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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

<p>Counsel For The State Bar</p> <p>Jessica A. Lienau Office of the Chief Trial Counsel 1149 S. Hill St. Los Angeles, CA 90015</p> <p>Bar # 269753</p>	<p>Case Number(s): 10-0-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403</p>	<p>For Court use only</p> <p>FILED NOV 14 2011 <i>He</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Paul J. Virgo 9909 Topanga Blvd. # 282 Chatsworth, CA 91311</p> <p>Bar # 67900</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Nicholas O. Hedding 1600 N. Broadway Ste. 700 Santa Ana, CA 92706</p> <p>Bar # 227160</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 2, 2003.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 29 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."

(Effective January 1, 2011)



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two (2) years following the effective date of this order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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. Respondent's misconduct consists of three failures to perform (rule 3-110(A)), two failures to obey a court order (§6103), one count of seeking to make an agreement to withdraw a State Bar complaint (§6090.5(a)(2)), one failure to return unearned fees (rule 3-700(D)(2)), one failure to account (rule 4-100(B)(3)), one failure to maintain client funds (rule 4-100(A)), one failure to release a client file (rule 3-700(D)(1)), fourteen violations of SB 94 (§6106.3) and seven counts of the unauthorized practice of law/accepting an illegal fee (rules 1-300(B) and 4-200(A)).
- (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. Respondent mistakenly believed that he could represent out of state clients when negotiating with lenders. Respondent now acknowledges that this belief was mistaken and has agreed to refund all monies to out-of-state clients.
- (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.

Additional mitigating circumstances:

Respondent has cooperated with the State Bar and wishes to enter into a Stipulation.

D. Discipline:

- (1) **Stayed Suspension:**
 - (a) Respondent must be suspended from the practice of law for a period of two (2) years.
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:
 - (b) The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent must be placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) **Actual Suspension:**
 - (a) Respondent must be actually suspended from the practice of law in the State of California for a period of eighteen (18) months.
 - i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
 - ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
 - iii. and until Respondent does the following:

E. Additional Conditions of Probation:

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- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

<input type="checkbox"/> Substance Abuse Conditions	<input type="checkbox"/> Law Office Management Conditions
<input type="checkbox"/> Medical Conditions	<input checked="" type="checkbox"/> Financial Conditions

F. Other Conditions Negotiated by the Parties:

(Effective January 1, 2011)

Actual Suspension

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

Case No. 10-O-08267: Unauthorized Practice of Law in Another Jurisdiction, Illegal Fee, and Violation of California Civil Code § 2944.7(a):

The laws of the State of Arizona, including the Arizona Ethics Rules, prohibit attorneys not licensed in Arizona from practicing law in Arizona subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Arizona and Respondent was not otherwise entitled to practice law in the State of Arizona during the time period addressed in this Notice of Disciplinary Charges.

At all times herein relevant, Respondent owned and operated ALF. At all times herein relevant, Teresa Murphy ("Murphy") resided in Arizona. On or about March 7, 2010, Respondent accepted the representation of Murphy, in order to negotiate and obtain for Murphy a home mortgage loan modification for her Arizona property. Murphy signed Respondent's "Retainer Agreement" on or about March 7, 2010.

In a "Privileged Attorney-Client Addendum to Retainer," signed by Murphy on March 7, 2010, Respondent informed Murphy that the services Respondent was to provide would be provided in two phases, specifically delineated as Exhibits A1 and A2 in the "Privileged Attorney-Client Addendum to Retainer." Exhibit A1 states that the first "phase" of loan modification services to be provided by Respondent and ALF included, "Audit, Compile, Underwrite, Take Legal Steps," and that the cost of the services for the first "phase" outlined in Exhibit A1 was \$1,247.50. Exhibit A2 states that the second "phase" of loan modification services to be provided by Respondent and ALF included, "Submission, Verification, Confirmation, Review, Monitor and Update, Live Contact, and Initiat[ing] Direct Contact with Lender," and that the cost of the services for the second "phase" outlined in Exhibit A2 was \$1,247.50.

On or about March 23, 2010, Respondent and agents acting on behalf of Respondent negotiated with Murphy's primary Arizona residence home loan mortgage lender, National City Mortgage, regarding the modification of Murphy's home loan mortgage.

