeli contacted Veritas and they conducted a review of her loan documents. Machabeli was informed by Veritas that there were numerous lending violations and that she should not make any more mortgage payments. Machabeli followed Veritas' advice.

79. In April 2010, Machabeli was served with a Notice of Default ("NOD") she made contact with Veritas. Veritas referred her to respondent.

80. On May 19, 2010, Machabeli hired respondent to sue Chase bank in an effort to address her impending foreclosure.

81. On May 19, 2010, the parties executed an Attorney-Client Representation Contract and Machabeli paid respondent the sum of \$4,000 in advanced attorney fees. Respondent received the advanced attorney fees on May 19, 2010.

82. On July 1, 2010, Machabeli made one additional payment to respondent in the sum of \$1,000. Respondent received the \$1,000.00.

83. Respondent received from Machabeli a total of \$5,000.00 in advanced attorney fees for the suit against Chase bank.

84. Thereafter, respondent performed no legal services of any value for Machabeli. He did not file suit against Chase on her behalf, as set forth in the retainer agreement.

85. Between May 19, 2010 and August 9, 2010, Machabeli requested to meet with respondent by sending e-mails to his office, which were received by the respondent. Meetings were scheduled, however respondent never made the meetings. Machabeli inquired about the status of her case in those e-mails as well.

86. On August 9, 2010, Machabeli terminated respondent's services, and requested the return of her client file, an accounting and a refund of the unearned fees.

Conclusions of Law: Case No. 10-O-9169 (Count Twelve)

87. By failing to perform any significant legal services on Machabeli's behalf between May 19, 2010 and August 9, 2010, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9169 (Count Thirteen)

88. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

89. The allegations contained in Count Twelve are herein incorporated by reference as if set forth in full.

90. On July 12, 2010, Machabeli sent respondent an e-mail and requested the return of her paperwork and her money back.

91. Respondent received Machabeli's July 12, 2010 e-mail and failed to respond.

92. On August 2, 2010, Machabeli sent an e-mail to respondent, requesting the return of all her paperwork and the \$4,000.00 deposit of advanced attorney fees.

93. Respondent received Machabeli's e-mail of August 2, 2010 and failed to refund the fees to Machabeli and failed to return her paperwork to Machabeli.

94. On August 9, 2010, Machabeli terminated respondent's services, and requested the return of her client file, an accounting and a refund of the unearned fees.

95. Respondent was aware of the termination of his services.

96. Respondent did refund the additional \$1,000 advanced attorneys fees paid on July 1, 2010, to Machabeli, but failed to refund the full initial advanced attorney fees of \$4,000 to Machabeli.

97. Respondent ceased to perform any legal services on Machabeli's behalf after signing the retainer agreement on May 19, 2010.

98. Respondent did not refund any portion of the \$4,000.00 paid as advanced attorney's fees by Machabeli to Machabeli after he ceased to perform legal services on her behalf and after being terminated by Machabeli.

Conclusions of Law: Case No. 10-O-9169 (Count Thirteen)

99. By failing to refund any portion of \$4,000 to Machabeli, after being terminated, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9169 (Count Fourteen)

100. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

101. The allegations contained in Counts Twelve and Thirteen are herein incorporated by reference as if set forth in full.

102. On July 5, 2010, Machabeli sent respondent an e-mail requesting an update on the status of her case.

103. Respondent received Machabeli's July 5, 2010 e-mail, and set up a telephone appointment with Machabeli to take place on July 8, 2010 at 10:00 a.m.

104. Thereafter, respondent failed to keep the telephone appointment. After the missed telephone appointment, on July 8, 2010, Machabeli sent respondent another e-mail, detailing a list of questions. Respondent received the e-mail from Machabeli and failed to respond to her list of questions.

105. Machabeli e-mailed respondent again on July 9, 2010, requesting a status of her case and the responses to her questions. Respondent received Machabeli's e-mail. Respondent failed to respond to the July 9, 2010 e-mail from Machabeli.

106. On July 12, 2010, Machabeli again e-mailed respondent, this time, requesting a refund and the return of her papers.

Conclusions of Law: Case No. 10-O-9169 (Count Fourteen)

107. By failing to keep his scheduled telephone appointment with Machabeli, and by thereafter failing to respond to Machabeli's e-mails requesting information on her case, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, a willful violation of Business & Professions Code § 6068(m).

Statement of Facts: Case No. 10-O-9169 (Count Fifteen)

108. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

109. The allegations contained in Counts Twelve through Fourteen are herein incorporated by reference as if set forth in full.

110. On August 9, 2010, Machabeli terminated respondent's services, and requested the return of her client file, an accounting and a refund of the unearned fees.

111. Respondent did not provide Machabeli with an accounting of Machabeli's fees, as Machabeli had requested in her August 9, 2010.

Conclusions of Law: Case No. 10-O-9169 (Count Fifteen)

112. By failing to account for the \$5,000 in funds as Machabeli requested, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, a willful violation of rule 4-100 (B)(3) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9169 (Count Sixteen)

113. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(1), by failing to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, as follows:

114. The allegations contained in Counts Twelve through Fifteen herein incorporated by reference as if set forth in full.

115. On August 9, 2010, Machabeli terminated respondent's services, and requested the return of her client file, an accounting and a refund of the unearned fees.

116. Respondent received the request from Machabeli regarding the return of her client file and failed to provide Machabeli with her client file.

117. To date, respondent has never provided to Machabeli or her subsequent counsel her client file.

Conclusions of Law: Case No. 10-O-9169 (Count Sixteen)

118. By failing to release to Machabeli or her successor counsel the client file, respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property, a willful violation of rule 3-700(D)(1) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9170 (Count Seventeen)

119. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

120. On April 15, 2010, John and Christina Boswell ("the Boswells") hired respondent to file suit against J.P. Morgan Chase alleging fraud in the way Boswells' loan was processed. The parties executed an Attorney-Client Representation agreement.

121. The Boswells paid respondent the sum of \$3,500, in advanced attorney fees on April 15, 2010, and made an additional payment of \$1,000 in advanced attorney fees on or about June 2, 2010.

122. Thereafter, respondent failed to perform any significant legal services for the Boswells. He did not file suit against Chase on behalf of the Boswells.

123. On July 26, 2010, the Boswells terminated respondent's services via an e-mail. The Boswells explained in that e-mail that they were terminating respondent, because he failed to return phone calls, text messages, and failed to keep appointments. They requested the return of the \$3,500.00 in advanced attorney fees and the additional \$1,000.00 payment in advanced attorney fees paid.

124. Respondent received the Boswells July 26, 2010 e-mail and did not respond to them.

Conclusions of Law: Case No. 10-O-9170 (Count Seventeen)

125. By failing to perform any significant legal services on the Boswell's behalf between April 15, 2010 and July 26, 2010, , including failing to file suit on their behalf, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9170 (Count Eighteen)

126. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

127. The allegations contained in Count Seventeen are herein incorporated by reference as if set forth in full.

128. On June 1, 2010, the Boswells sent respondent numerous text messages asking about the status of their case.

129. Respondent received Boswells' text messages and scheduled an appointment with Boswells for June 25, 2010. At the appointment, respondent advised that he would have papers prepared within ten days.

130. Thereafter, on or after July 5, 2010 through July 26, 2010, the Boswells sent numerous text messages and e-mails, and left telephone messages for respondent, requesting the paperwork and the status of their case.

131. Respondent received the Boswells' text messages, telephone messages, and e-mails, and failed to respond or otherwise give them the status of their case.

132. On July 26, 2010, the Boswells sent respondent an e-mail message, terminating his services and requesting a full refund of the \$4,500 they had paid to respondent in advanced attorney fees.

Conclusions of Law: Case No. 10-O-9170 (Count Eighteen)

133. By failing to respond to the Boswells numerous text messages, telephone messages, and e-mails, respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, a willful violation of Business & Professions Code § 6068(m).

Statement of Facts: Case No. 10-O-9170 (Count Nineteen)

134. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

135. The allegations contained in Counts Seventeen and Eighteen are herein incorporated by reference as if set forth in full.