On or about April 6, 2010, Respondent, through ALF, charged and collected \$1,247.50 in advance attorney fees from Murphy. On or about May 5, 2010, Respondent, through ALF, charged and collected \$1,247.50 in advance attorney fees from Murphy.

On or about June 2010, Murphy spoke with an ALF employee on the telephone about the status of her loan modification and the ALF employee stated that ALF had initiated the loan modification process with National City Mortgage, the lender for Murphy's primary residence. Murphy requested that Respondent initiate the loan modification process on her investment property with Bank of America, which she believed she had retained Respondent to obtain a loan modification on. On or about June 29, 2010, Respondent, and agents acting on behalf of Respondent negotiated with Murphy's investment property lender, Bank of America, regarding the modification of Murphy's investment property home loan mortgage. On or about June 29, 2010, Respondent, and agents acting on behalf of Respondent attempted to persuade the foreclosing party to rescind the trustee sale set for June 30, 2010 on Murphy's Arizona investment property.

At no point did Respondent associate with an attorney licensed to practice in Arizona on Murphy's home loan mortgage modification matter.

By accepting representation of Murphy as a client, collecting an advanced attorney fee and negotiating with Murphy's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Arizona in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Murphy, and demanding, charging, collecting and receiving \$2,495.00 from Murphy prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 10-O-10594: Violation of California Civil Code Section 2944.7(a) and 2944.6(a), Seeking an Agreement to Withdraw a State Bar Complaint:

At all times herein relevant, Respondent owned and operated ALF. On or about October 23, 2009, Respondent accepted the representation of Robyn L. Davidoff ("Davidoff"), a resident of California, in order to negotiate and obtain for Davidoff a home mortgage loan modification for her Nevada investment property. Davidoff signed Respondent's "Retainer Agreement" on or about October 23, 2009, and Respondent signed the "Retainer Agreement" on or about November 9, 2009. Respondent's "Retainer Agreement" states that his services will include "tak[ing] any legal action necessary to protect Clients' [Davidoff's] rights arising in law and in equity against Clients' [Davidoff's] lenders, brokers and related entities and individuals which have placed Clients [Davidoff] in financial dire straits."

On or about November 23, 2009, Respondent charged and collected \$3,695.00 in advanced attorney fees from Davidoff before fully performing each and every service he had contracted to perform or represented that he would perform.

Respondent did not provide Davidoff, prior to entering into a fee agreement for loan modification or loan forbearance services, with the following written statement:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

After retaining Respondent on or about October 23, 2009, Davidoff subsequently became dissatisfied with Respondent's services, and on or about October 4, 2010, Davidoff filed a written complaint against Respondent with the State Bar. On or about June 1, 2011, Respondent sent to Davidoff, via U.S. mail, a written settlement offer whereby Respondent offered to pay Davidoff

\$1,500.00 in exchange for Davidoff's withdrawal of all complaints and all claims. A "General Liability Release Letter" was enclosed with Respondent's June 1, 2011 letter which states, "It is the specific intent and purpose of this instrument to release and discharge any and all claims and causes of action of any kind or nature whatsoever, including, but not limited to the pending California State Bar complaint...[.]" Davidoff received this letter with the enclosed "General Liability Release Letter."

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Davidoff, and demanding, charging, collecting and receiving \$3,695.00 from Davidoff prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Davidoff in advance of any service and thereafter entering into a fee agreement with Davidoff without providing her, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically proscribed in Section 2944.6(a) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

By asking Davidoff to agree to withdraw her complaint with the State Bar against Respondent in exchange for Respondent paying her in the amount of \$1,500.00, Respondent sought an agreement that a plaintiff would withdraw a disciplinary complaint in willful violation of Business and Professions Code, section 6090.5(a)(2), by agreeing or seeking agreement that a plaintiff would withdraw a disciplinary complaint or would not cooperate with the investigation or prosecution conducted by the disciplinary agency.

Case No. 10-O-10596: Unauthorized Practice of Law in Another Jurisdiction and Illegal Fee:

The laws of the State of Virginia, including the Virginia Rules of Professional Conduct, prohibit attorneys not licensed in Virginia from practicing law in Virginia subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Virginia and Respondent was not otherwise entitled to practice law in the State of Virginia during the time period addressed in this Notice of Disciplinary Charges. At all times herein relevant, Respondent owned and operated ALF.

At all times herein relevant, Bobby and Barbara Martin (collectively "the Martins") resided in Virginia. On or about September 30, 2009, Respondent accepted the representation of the Martins, in order to negotiate and obtain for the Martins a home mortgage loan modification for their Virginia residential property. The Martins signed Respondent's "Legal Retainer Agreement" on or about September 30, 2009, and Respondent signed the "Legal Retainer Agreement" on or about October 15, 2009. Respondent's "Legal Retainer Agreement" states that his services will include "negotiat[ing] more favorable or more affordable terms for Client [the Martins] with Client's [the Martins'] lender."

On or about October 10, 2009, Respondent, through ALF, charged and collected \$1,247.50 in advance attorney fees from the Martins. On or about November 10, 2009, Respondent, through ALF, charged and collected \$1,247.50 in advance attorney fees from the Martins. Between on or around October 2009, and on or around February 2010, Respondent and agents acting on behalf of Respondent negotiated with the Martins' home loan mortgage lender regarding the modification of the Martins' home loan mortgage. At no point did Respondent associate with an attorney licensed to practice in Virginia on the Martins' home loan mortgage modification matter.

By accepting representation of the Martins as clients, collecting an advanced attorney fee and negotiating with the Martins' lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Virginia in wilful violation of rule 1-300(B), Rules of Professional Conduct.

By accepting representation of the Martins and charging and collecting fees from the Martins, when he was not licensed to practice law in Virginia, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from the Martins in wilful violation of rule 4-200(A), Rules of Professional Conduct.

Case No. 10-O-10996: Failure to Perform and Failure to Return Unearned Fees:

On or about April 9, 2010, Gnouni Gegamyan ("Gegamyan") hired Respondent to file a Chapter 7 Bankruptcy petition on his behalf. On or about April 9, 2010, Gegamyan paid Respondent \$1399.00 in attorney fees.

Respondent never filed a Bankruptcy petition on behalf of Gegamyan. Respondent has refunded no part of the \$1399.00 in advance attorney fees paid by Gegamyan.

Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence by failing to file the bankruptcy petition on behalf of Gegamyan.

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 by failing to refund the \$1399.00 paid by Gegamyan in advance attorney fees.

Case No. 10-O-11200: Unauthorized Practice of Law in Another Jurisdiction, Illegal Fee, Violation of California Civil Code § 2944.7(a):

The laws of the State of Virginia, including the Virginia Rules of Professional Conduct, prohibit attorneys not licensed in Virginia from practicing law in Virginia subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Virginia and Respondent was not otherwise entitled to practice law in the State of Virginia during the time period addressed in this Notice of Disciplinary Charges. At all times herein relevant, Respondent owned and operated ALF.

At all times herein relevant, Sayed Shah ("Shah") resided in Virginia. On or about April 1, 2010, Respondent accepted the representation of Shah, in order to negotiate and obtain for Shah a home mortgage loan modification for his Virginia residential property. Shah signed Respondent's "Retainer Agreement" on or about April 1, 2010, and Respondent signed the "Retainer Agreement" on or about April 29, 2010. In the "Privileged Attorney-Client Addendum to Retainer," signed by Shah on April 1, 2010, Respondent informed Shah that the services Respondent was to provide would be provided in two phases, specifically delineated as Exhibits A1 and A2 in the "Privileged Attorney-Client Addendum to Retainer." Exhibit A1 states that the first "phase" of loan modification services to be provided by Respondent and ALF included, "Audit, Compile, Underwrite, Take Legal Steps," and that the cost of the services for the first "phase" outlined in Exhibit A1 was \$1,747.50. Exhibit A2 states that the second "phase" of loan modification services to be provided by Respondent and ALF included, "Submission,

Verification, Confirmation, Review, Monitor and Update, Live Contact, and Initiat[ing] Direct Contact with Lender,” and that the cost of the services for the second “phase” outlined in Exhibit A2 was \$1,747.50.

In or around April 2010, Respondent and agents acting on behalf of Respondent negotiated with Shah’s home loan mortgage lender regarding the modification of Shah’s home loan mortgage.