136. Respondent failed to provide any significant legal services to the Boswells. Respondent failed to file suit on the Boswells behalf.

137. On July 26, 2010, the Boswells terminated respondent's services. Respondent received the termination.

138. In addition to the e-mail of July 26, 2010, the Boswells sent respondent additional e-mails on August 3, 2010 and on August 13, 2010, each again requesting a full refund of the \$4,500. 00 in advanced attorney fees.

139. Respondent received the Boswells e-mails of July 26, August 3, and August 13, 2010.

140. Respondent failed to provide a refund to the Boswells of the unearned fees.

Conclusions of Law: Case No. 10-O-9170 (Count Nineteen)

141. By failing to refund any portion of the \$4,500 to the Boswells, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9173 (Count Twenty)

142. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

143. On April 16, 2010, Michael Skaggs (hereinafter, "Skaggs") hired respondent to represent him in a family law matter, Rodnick v. Skaggs, Case Number 07FL00272, filed in Superior Court, County of Sacramento. Skaggs and respondent executed an Attorney-Client representation agreement for "family law trial."

144. On April 16, 2010, Pamela Horn, Skaggs' mother paid respondent the sum of \$2,500, via a personal check in advanced attorney fees. Respondent received the funds.

145. Thereafter, respondent failed to perform any significant legal services on behalf of Skaggs.

146. On June 15, 2010, Skaggs terminated respondent's services, and requested a refund of the unearned advanced attorney fees.

Conclusions of Law: Case No. 10-O-9173 (Count Twenty)

147. By failing to perform any significant legal services on Skaggs' behalf between April 16 2010 and June 15, 2010, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9173 (Count Twenty-One)

148. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

149. The allegations contained in Count Twenty are . herein incorporated by reference as if set forth in full.

150. On June 15, 2010, Skaggs terminated respondent's services and requested a refund. Skaggs made an appointment with respondent for that date to retrieve his file. Respondent failed to keep the appointment with Skaggs.

151. Respondent left a note taped to Skaggs' file stating the following:

"Dear Mr. Skaggs, It is my understanding that you are here to pick up your file and that you no longer wish to utilize my services. At your earliest opportunity, please provide me with your mother's address so that I can send the remaining retainer funds to her along with an accounting. Since the money for my retainer came from your mother, I would be more comfortable with sending it directly to her. The money will be sent during our next billing cycle, which typically occurs around the 15th of each month."

152. On June 15, 2010, Skaggs e-mailed respondent and provided respondent with Skaggs' mother's address so that the refund of the \$2,500.00 in advanced attorney fees could be sent to her.

153. On June 21, 2010, Skaggs sent respondent an e-mail confirming that the full \$2,500.00 in advanced attorney fees would be refunded to his mother. Skaggs explained that respondent provided no services to him in the family law matter and was not responsive to his request to perform work in the matter.

154. On July 23, 2010, Skaggs sent respondent an e-mail inquiring about the status of the refund of the advanced attorney fees paid by his mother. On July 26, 2010, respondent's assistant informed Skaggs that they needed his mother's address in order to send the refund.

155. On July 26, 2010, Skaggs sent respondent an e-mail providing his mother's address and inquiring when his mother could expect the refund of the \$2,500.00 in advanced attorney's fees.

156. On August 17, 2010, Skaggs sent respondent another e-mail requesting the refund of the \$2,500.00 in advanced attorney fees paid by his mother and informing respondent that he intended to file a complaint with the State Bar.

157. Respondent provided no services of any legal significance to Skaggs. A full refund was owed.

158. Respondent failed to provide Skaggs, or Pamela Horn, with a refund of the \$2,500.00 in advanced attorney fees.

Conclusions of Law: Case No. 10-O-9173 (Count Twenty-One)

159. By failing to refund any portion of \$2,500 to either Pamela Horn, or Skaggs, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9173 (Count Twenty-Two)

160. Respondent wilfully violated Rules of Professional Conduct, rule 3-310(F), by accepting compensation for representing a client from one other than the client without complying with the requirement(s) that there was no interference with respondent's independence of professional judgment or with the client-lawyer relationship; and information relating to representation of the client was protected as required by Business and Professions Code section 6068(e); and respondent obtained the client's informed written consent, as follows:

161. The allegations contained in Counts Twenty and Twenty-One are herein incorporated by reference as if set forth in full.

162. On April 16, 2010 respondent met with Skaggs. At that time respondent requested and received advanced attorney's fees in the sum of \$2,500.00 from Pamela Horn.

163. Skaggs' mother, Patricia Horn, gave respondent \$2,500 on behalf of Skaggs, for Skaggs' legal matter.

164. Respondent never obtained Skaggs' written consent to accept fees from someone other than him in his family law matter.

165. Respondent never advised Skaggs in writing that while he was accepting fees from someone other than his client that there would be no interference with respondent's independence of professional judgment or with the attorney-client relationship.

166. Respondent never advised Skaggs in writing that while he was accepting fees from someone other than his client that any and all information relating to representation of the client was protected as required by Business and Professions Code section 6068(e).

Conclusions of Law: Case No. 10-O-9173 (Count Twenty-Two)

167. By accepting fees from Pamela Horn for the representation of Michael Skaggs, failing to insure that the attorney-client relationship would not be interfered upon and failing to obtain written consent from Michael Skaggs to accept fees from Pamela Horn, respondent wilfully violated rule 3-310(f) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9173 (Count Twenty-Three)

168. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

169. The allegations contained Counts Twenty through Twenty-Two are herein incorporated by reference as if set forth in full.

170. Respondent failed to provide an accounting to Skaggs with respect to the \$2,500.00 in advanced attorney fees that he had received for the benefit of Skaggs.

171. Respondent had agreed to provide an accounting with the refund in his June 15, 2010 note that he left for Skaggs when Skaggs picked up his file.

Conclusions of Law: Case No. 10-O-9173 (Count Twenty-Three)

172. By failing to provide an accounting to Skaggs, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, a willful violation of rule 4-100 (B)(3) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9175 (Count Twenty-Four)

173. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

174. On April 14, 2010, Denise Merlo ("Merlo") hired respondent to file a bankruptcy on her behalf. Merlo paid respondent the sum of \$2,000 in advanced attorney fees and respondent received the funds. Merlo retained respondent over the telephone.

175. Thereafter, Merlo submitted documentation to respondent, including her certificate of credit counseling, and information on her debt, income, and tax information.

176. Subsequently, she e-mailed respondent's office to verify that respondent had received the information. Respondent's assistance confirmed that the documentation had been received. Merlo then verified that her check for the advanced attorney fees had been cashed.

177. Merlo had an appointment with respondent for a Saturday afternoon in early April to discuss her bankruptcy. While en route to this appointment, Merlo received a text message from respondent, cancelling the appointment.

178. Thereafter, respondent failed to file a bankruptcy petition on Merlo's behalf, or further discuss the bankruptcy matter with Merlo.

179. In August, 2010, Merlo terminated respondent's services and hired another attorney.

Conclusions of Law: Case No. 10-O-9175 (Count Twenty-Four)

180. By failing to file a bankruptcy petition on Merlo's behalf, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-9175 (Count Twenty-Five)

181. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

182. The allegations contained in Count Twenty-Four are herein incorporated by reference as if set forth in full.

183. After respondent cancelled the April, Saturday appointment with Merlo, Merlo called in April and May, seeking the status of her case. Merlo spoke to respondent once in the end of April 2010.

184. Thereafter, Merlo left messages on the answering service for respondent. Respondent's office staff scheduled another meeting between respondent and Merlo, but respondent again cancelled the appointment. Merlo also scheduled several telephone consultations with respondent, through his office staff, but respondent failed to telephone Merlo as scheduled.

185. Respondent was aware of Merlo's messages and telephone appointments and failed to return her calls and attend the telephone appointments.

186. After April 2010, respondent failed to respond to any of Merlo's messages and telephone appointments by giving her information regarding her case.

Conclusions of Law: Case No. 10-O-9175 (Count Twenty-Five)

187. By failing to respond to Merlo's requests for information after April 2010, 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 & Professions Code § 6068(m).

Statement of Facts: Case No. 10-O-9175 (Count Twenty-Six)

188. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

189. The allegations contained in Counts Twenty-Four and Twenty-Five are herein incorporated by reference as if set forth in full.

190. Respondent failed to provide any significant legal services to Merlo. He did not earn his fee.

191. On August 21, 2010, Merlo retained the services of Craig Lundgren and terminated respondent's services.

192. Respondent was aware of his termination and did not promptly refund any unearned portion of the \$2,000 in advanced attorney fees.

193. On January 27, 2011, Merlo sent respondent a letter, via certified mail, return receipt requested. In her January 27, 2011 letter, Merlo requested a full refund. Merlo received the return postcard, indicating that respondent's staff signed for the certified letter. Respondent received Merlo's letter of January 27, 2011.

194. Respondent failed to refund \$2,000 to Merlo.

Conclusions of Law: Case No. 10-O-9175 (Count Twenty-Six)

195. By failing to refund \$2,000 to Merlo, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-09169; 10-O-09170; 10-O-09173; 10-O-09175 (Count Twenty-Seven)

196. Respondent wilfully violated Business & Professions Code § 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

197. The allegations contained in Counts Twelve through Twenty-Six of this Stipulation are incorporated herein by reference as if set forth in full.

Conclusions of Law: Case No. 10-O-09169; 10-O-09170; 10-O-09173; 10-O-09175 (Count Twenty-Seven)

198. By habitually demanding and accepting advanced attorney's fees, failing to perform legal services as agreed upon and failing to refund the advanced attorney's fees, respondent committed acts of moral turpitude, dishonesty and corruption, a willful violation of Business and Professions Code §6106.

Statement of Facts: Case No. 10-O-09169; 10-O-09170; 10-O-09173; 10-O-09175 (Count Twenty-Eight)

199. Respondent wilfully violated Business & Professions Code § 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against respondent, as follows:

200. On August 19, 2010, the State Bar opened case number 10-O-09169 pursuant to a complaint received from Khatuna Machabeli ("the Machabeli Investigation matter").

201. On December 7, 2010, State Bar Investigator Willis Shalita ("Shalita") wrote to respondent regarding the Machabeli Investigation matter. Shalita's letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Machabeli Investigation matter. Shalita's letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by certified mail return receipt requested postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

202. On December 9, 2010 the return receipt was returned to the State Bar signed by Peggy Marsh.

203. On December 21, 2010, Shalita e-mailed respondent and reminded him that his response to the Machabeli complaint was due.

204. Respondent never responded to Shalita's letter or e-mail, regarding the Machabeli Investigation matter.

205. On August 30, 2010, the State Bar opened case number 10-O-9170 pursuant to a complaint received from Christina and John Boswell ("the Boswell Investigation matter").

206. On December 6, 2010 State Bar Investigator Willis Shalita ("Shalita") wrote to respondent regarding the Boswell Investigation matter. Shalita's letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Boswell Investigation matter. Shalita's letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by certified mail return receipt requested postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

207. On January 7, 2011, Shalita e-mailed respondent and requested that respondent contact him regarding the Boswell Investigation matter.

208. Respondent received both the December 6, 2010 letter and the January 7, 2011 e-mail and failed to contact Shalita.

209. On September 14, 2010, the State Bar opened case number 10-O-9173 pursuant to a complaint received from Michael Skaggs ("the Skaggs Investigation matter").

210. On December 6, 2010, State Bar Investigator Willis Shalita ("Shalita") wrote to respondent regarding the Skaggs Investigation matter. Shalita's letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Skaggs Investigation matter. Shalita's letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by certified mail return receipt requested postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

211. On December 9, 2010 the return receipt was returned to the State Bar signed by Peggy Marsh.

212. On December 21, 2010, Shalita e-mailed respondent reminding respondent that the State Bar had not yet received a response in the Skaggs matter.

213. On February 1, 2011, Shalita e-mailed respondent and explained that respondent had failed to cooperate with the investigation and as such the investigation was being forwarded.

214. Respondent never responded to Shalita's letter or e-mail, regarding the Skaggs Investigation matter.

215. On September 23 2010, the State Bar opened case number 10-O-9175 pursuant to a complaint received from Denise Merlo ("the Merlo Investigation matter").

216. On December 7, 2010, State Bar Investigator Willis Shalita ("Shalita") wrote to respondent regarding the Merlo Investigation matter. Shalita's letter requested that respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Merlo Investigation matter. Shalita's letter was placed in a sealed envelope correctly addressed to respondent at his official membership records address. The letter was properly mailed by certified mail return receipt requested postage prepaid, by depositing for collection by the United States Postal Service in the ordinary course of business.

217. On December 9, 2010 the return receipt was returned to the State Bar signed by Peggy Marsh.

218. On December 21, 2010, Shalita e-mailed respondent and reminded him that his response to the Merlo complaint was due.

219. On January 26, 2011, Shalita e-mailed respondent and reminded for the second time that respondent had not responded to the Merlo complaint.

220. Respondent never responded to Shalita's letter or e-mail, regarding the Merlo Investigation matter.

Conclusions of Law: Case No. 10-O-09169; 10-O-09170; 10-O-09173; 10-O-09175 (Count Twenty-Eight)

221. By not providing a written response to the allegations in the Machabeli, Boswell, Skaggs and Merlo Investigation matters or otherwise cooperate in the investigation of the State Bar Investigation matter, respondent failed to cooperate in a disciplinary investigation, a wilful violation of Business & Professions Code § 6068(i).

Statement of Facts: Case No. 11-O-13076 (Count Twenty-Nine)

222. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

223. On October 29, 2010, Bradley DeHaven ("DeHaven") hired respondent to represent him in a wrongful foreclosure case and related action against Chase Home Finance. The wrongful foreclosure matter was related to DeHaven's bankruptcy which another attorney was handling.

224. On October 29, 2010, respondent and DeHaven executed a fee agreement. On that same date, respondent demanded and received \$3,500.00 in advanced attorney fees from DeHaven.

225. Respondent also required that DeHaven provide him with \$1,200.00 in fees on a monthly basis. DeHaven made those monthly payments and in total paid respondent the sum of \$7,100.00 in advanced attorney fees.

226. Respondent filed the suit against Chase on November 10, 2010, but failed to properly serve the opposing party.

Conclusions of Law: Case No. 11-O-13076 (Count Twenty-Nine)

227. By failing to properly serve the opposing party in the Dehaven suit, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-13076 (Count Thirty)

228. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

229. The allegations contained in Count Twenty-Nine are herein incorporated by reference as if set forth in full.

230. On November 10, 2010, DeHaven received a phone call from Chase, and immediately e-mailed respondent because he wanted advice on how to respond to Chase. Respondent did not respond to the November 10, 2010 e-mail.

231. Subsequently, two days later DeHaven once again e-mailed respondent seeking advice. Respondent failed to respond to the second e-mail.

232. On November 15, 2010, DeHaven sent respondent a text message referring to the previous e-mails and asking for advice. Respondent replied two days later, explaining that he had been in trial. DeHaven made an appointment with respondent to meet on November 22, 2010 to discuss his case. Respondent failed to keep that appointment.

233. On November 26, 2010, DeHaven sent respondent a text message seeking the status of his matter. Respondent failed to respond to DeHaven.

234. On December 21, 2010, DeHaven inquired whether respondent had finally served the opposing party. Respondent did not respond to DeHaven's inquiry about the service of the lawsuit.

235. A few days later DeHaven and respondent exchanged text messages and arranged to meet on the following Wednesday. Respondent failed to keep the appointment.

236. On January 3, 2011, respondent set up another appointment with DeHaven. Once again, respondent failed to keep the appointment.

237. On January 12, 2011, respondent informed DeHaven that service of the suit was complete. The statement was false. Respondent once again set up another appointment, at DeHaven's insistence to meet in late January. Once again, respondent failed to keep the appointment.

238. On February 3, 2011, DeHaven requested a status inquiry via text message. Respondent responded back to DeHaven and promised he would provide a status update. Respondent never provided the status update to DeHaven.

239. Between March and through April 2011, DeHaven sent respondent numerous e-mails and text messages, which respondent received, seeking status updates on his case. Respondent failed to respond to most of the inquiries. The few times that respondent did respond, he did so with false information.