On or about May 10, 2010, Respondent, through ALF, charged and collected \$1,747.50 in advance attorney fees from Shah. On or about June 15, 2010, Respondent, through ALF, charged and collected \$873.75 in advance attorney fees from Shah. On or about July 31, 2010, Respondent, through ALF, charged and collected \$837.75 in advance attorney fees from Shah.

At no point did Respondent associate with an attorney licensed to practice in Virginia on Shah’s home loan mortgage modification matter.

On or about November 7, 2010, Shah filed a written complaint against Respondent with the State Bar. On or about April 17, 2011, the State Bar received a facsimile dated April 15, 2011, wherein Attorney Virgo notified the State Bar that he represents Respondent “in any and all matters pending with the State Bar.”

By accepting representation of Shah as a client, collecting an advanced attorney fee and negotiating with Shah’s lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Virginia in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Shah, and demanding, charging, collecting and receiving \$3,459.00 from Shah prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-10408: Failure to Perform and Failure to Obey a Court Order:

On or about April 12, 2010, Mun and Erika Song (collectively “the Songs”) hired Respondent to file a Chapter 7 Bankruptcy petition on their behalf. On or about April 13, 2010, the Songs paid Respondent \$250.00 in attorney fees. On or about May 6, 2010, the Songs paid Respondent \$1,750.00 in attorney fees.

On or about May 7, 2010, Respondent filed a Chapter 7 Bankruptcy petition on behalf of the Songs, Case No. 6:10-bk-23925-CB, U.S. Bankruptcy Court, Central District of California. Respondent failed to appear at the 341(a) meeting of creditors on or around June 2010. Respondent failed to provide necessary documents on behalf of the Songs to the Bankruptcy trustee. Respondent failed to appear at the reschedule 341(a) creditors meeting on or around January 5, 2011.

The Songs asked the Bankruptcy Court to dismiss their case so that they could refile with new counsel. The Bankruptcy Court granted this Motion on or about January 7, 2011.

On or about January 24, 2011, the Bankruptcy Court ordered Respondent to disgorge, within ten days, the \$2,000.00 in fees the Songs had paid him. Respondent was to make a check payable to the Songs and deliver it to the Bankruptcy Trustee. To date, Respondent has disgorged no part of the \$2,000.00 in fees to the Songs.

Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence by failing to appear for the Songs at the 341(a) creditors meetings.

Respondent wilfully 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 by failing to disgorge the fees paid by the Songs.

Case No. 11-O-12674: Unauthorized Practice of Law in Another Jurisdiction, Illegal Fee, Violation of California Civil Code § 2944.7(a) and 2944.6(a):

The laws of the State of Arizona, including the Arizona Ethics Rules, prohibit attorneys not licensed in Arizona from practicing law in Arizona subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Arizona and Respondent was not otherwise entitled to practice law in the State of Arizona during the time period addressed in this Notice of Disciplinary Charges. At all times herein relevant, Respondent owned and operated ALF.

At all times herein relevant, Mary Swaidner ("Swaidner") resided in Arizona. On or about December 2009, Respondent accepted the representation of Swaidner, in order to negotiate and obtain for Swaidner a home mortgage loan modification for her Arizona residential property.

On or about December 2009, Respondent charged and collected \$831.00 in advance attorney fees from Swaidner. On or about January 2010, Respondent charged and collected \$831.00 in advance attorney fees from Swaidner.

Between on or around December 2009, and on or around May 2010, Respondent and agents acting on behalf of Respondent negotiated with Swaidner's home loan mortgage lender regarding the modification of Swaidner's home loan mortgage.

At no point did Respondent associate with an attorney licensed to practice in Arizona on Swaidner's home loan mortgage modification matter.

Respondent did not provide Swaidner, prior to entering into a fee agreement for loan modification or loan forbearance services, with the following written statement:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling

agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

By accepting representation of Swaidner as a client, collecting an advanced attorney fee and negotiating with Swaidner's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Arizona in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Swaidner, and demanding, charging, collecting and receiving \$1,000.00 from Swaidner prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Swaidner in advance of any service and thereafter entering into a fee agreement with Swaidner without providing her, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically proscribed in Section 2944.6(a) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-12668: Unauthorized Practice of Law in Another Jurisdiction and Illegal Fee:

The laws of the State of Nevada, including the Nevada Rules of Professional Conduct, prohibit attorneys not licensed in Nevada from practicing law in Nevada subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Nevada and Respondent was not otherwise entitled to practice law in the State of Nevada during the time period addressed in this Notice of Disciplinary Charges. At all times herein relevant, Respondent owned and operated ALF.