#### Conclusions of Law: Case No. 11-O-13076 (Count Thirty)

240. By failing to respond to DeHaven's requests for status updates on his matter and failing to keep scheduled appointments 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 & Professions Code § 6068(m).

#### Statement of Facts: Case No. 11-O-13076 (Count Thirty-One)

241. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

242. The allegations contained in Counts Twenty-Nine and Thirty are herein incorporated by reference as if set forth in full.

243. Respondent received a total of \$7,100.00 in advanced attorney fees from DeHaven.

244. Respondent failed to provide any significant legal services to DeHaven. He did not earn his fee.

245. In March 2011, respondent inquired why DeHaven had not paid the monthly attorney fees. At this juncture, DeHaven replied to respondent and terminated his services, given that respondent had lied to him and failed to perform.

246. DeHaven requested the refund of the entire \$7,100.00 in advanced attorney fees he had paid.

247. Respondent failed to refund any portion of the \$7,100.00 of unearned fees.

248. To date, respondent has failed to refund any portion of the \$7,100.00 to DeHaven.

Conclusions of Law: Case No. 11-O-13076 (Count Thirty-One)

249. By failing to refund \$7,100 or any portion of it to DeHaven, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-13076 (Count Thirty-Two)

250. Respondent wilfully violated Business & Professions Code § 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

251. The allegations contained in Counts Twenty-Nine through Thirty-One are herein incorporated by reference as if set forth in full.

252. On January 12, 2011, respondent informed DeHaven that service of the suit was complete. The statement was false.

253. Respondent knew the statement was false when he made the statement to DeHaven.

254. At no time, after making the statement did respondent disclose the truth to DeHaven.

Conclusions of Law: Case No. 11-O-13076 (Count Thirty-Two)

255. By informing DeHaven that he had completed service in the lawsuit, when in truth and in fact, respondent had not properly served the opposing party, respondent committed acts of moral turpitude, dishonesty and corruption, a willful violation of Business and Professions Code §6106.

Statement of Facts: Case No. 11-O-12370 (Count Thirty-Three)

256. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

257. On September 23, 2010, Anthony Gillard ("Gillard") consulted with respondent in regards to filing a personal bankruptcy. Respondent quoted him a fee of \$1300.

258. Gillard explained to respondent that he did not have that much money. Respondent agreed to undertake the bankruptcy matter for \$650.00 up front with monthly installments.

259. On September 30, 2010, Gillard and respondent executed a fee agreement, and Gillard gave respondent \$650.00 in cash as advanced attorney fees. On that same date, Gillard filled out some paperwork that he filled out at respondent's request.

260. After about three weeks, without any contact from respondent, Gillard began placing calls to respondent's message center and leaving messages Gillard was seeking status updates on his matter. Respondent failed to respond to Gillard's status inquiries.

261. Over the next four months Gillard, visited respondent's office and was never able to contact respondent or his assistant as they were never in the office.

262. In February 2011, Gillard sent respondent a text message requesting a meeting. Respondent replied to the request and a meeting was set for February 5, 2011. At the meeting Gillard terminated respondent's services and requested a refund of the advanced attorney fees.

263. Respondent informed Gillard that he didn't have his checkbook and that he would send Gillard the refund.

264. To date, respondent has not refunded the advanced attorney fees.

Conclusions of Law: Case No. 11-O-12370 (Count Thirty-Three)

265. By failing to refund \$650.00 to Gillard, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-12370 (Count Thirty-Four)

266. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

267. The allegations contained in Count Thirty-Three are herein incorporated by reference as if set forth in full.

268. After about three weeks, without any contact from respondent, Gillard began placing calls to respondent's message center and leaving messages Gillard was seeking status updates on his matter. Respondent failed to respond to Gillard's status inquiries.

269. Over the next four months Gillard, visited respondent's office and was never able to contact respondent or his assistant as they were never in the office.

Conclusions of Law: Case No. 11-O-12370 (Count Thirty-Four)

270. By failing to respond to Gillard's requests for status updates on his matter 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 & Professions Code § 6068(m).

Statement of Facts: Case No. 11-O-14079 (Count Thirty-Five)

271. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

272. In December 2009 Autumn Hill ("Hill") hired respondent to file a personal bankruptcy. Respondent advised Hill that in addition to the bankruptcy Hill had a good case to file an adversary proceeding against the credit union that held the mortgage on the ranch owned by Hill.

273. Respondent told Hill that the requirements prior to issuance of a Notice of Default ("NOD") had not been met. Respondent assured Hill that by filing the proceeding against the mortgage holder would lead to a loan modification.

274. The personal bankruptcy and the predatory lending suit were interrelated the bankruptcy was to stay the foreclosure on the ranch. The bankruptcy petition was filed in December 2009.

275. In February 2010, respondent failed to appear at the scheduled creditors meeting.

276. On March 23, 2010, the bankruptcy court issued a notice of intent to close the chapter 7 bankruptcy case without entry of discharge due to failure to file management course certificate. On March 29, 2010 the certificate was filed.

277. Respondent did not provide Hill with a fee agreement until March 2010 for both matters.

278. Respondent and Hill met over the course of January and February 2010, and each time respondent assured Hill that he would be filing the suit against the mortgage holder.

279. Finally in March 2010, respondent advised Hill that he needed a declaration from Hill to file the suit against the mortgage holder. Hill attempted to provide respondent with the salient facts regarding the ranch's mortgage. Respondent informed Hill that he didn't need everything in the declaration. Respondent assured Hill that the proceeding against the mortgage holder would be filed that day.

280. Respondent provided Hill with a number of documents at the meeting including two fee agreements,<sup>1</sup> documents relating to the bankruptcy, and the adversary proceeding, respondent requested that Hill sign those documents. One of the documents attested that Hill was not paying respondent any additional fees.

281. In April 2010, the suit against the mortgage holder had still not been filed, despite receiving additional attorney fees to do so.

282. In April 2010, Hill once again inquired when the suit would be filed and respondent assured her that the suit would be filed that afternoon or the following day.

283. In May 2010, Hill found out that the suit had not been filed, Hill ceased making the monthly attorney fee payment.

284. In June 2010, Hill met with respondent and Hill advised respondent that the monthly attorney fee payment had not been made since the suit had not been filed. Respondent agreed that Hill would make the July 2010 attorney fee payment and that respondent would file the suit.

285. On June 24, 2010, the bankruptcy court converted Hill's chapter 7 to a chapter 13 bankruptcy.

286. On July 22, 2010, respondent filed the suit on Hill's behalf in the predatory lending matter.

287. Thereafter, respondent failed to appear at any of the scheduled court appearances after September 2010 in the predatory lending suit.

288. In November 2010, respondent informed Hill that the court appearance scheduled for November 10, 2010 in the predatory lending suit had been taken off calendar, in truth and in fact, the matter had not been taken off calendar. Hill attended the hearing on November 10, 2010 without respondent.

289. At the hearing, Hill was informed by the Court that she had until November 30, 2010 to file an amended complaint. Hill proceeded to respondent's office after the hearing, and could not locate the respondent. Hill immediately texted respondent and requested access to her client file.

290. Respondent did not respond to Hill's text.

291. Hill made several more attempts to contact respondent and was unsuccessful. Hill eventually retrieved her file and informed respondent that if respondent needed copies of it he could contact Hill for those copies.

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<sup>1</sup> Respondent's fee agreement also includes charging the client for the client's own file.

292. Hill also requested that respondent file an amended complaint in the predatory lending case, as the Judge had set a filing deadline for November 30, for the amended complaint. Respondent did not file an amended complaint.

293. After November 2010, Hill did not hear from respondent.

294. Respondent ceased to perform any legal services on Hill's behalf in both matters.

295. Respondent did not refund the \$8,500.00 in advanced attorney fees to Hill, nor did he provide Hill with an accounting as to how the advanced attorney fees had been utilized.

296. The bankruptcy court scheduled a hearing on the motion to dismiss Hill's bankruptcy on March 16, 2011, respondent failed to appear at the hearing.

297. Hill's predatory lending suit was dismissed on March 18, 2011. Hill's bankruptcy was dismissed on April 15, 2011.

298. Respondent filed a change of address in both matters on May 23, 2011.

Conclusions of Law: Case No. 11-O-14079 (Count Thirty-Five)

299. By failing to attend the creditors meeting in February 2010, failing to appear at any of the scheduled court appearances after September 2010 in the predatory lending suit, failing to file the amended complaint by November 30, 2010 in the predatory lending suit, failing to appear at the motion hearing on March 16, 2011 in Hill's bankruptcy, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-14079 (Count Thirty-Six)

300. Respondent wilfully violated Business & Professions Code § 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

301. The allegations contained in Count Thirty-Five are herein incorporated by reference as if set forth in full.

302. Respondent and Hill met over the course of January and February 2010, and each time respondent assured Hill that he would be filing the suit against the mortgage holder.

303. In March 2010, respondent advised Hill that he needed a declaration from Hill to file the suit against the mortgage holder. Hill attempted to provide respondent with the salient facts regarding the ranch's mortgage. Respondent informed Hill that he didn't need everything in the declaration. Respondent assured Hill that the proceeding against the mortgage holder would be filed that day.

304. Respondent provided Hill with a number of documents at the meeting including two fee agreements, documents relating to the bankruptcy, and the adversary proceeding, respondent requested that Hill sign those documents. One of the documents attested that Hill was not paying respondent any additional fees.

305. In April 2010, the suit against the mortgage holder had still not been filed, despite receiving additional attorney fees to do so.

306. In April 2010, Hill once again inquired when the suit would be filed and respondent assured her that the suit would be filed that afternoon or the following day.

307. In May 2010, Hill found out that the suit had not been filed, Hill ceased making the monthly advanced attorney fee payment.

308. Respondent was fully aware in April 2010 that he had not filed the lawsuit against the mortgage holder. Respondent knew that his statement that the suit would be filed that afternoon or the following day was false.

309. Respondent never informed Hill after April 2010 that he had failed to file the suit.

310. On July 22, 2010, respondent filed the suit on Hill's behalf in the predatory lending matter.

311. Thereafter, respondent failed to appear at any of the scheduled court appearances after September 2010 in the predatory lending suit.

312. In November 2010, respondent informed Hill that the court appearance scheduled for November 10, 2010 in the predatory lending suit had been taken off calendar, in truth and in fact, the matter had not been taken off calendar. Hill attended the hearing on November 10, 2010 without respondent.

313. In truth and in fact, the scheduled court appearances had not been taken off calendar and respondent was fully aware of that fact.

Conclusions of Law: Case No. 11-O-14079 (Count Thirty-Six)

314. By informing Hill that he would file suit in April 2010, when in truth and in fact, respondent had not filed the suit, by informing Hill that the scheduled court appearances in the predatory lending suit had been taken off calendar, when the scheduled appearances were not taken off calendar respondent committed acts of moral turpitude, dishonesty and corruption, a willful violation of Business and Professions Code §6106.

Statement of Facts: Case No. 11-O-14079 (Count Thirty-Seven)

315. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

316. The allegations contained in Counts Thirty-Five and Thirty-Six are herein incorporated by reference as if set forth in full.

317. In November 2010, respondent informed Hill that the court appearance scheduled for November 10, 2010 in the predatory lending suit had been taken off calendar, in truth and in fact, the matter had not been taken off calendar.

318. Hill attended the hearing on November 10, 2010 without respondent.

319. At the hearing, Hill was informed by the Court that she had until November 30, 2010 to file an amended complaint.

320. Hill proceeded to respondent's office after the hearing, and could not locate the respondent. Hill immediately texted respondent and requested access to her client file.

321. Respondent did not respond to Hill's text.

322. Hill made several more attempts to contact respondent and was unsuccessful. Hill eventually retrieved her file and informed respondent that if respondent needed copies of it he could contact Hill for those copies.

323. Hill also requested that respondent file an amended complaint in the predatory lending case, as the Judge had set a filing deadline for November 30, for the amended complaint. Respondent did not file an amended complaint.

324. After November 2010, Hill did not hear from respondent.

Conclusions of Law: Case No. 11-O-14079 (Count Thirty-Seven)

325. By failing to respond to Hill's requests for status updates on her matter 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 & Professions Code § 6068(m).

Statement of Facts: Case No. 11-O-14079 (Count Thirty-Eight)

326. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

327. The allegations contained in Counts Thirty-Five through Thirty-Seven are herein incorporated by reference as if set forth in full.

328. In March 2010, respondent provided Hill with a number of documents at a meeting including two fee agreements, documents relating to the bankruptcy, and the adversary proceeding, respondent requested that Hill sign those documents.

329. The fee agreement called for Hill to pay respondent the sum of \$1,200.00 monthly advanced attorney fees to pursue the action against the lender.

330. Between December 2009 and July 2010, Hill paid respondent the sum of \$8,500.00 in advanced attorney fees. Respondent received the sum of \$8,500.00 from Hill.

331. After November 2010, Hill did not hear from respondent.

332. Respondent ceased to perform any legal services on Hill's behalf on both matters.

333. Respondent did not refund the \$8,500.00 in advanced attorney fees to Hill, nor did he provide Hill with an accounting as to how the advanced attorney fees had been utilized.

334. To date, respondent has failed to refund any portion of the \$8,500 in advanced attorney fees that were unearned.

Conclusions of Law: Case No. 11-O-14079 (Count Thirty-Eight)

335. By failing to refund \$8,500 or any portion of it to Hill, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-14079 (Count Thirty-Nine)

336. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

337. The allegations contained in Counts Thirty-Five through Thirty-Eight are herein incorporated by reference as if set forth in full.

338. Respondent received the sum of \$8,500 in advanced attorney fees from Hill. At no time did respondent ever provide Hill with an accounting of how those funds were utilized.

Conclusions of Law: Case No. 11-O-14079 (Count Thirty-Nine)

339. By failing to provide an accounting to Hill, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, a willful violation of rule 4-100 (B)(3) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-14079 (Count Forty)

340. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

341. The allegations contained in Counts Thirty-Five through Thirty-Nine are herein incorporated by reference as if set forth in full.

342. At no time after September 2010, did respondent inform Hill that he intended to terminate the attorney-client relationship.

343. After September 2010, respondent ceased to perform any significant legal services on Hill's behalf.

344. Respondent failed to appear at any of the scheduled court appearances after September 2010 in the predatory lending suit.

345. The bankruptcy court scheduled a hearing on the motion to dismiss Hill's bankruptcy on March 16, 2011, respondent failed to appear at the hearing.

346. Hill's predatory lending suit was dismissed on March 18, 2011. Hill's bankruptcy was dismissed on April 15, 2011.

347. After November 2010, Hill never heard from respondent.

Conclusions of Law: Case No. 11-O-14079 (Count Forty)

348. By failing to provide any significant legal services on Hill's behalf in her bankruptcy and predatory lending matters, failing to diligently prosecute Hill's bankruptcy and by eventually ceasing entirely to work on both the bankruptcy and the predatory lending suit, respondent effectively withdrew from representation of Hill respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, a willful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-11357 (Count Forty-One)

349. Respondent willfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

350. On April 17, 2009, Douglas and Wendy Clymer ("the Clymers") hired respondent to file a bankruptcy on their behalf. Respondent demanded and received \$1774.00 in advanced attorney's fees.

351. Respondent advised the Clymers to stop making payments to their creditors, except for the credit cards they intended to keep.

352. On May 19, 2009, respondent filed a chapter 13 petition on the Clymers' behalf however the required schedules were not attached to the petition. The missing documents included the statement of financial affairs; attorney disclosure statement; summary of schedules; statistical summary; chapter 13 plan; and schedules A through J.

353. Respondent did not file the required schedules until June 6, 2009.

354. On July 30, 2009 a motion to dismiss for undue delay was filed. Respondent did not respond to the motion to dismiss.

355. On August 24, 2009, an amended chapter 13 plan was filed.

356. On December 8, 2009, another motion to dismiss for undue delay was filed. Respondent failed to file a response to the motion to dismiss.