At all times herein relevant, Toshihiro Endo ("Endo") resided in Nevada. On or about May 12, 2009, Respondent accepted the representation of Endo, in order to negotiate and obtain for Endo a home mortgage loan modification for his Nevada residential property. Respondent's "Legal Retainer Agreement" states that his services will include "negotiat[ing] more favorable or more affordable terms for Client [Endo] with Client's [Endo's] lender."

On or about May 12, 2009, Respondent charged and collected \$1,200.00 in advance attorney fees from Endo. On or about June 10, 2009, Respondent charged and collected \$1,200.00 in advance attorney fees from Endo.

Between on or around May 2009, and on or around March 2011, Respondent and agents acting on behalf of Respondent negotiated with Endo's home loan mortgage lender regarding the modification of Endo's home loan mortgage.

At no point did Respondent associate with an attorney licensed to practice in Nevada on Endo's home loan mortgage modification matter.

By accepting representation of Endo as a client, collecting an advanced attorney fee and negotiating with Endo's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Nevada in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

Case No. 11-O-13348: Violation of California Civil Code § 2944.7(a) and 2944.6(a):

At all times herein relevant, Respondent owned and operated ALF. On or about March 19, 2010, Respondent accepted the representation of Reza Chitgar ("Chitgar"), a resident of California, in order to negotiate and obtain for Chitgar a home mortgage loan modification for her residential property.

On or about March 22, 2010, Respondent charged and collected \$1,000.00 in advanced attorney fees from Chitgar before fully performing each and every service he had contracted to perform or represented that he would perform.

Respondent did not provide Chitgar, prior to entering into a fee agreement for loan modification or loan forbearance services, with the following written statement:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Chitgar, and demanding, charging, collecting and receiving \$1,000.00 from Chitgar prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Chitgar in advance of any service and thereafter entering into a fee agreement with Chitgar without providing her, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically proscribed in Section 2944.6(a) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-13942: Violation of California Civil Code § 2944.7(a) and 2944.6(a):

At all times herein relevant, Respondent owned and operated ALF. On or about November 17, 2010, Respondent accepted the representation of Kathleen and John Tatum (collectively "the Tatums"), residents of California, in order to negotiate and obtain for the Tatums a home mortgage loan modification for their residential property.

On or about December 12, 2010, Respondent charged and collected \$1,250.00 in advanced attorney fees from the Tatums before fully performing each and every service he had contracted to perform or represented that he would perform. On or about January 12, 2011, Respondent charged and collected \$1,250.00 in advanced attorney fees from the Tatums before fully performing each and every service he had contracted to perform or represented that he would perform.

Respondent did not provide the Tatums, prior to entering into a fee agreement for loan modification or loan forbearance services, with the following written statement:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by the Tatums, and demanding, charging, collecting and receiving \$2,500.00 from the Tatums prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by the Tatums in advance of any service and thereafter entering into a fee agreement with the Tatums without providing her, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically proscribed in Section 2944.6(a) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-14551: Failure to Account and Failure to Maintain Client Funds:

On or around November 2009, Theresa Cid ("Cid") hired Respondent to represent her in a personal injury accident resulting from an automobile accident she was involved in on or about November 16, 2009. Cid was informed that Respondent would take one third of any settlement and then pay Cid's medical providers.

On or about January 5, 2010, Respondent and Cid both signed a Doctor's Lien which authorized Respondent to withhold the sums necessary to pay Cadman Chiropractic from any settlement funds. Cid's treating chiropractor, Cadman Chiropractic, has a claim for \$3,056.25.

On or around November 2010, Respondent settled Cid's claim for \$7,000.00. On or about November 19, 2010, Respondent paid to Cid's father, David Navarro Arredondo ("Arredondo"), \$2,380.00. To date, Respondent has paid no part of the \$3,056.25 owed to Cadman Chiropractic. Respondent has not provided Cid with an accounting of the funds he received on her behalf.