357. On December 29, 2009, the motion to dismiss was conditionally granted.

358. On January 2, 2010, a motion to convert the Chapter 13 bankruptcy to a Chapter 7 bankruptcy was filed by respondent on the Clymers' behalf.

359. On January 4, 2010, the Court granted the motion to convert from a Chapter 13 to a Chapter 7.

360. On January 22, 2010, the Court issued an OSC re failure to file documents as transmitted to BNC for Service re Chapter 7 means test and set a hearing on the matter for February 17, 2010. The hearing was continued to March 3, 2010. Respondent failed to appear at the hearing.

361. On January 6, 2010, the Court granted a conditional dismissal.

362. On March 3, 2010, a creditors meeting was held. Respondent failed to appear at the creditors meeting, despite receiving notice of the meeting.

363. On March 5, 2010, the Court dismissed the bankruptcy petition.

364. Respondent informed the Clymers that the bankruptcy petition had been dismissed but failed to disclose to them the reason that the petition was dismissed.

365. Between March 2010 and through June 2010, the Clymers left phone messages for the respondent sent him e-mails regarding their case and what was the next step. Respondent received the phone messages and the e-mails and failed to respond to the phone messages and the e-mails.

366. The Clymers were able to set up appointments to discuss their case through respondent's assistant, with respondent. However, he failed to keep those appointments.

367. In June 2010, respondent informed the Clymers that they could file another bankruptcy petition for an additional filing fee of \$300.00.

368. On June 17, 2010, the Clymers provided respondent with the \$300.00 filing fee.

369. Respondent failed to file a subsequent bankruptcy petition.

370. Between June 2010 and October 2010, the Clymers once again left phone messages and sent e-mails to respondent seeking status updates on their matter. Respondent received those status inquiries and failed to respond to them.

371. In October 2010, respondent's assistant informed the Clymers that respondent would provide them with an update the following week. No update was ever provided and the October 2010 communication promising an update was the last communication the Clymers had with respondent.

372. As of March 2010, respondent ceased to perform any services of any significance for the Clymers.

373. Respondent failed to refund any portion of the \$1774.00 in advanced attorney fees that the Clymers paid him which was unearned.

374. In addition, respondent failed to refund the advance costs of \$300.00 for the second bankruptcy petition filing fee that was never filed.

375. Respondent failed to provide an accounting of the fees paid by the Clymers.

376. In May 2011, the Clymers retained successor counsel.

377. On May 23, 2011, respondent filed a change of address notification in the Clymers' matter.

Conclusions of Law: Case No. 10-O-11357 (Count Forty-One)

378. By failing to properly file the Clymers' bankruptcy petition and the required documents, failing to respond to the motions for dismissal, failing to appear at the creditors meeting, failing to appear at the OSC, failing to file the subsequent bankruptcy petition, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, a willful violation of rule 3-110(A) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-11357 (Count Forty-Two)

379. Respondent wilfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client and failing to inform a client about a significant development in a matter in which respondent had agreed to provide legal services, as follows:

380. The allegations contained in Count Forty-One are herein incorporated by reference as if set forth in full.

381. On December 8, 2009, another motion to dismiss for undue delay was filed. Respondent failed to file a response to the motion to dismiss.

382. On December 29, 2009, the motion to dismiss was conditionally granted.

383. Respondent failed to advise the Clymers' that the dismissal was conditionally granted.

384. On January 6, 2010, the Court granted a conditional dismissal.

385. On January 22, 2010, the Court issued an OSC re failure to file documents as transmitted to BNC for Service re Chapter 7 means test and set a hearing on the matter for February 17, 2010. The hearing was continued to March 3, 2010. Respondent failed to appear.

386. On March 5, 2010, the Court dismissed the bankruptcy petition.

387. Respondent informed the Clymers that the bankruptcy petition had been dismissed but failed to disclose to them the reason that the petition was dismissed.

388. Between March 2010 and through June 2010, the Clymers left phone messages for the respondent sent him e-mails regarding their case and what was the next step. Respondent received the phone messages and the e-mails and failed to respond to the phone messages and the e-mails.

389. The Clymers were able to set up appointments to discuss their case through respondent's assistant, with respondent. However, he failed to keep those appointments.

390. Between June 2010 and October 2010, the Clymers once again left phone messages and sent e-mails to respondent seeking status updates on their matter. Respondent received those status inquiries and failed to respond to them.

391. In October 2010, respondent's assistant informed the Clymers that respondent would provide them with an update the following week. No update was ever provided and the October 2010 communication promising an update was the last communication the Clymers had with respondent.

Conclusions of Law: Case No. 10-O-11357 (Count Forty-Two)

392. By failing to respond to the Clymers' requests for status updates on their matter respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, by failing to inform the Clymers' of the true reason for the dismissal of their petition, respondent failed to inform a client of a significant development in a matter in which respondent had agreed to provide legal services, in willful violation of Business & Professions Code § 6068(m).

Statement of Facts: Case No. 10-O-11357 (Count Forty-Three)

393. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

394. The allegations contained in Counts Forty-One through Forty-Two are herein incorporated by reference as if set forth in full.

395. Respondent received the sum of \$2074 in advanced attorney fees from the Clymers. At no time did respondent ever provide the Clymers with an accounting of how those funds were utilized.

Conclusions of Law: Case No. 10-O-11357 (Count Forty-Three)

396. By failing to provide an accounting to Clymers, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, a willful violation of rule 4-100 (B)(3) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-11357 (Count Forty-Four)

397. Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

398. The allegations contained in Counts Forty-One through Count Forty-Three are herein incorporated by reference as if set forth in full.

399. As of March 2010, respondent ceased to perform any services of any significance for the Clymers.

400. Respondent failed to refund any portion of the \$1774.00 in advanced attorney fees that the Clymers paid him which was unearned.

401. Respondent failed to refund the advance costs of \$300.00 for the second bankruptcy petition filing fee that was never filed.

402. To date, respondent has not refunded any portion of the \$2074.00 in advanced fees that he received from the Clymers which was unearned.

Conclusions of Law: Case No. 10-O-11357 (Count Forty-Four)

403. By failing to refund \$2,074 or any portion of it to the Clymers, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, a willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-11357 (Count Forty-Five)

404. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

405. The allegations contained in Counts Forty-One through Forty-Four are herein incorporated by reference as if set forth in full.

406. At no time after January 2010, did respondent inform the Clymers that he intended to terminate the attorney-client relationship.

407. After January 2010, respondent ceased to perform any significant legal services on the Clymers' behalf.

408. The bankruptcy court scheduled a hearing on the OSC in the bankruptcy on March 3, 2010, respondent failed to appear at the hearing.

409. The Clymers' bankruptcy was dismissed on March 5, 2010.

Conclusions of Law: Case No. 10-O-11357 (Count Forty-Five)

410. By failing to provide any significant legal services on the Clymers' behalf in their bankruptcy matter, failing to diligently prosecute the Clymers' bankruptcy and by eventually ceasing entirely to work on their case, respondent effectively withdrew from representation of the Clymers respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, a willful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-13533 (Count Forty-Six)

411. Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2), by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, as follows:

412. In December 2008 Joyce Zervas ("Ms. Zervas") hired respondent to settle a dispute she was having with her former business partner in relation to her real estate commission. She paid respondent the sum of \$2,000.00 in advanced attorney fees.

413. Initially, respondent promised to arrange for an arbitration date on Ms. Zervas' claim. Respondent failed to provide her with a fee agreement.

414. On January 13, 2009, Ms. Zervas e-mailed respondent and requested an update. Respondent responded and informed Ms. Zervas that he had not heard from the opposing side and that he would follow up with the opposing side.

415. Respondent alleged that he sent a letter to RE/MAX demanding that they freeze the payment of the commissions.

416. On January 23, 2009, Ms. Zervas sent an e-mail to respondent seeking additional information concerning her case and requested a status update on her husband's matter, which the respondent was also handling (See below).

417. On April 6, 2009, respondent informed Ms. Zervas that he was trying to get an arbitration date on her matter. Respondent requested that Ms. Zervas provide him with additional information. Ms. Zervas sent him the additional information.

418. Thereafter respondent ceased to perform any services on her behalf.

419. Over the next year, Ms. Zervas would e-mail and leave telephone messages seeking status updates on her matter. Respondent received the e-mails and phone messages and failed to respond to Ms. Zervas' inquiries.

420. On June 6, 2010, Ms. Zervas terminated respondent's services via e-mail and demanded an accounting of his work.

421. Respondent failed to return any portion of \$2,000.00 that was unearned, and failed to provide an accounting.

422. On January 15, 2009, Mike Zervas, ("Mr. Zervas") hired respondent to negotiate an offer of compromise with the State Controller's Office of the State of California.

423. Mr. Zervas paid respondent \$500.00 in advanced attorney fees. Respondent alleged that he wrote one letter to the Controller's Office.

424. On January 23, 2009 Ms. Zervas sent respondent an e-mail requesting a status update on her husband's case. Respondent received the e-mail and responded that he would send a follow-up letter making another settlement offer to the Controller's Office.

425. On April 29, 2009, respondent e-mailed Ms. Zervas and informed her that the Controller's

Office had rejected the settlement offer in her husband's matter.

426. Thereafter respondent ceased to perform any services on his behalf. Respondent failed to refund any portion of the \$500.00 that was unearned.

427. Respondent failed to provide accountings to both Joyce and Mike Zervas regarding how he utilized the funds in their matters.

Conclusions of Law: Case No. 11-O-13533 (Count Forty-Six)

428. By failing to provide any significant legal services on the Ms. Zervas' behalf in her real estate dispute, failing to diligently prosecute the real estate matter and by eventually ceasing entirely to work on her matter, respondent effectively withdrew from representation of Ms. Zervas respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, a willful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct.

429. By failing to provide any significant legal services on the Mr. Zervas' behalf in his controller's matter, failing to diligently prosecute controller's matter and by eventually ceasing entirely to work on his matter, respondent effectively withdrew from representation of Mr. Zervas respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to his client, a willful violation of Rule 3-700(A)(2) of the Rules of Professional Conduct.

Statement of Facts: Case No. 11-O-13533 (Count Forty-Seven)

430. Respondent willfully violated Business & Professions Code § 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, as follows:

431. The allegations contained in Count Forty-Six are herein incorporated by reference as if set forth in full.

432. On January 23, 2009, Ms. Zervas sent an e-mail to respondent seeking additional information concerning her case and requested a status update on her husband's matter, which the respondent was also handling.

433. Respondent did not respond until April 2009.

434. Over the next year, Ms. Zervas would e-mail and leave telephone messages seeking status updates on her matter. Respondent received the e-mails and phone messages and failed to respond to Ms. Zervas' inquiries.

Conclusions of Law: Case No. 11-O-13533 (Count Forty-Seven)

435. By failing to respond to Ms. Zervas' requests for status updates on her matter 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 & Professions Code § 6068(m).

Statement of Facts: Case No. 11-O-13533 (Count Forty-Eight)

436. Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into respondent's possession, as follows:

437. The allegations contained in counts forty-six through forty-seven are herein incorporated by reference as if set forth in full.

438. On June 6, 2010, Ms. Zervas terminated respondent's services via e-mail and demanded an accounting of his work.

439. Respondent failed to return any portion of \$2,000.00 that was unearned, and failed to

provide an accounting.

440. Mr. Zervas paid respondent \$500.00 in advanced attorney fees. Respondent alleged that he wrote one letter to the Controller's Office.

441. Thereafter respondent ceased to perform any services on his behalf. Respondent failed to refund any portion of the \$500.00 that was unearned.

442. Respondent failed to provide accountings to both Joyce and Mike Zervas regarding how he utilized the funds in their matters.

Conclusions of Law: Case No. 11-O-13533 (Count Forty-Eight)

443. By failing to provide an accounting to the Zervas', respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession, a willful violation of rule 4-100 (B)(3) of the Rules of Professional Conduct.

Statement of Facts: Case No. 10-O-11357; 11-O-12370; 11-O-13076; 11-O-14079; 11-O-13533 (Count Forty-Nine)

444. Respondent wilfully violated Business & Professions Code § 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

445. The allegations contained in Counts Twenty-Nine through Count Forty-Eight of this Stipulation are incorporated herein by reference as if set forth in full.

Conclusions of Law: Case No. 10-O-11357; 11-O-12370; 11-O-13076; 11-O-14079; 11-O-13533 (Count Forty-Nine)

446. By habitually demanding and accepting advanced attorney's fees, failing to perform legal services as agreed upon and failing to refund the advanced attorney's fees, respondent committed acts of moral turpitude, dishonesty and corruption, a willful violation of Business and Professions Code §6106.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was October 3, 2011.

**AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 1.6(a) provides that the appropriate sanction for an act of professional misconduct shall be set forth in the following standards for the particular act of misconduct found or acknowledged. If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

Standard 2.2(a) states in pertinent part "culpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of the funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed."

Standard 2.3 adds that a crime involving moral turpitude shall result in disbarment or actual suspension depending on the gravity of the offense and the degree to which it relates to the member's acts within the practice of law.

Standard 2.4(b) states in pertinent part “culpability of a member of wilfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of wilfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.”

Standard 2.6 states in pertinent part “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., subsection (a) refers to Business and Professions Code §6068; subdivision (b) refers to Business and Professions Code §6103.

Rule 4-100(b)(3) does not require a request from a client, the accounting is due at any time that the attorney receives funds for the benefit of the client. *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, at 952, the Review Department stated: “[T]he obligation to ‘render appropriate accounts to the client’ found in rule 4-100(B)(3) does not require as a predicate that the client demand such an accounting. We therefore find respondent wilfully violated rule 4-100(B)(3) because he failed to render an accounting to Le or Ly.”

Rule 4-100(A) of the Rules of Professional Conduct provides that all funds received for the benefit of clients must be deposited in a client trust account and that no funds belonging to the attorney must be deposited therein or otherwise commingled therewith. The rule absolutely bars the use of the trust account for personal purposes, even if client funds are not on deposit. (See *Doyle v. State Bar* (1982) 32 Cal. 3d. 12, 22-23.)

An attorney’s failure to communicate with and reckless or repeated inattention to the needs of a client have long been grounds for discipline. (*In the Matter of Respondent G* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175, 179.) Such misconduct need not involve a deliberate wrongdoing or a purposeful failure to attend to the duties due to a client. (*Id.*)

The Supreme Court has held that wilful failure to perform legal services for which the attorney has been retained constitutes a breach of the good faith and fiduciary duty owed by the attorney to his client, and itself warrants discipline. (See *Martin v. State Bar* (1978) 20 Cal.3d 717, 722 (one-year actual suspension imposed); *Franklin v. State Bar* (1986) 41 Cal.3d 700, 710 (45 days actual suspension imposed); *Spindell v. State Bar* (1975) 13 Cal.3d 253, 260. (30 days actual suspension imposed).) Furthermore, this Court has stated that in matters involving abandonment of a single client by an attorney with no prior record of discipline, discipline imposed by the Supreme Court has ranged from no actual suspension to 90 days of actual suspension. (See *In the Matter of Nunez* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196, 206.) Moreover, habitual disregard by an attorney of the interests of his clients combined with a failure to communicate with such clients constitute acts of moral turpitude justifying disbarment. (*Grove v. State Bar*, (1967) 66 Cal. 3d 680, 683-685)

In *Bowles v. State Bar* (1989) 48 Cal.3d 100, Bowles abandoned five clients, issued a bad check, falsely promised that he would “make good” the check and failed to forward an arbitration award to a client. The Supreme Court found this to be the functional equivalent of issuing numerous bad checks. In addition, the Supreme Court found that taking on clients, demanding advanced attorney fees and failing to perform; amounted to habitual disregard of clients’ interests. Bowles had only been admitted for six years and had no credible mitigation to offer. The Supreme Court disbarred Bowles.

In *Farnham v. State Bar* (1988) 47 Cal.3d 429, Farnham abandoned seven clients in seven separate matters, had been admitted for 16 years, and had two disciplinary priors. The Supreme Court disbarred

Farnham stating the following:

“Petitioner’s low fees, though commendable, cannot excuse his repeated failures to perform services for his clients. Nor do petitioner’s busy practice and lack of management skills constitute circumstances which substantially mitigate his misconduct. (*McMorris v. State Bar* (1981) 29 Cal.3d 96, 99 [alternative cites omitted].)” (*Id.* at 445). The Supreme Court further stated: “The combined record of this disciplinary proceeding and petitioner’s prior discipline shows not a series of aberrant or uncharacteristic acts, but rather ‘a continuing course of serious professional misconduct extending over a period of several years. (*McMorris v. State Bar*, 1983), 35 Cal.3d 77, 85 [alternative cites omitted], quoting *Tomlinson v. State Bar* (1975) 13 Cal.3d 567, 576 [alternative cites omitted].” (*Farnham*, *supra*, at p. 447)

In *Grove v. State Bar* (1967) 66 Cal.2d 680, the Supreme Court disbarred Grove. Grove abandoned 10 clients in 10 separate cases; he had a prior disciplinary history of a reprimand, and had previously failed to pay bar dues. The Supreme Court stated the following regarding Grove’s abandonment and failures to perform.

“In view of the number of offenses of which the board found petitioner guilty, and considering his previous record, we are compelled to conclude that he engaged in an habitual course of conduct toward his clients characterized by willful violation of his oath as an attorney. Although a few of his offenses, standing alone, might be described as merely negligent, or grossly negligent, his persistence in refusing to perform services for which he was engaged, and for which he accepted fees, can only be regarded as deliberate and willful. Petitioner habitually failed to file necessary documents for his clients, failed to appear at scheduled hearings, misled his clients as to the status of their affairs, avoided communications by telephone, in writing and in person.” (*supra*, at 683)

In *Jones v. State Bar* (1989) 49 Cal.3d 273, the Supreme Court found 24 counts of culpability, in at least six separate matters. The Supreme Court disbarred Jones. As a mitigating factor, Jones argued that she represented individuals of limited financial means. She asserted that the public benefitted from her work because persons of limited financial means generally have difficulty obtaining legal representation. The Supreme Court stated that while an attorney’s representation of persons of limited means is commendable, such representation cannot justify the type of conduct or lack of concern that Jones had demonstrated. An incompetent attorney, such as Jones, should not be allowed to practice law regardless of whom he represents.” (*Id.* at 289)

In *Kent v. State Bar* (1987) 43 Cal.3d 729, the Supreme Court once again enunciated the proposition that habitual disregard by an attorney of the interests of his or her clients combined with failure to communicate with such clients constitute acts of moral turpitude justifying disbarment. (*Id.* at pg 735) Kent had been disciplined previously and the Supreme Court weighed those instances of misconduct and the present misconduct, and considered that Kent had injured six clients. The Supreme Court not only considered Kent’s abandonment of the clients, but also his misrepresentations to the clients that he was properly rendering the services for which he had been employed. The Supreme Court found that type of misconduct to be reprehensible, stating that “it violates the attorney’s highest duty of fidelity to his clients and warrants the conclusion that the attorney is not entitled to be recommended to the public as worthy of trust.” (*Id.* at page 735.)

In *the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907, the Review Department stated that a retainer agreement’s characterization of a fee as a “non-refundable retaining fee” is not determinative in ascertaining whether the fee was a true retainer and whether respondent’s failure to

refund it promptly upon the termination of employment violated rule 3-700(D)(2). A true retainer is paid to secure the availability of an attorney over a given period of time and is earned when paid regardless of whether the attorney actually performs services for the clients. Where the fee was intended to cover the initial ten hours for respondent's work, the clients understood the fee to be an advanced payment for services, the bills sent to the client showed the fee as a credit for services to be rendered, the retainer agreement did not specify a period of time for which the respondent was to be available to the client and the record did not show that respondent set aside a particular period of time to devote to the client's matter, the fee was not a true retainer and respondent had to comply with the requirement of rule 3-700(D)(2) to refund any unearned part of an advanced fee promptly upon termination.

*In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752 the Review Department defined a true retainer as a fee which is paid solely to ensure the attorney's availability over a given period of time, and is earned when paid since the attorney is entitled to it regardless of whether any actual services are performed. Where respondent did not devote certain blocks of time to certain clients' claims or turn away other business to proceed with their matters and it was evident that clients were paying for more than the respondent's availability, respondent was not excused from accounting for an advanced fee on the ground that it was a retainer earned on receipt.

*In the Matter of Harris* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219, 231 stands for the proposition that the entire fee is unearned if only preliminary services were performed which did not result in benefit to the client (*Gadda v. State Bar* (1990) 50 Cal.3d 344, 348, 350, 357, and *Bernstein v. State Bar* (1990) 50 Cal.3d 221, 232-234)

Misappropriation of client funds is a grievous breach of an attorney's ethical responsibilities and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. (See *Grim v. State Bar* (1991) 53 Cal. 3d 21, 29, disbarred on a \$5,546 misappropriation; *Chang v. State Bar* (1989) 49 Cal. 3d 114, 128, disbarred on a \$7,000 misappropriation; *Kelly v. State Bar* (1988) 45 Cal. 3d 649, 656, disbarred on a \$19,000 misappropriation; *Howard v. State Bar* (1990) 51 Cal. 3d 215, 221, actual suspension of six months imposed on a misappropriation of \$1,300; *Gordon v. State Bar* (1982) 31 Cal. 3. 748, 757 disbarred on an aggregate misappropriation of \$27,000; *Friedman v. State Bar* (1990) 50 Cal. 3d 235, 244, three-year actual suspension on misappropriation of \$26,600; *Weller v. State Bar* (1989) 49 Cal. 3d 670, 677, three-year actual suspension with a prior record of discipline, two client matters involved, misappropriation of \$11,000; *Murray v. State Bar* (1985) 40 Cal. 3d 575, 583, actual suspension of one year imposed on a misappropriation of \$5,680.)

*In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390 – misappropriation of \$2,000, plus misrepresentations, failure to perform competently, failure to return an unearned fee, failure to promptly account, and offering to pay a referral fee. No appreciation of seriousness of misconduct. Resulted in disbarment.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 26, 2011, the prosecution costs in this matter are \$16,566.76. 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.

(Do not write above this line.)

In the Matter of:  
Piotr Reysner, Bar No. 210937

Case number(s):

10-O-03986;  
10-O-03987;  
10-O-05098;  
10-O-9169;  
10-O-9170;  
10-O-9173;  
10-O-9175;  
10-O-11357;  
11-O-12370;  
11-O-13076;  
11-O-13533;  
11-O-14079

### 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.

10/12/11  
Date

  
Respondent's Signature

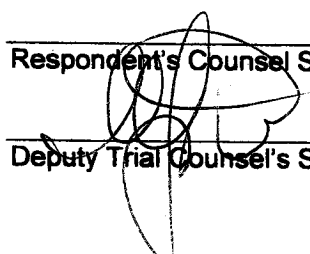
Piotr Reysner  
Print Name

Date

Respondent's Counsel Signature

Print Name

10/13/11  
Date

  
Deputy Trial Counsel's Signature

Maria J. Oropeza  
Print Name

(Do not write above this line.)

In the Matter of:  
Piotr Reysner, Bar No. 210937

Case Number(s):  
10-O-03986 Et al.

### DISBARMENT 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.

If the State Bar Client Security Fund (CSF) makes payment, including any reimbursements to the afore-cited complaining witnesses in the stipulation Re Facts, Conclusions of Law and Disposition, Respondent waives any objections to any such payments and agrees to pay restitution of the principal amount paid to CSF.

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.)**

Respondent Piotr Reysner 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 (3) 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 Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

October 25, 2011

Cat McElroy  
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 October 25, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

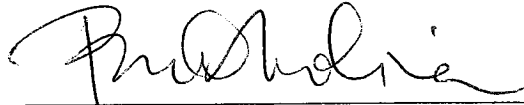
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

PIOTR G. REYSNER  
331 J ST STE 200  
SACRAMENTO, CA 95814

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

MARIA J. OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 25, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court