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 by failing to provide Cid with an accounting.

Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A), by failing to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import by failing to maintain in his account enough of the settlement funds to pay Cadman Chiropractic.

Case No. 11-O-14636: Failure to Perform, Failure to Comply with a Court Order, and Failure to Release Client File:

On or about February 2010, Cesar Torres ("Torres") and his mother Gloria Lopez ("Lopez") hired Respondent to represent them in a personal injury action to be filed against Excellent Nutrition on a contingency basis.

On or about August 10, 2010, Respondent filed a civil action on behalf of Torres and Lopez against Excellent Nutrition in Los Angeles Superior Court, Case No. BC443433. On or about October 21, 2010, a Case Management Conference was held where Respondent sent his paralegal, Carmen Pumo ("Pumo"), who requested a continuance. The Case Management Conference was rescheduled for December 3, 2010. On or about December 3, 2010, Respondent failed to appear at the Case Management Conference. The Case Management Conference is set again for December 8, 2010 along with an Order to Show Cause why Sanctions should not issue against Lopez, Torres and Respondent. Respondent fails to appear at the December 8, 2010 Case Management Conference and Order to Show Cause Hearing.

On or about January 4, 2011, Torres' and Lopez's action is dismissed and sanctions are issued against Torres, Lopez and Respondent in the amount of \$1,620.00. To date, Respondent has paid none of the \$1,620.00.

On or about February 24, 2011, Torres wrote to Respondent requesting the return of his and Lopez's client file. Respondent received this letter. On or about April 29, 2011, Torres again wrote to Respondent requesting the return of his and Lopez's client file. Respondent received this letter. On or about May 18, 2011, Torres went to Respondent's office to attempt to retrieve his and Lopez's client files, but was turned away by Respondent's staff. On or about June 8, 2011, Torres again wrote to Respondent requesting his and Lopez's client files. Respondent received this letter. To date, Torres' and Lopez's client file has not been returned to them.

Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence by failing to prosecute the civil action he filed on behalf of Lopez and Torres.

Respondent wilfully 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 by failing to comply with the January 4, 2011 sanctions order.

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.

Case No. 11-O-14752: Violation of California Civil Code § 2944.7(a):

At all times herein relevant, Respondent owned and operated ALF. On or about July 14, 2010, Respondent accepted the representation of Patrick and Jennie Rose (collectively "the Roses"), residents of California, in order to negotiate and obtain for the Roses a home mortgage loan modification for their residential property.

On or around August 2010 and on or around September 2010, Respondent charged and collected a total of \$3,500.00 in advanced attorney fees from the Roses before fully performing each and every service he had contracted to perform or represented that he would perform.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by the Roses, and demanding, charging, collecting and receiving \$3,500.00 from the Roses prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-14753: Unauthorized Practice of Law in Another Jurisdiction and Illegal Fee:

The laws of the State of Hawaii, including the Hawaii Rules of Professional Conduct, prohibit attorneys not licensed in Hawaii from practicing law in Hawaii subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Hawaii and Respondent was not otherwise entitled to practice law in the State of Hawaii during the time period addressed in this Notice of Disciplinary Charges.

At all times herein relevant, Kalama Hiapo III ("Hiapo") resided in Hawaii. On or about August 28, 2009, Respondent accepted the representation of Hiapo, in order to negotiate and obtain for Hiapo a home mortgage loan modification for his Hawaii residential property.

On or about August 28, 2009, Respondent charged and collected \$1,400.00 in advance attorney fees from Hiapo.

Between on or around August 2009, and on or around May 2010, Respondent and agents acting on behalf of Respondent negotiated with Hiapo's home loan mortgage lender regarding the modification of Hiapo's home loan mortgage.

At no point did Respondent associate with an attorney licensed to practice in Hawaii on Hiapo's home loan mortgage modification matter.

By accepting representation of Hiapo as a client, collecting an advanced attorney fee and negotiating with Hiapo's lender, Respondent willfully engaged in the unauthorized practice of law in

violation of the regulations of the profession in Hawaii in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

Case No. 11-O-15203: Violation of California Civil Code § 2944.7(a):

At all times herein relevant, Respondent owned and operated ALF. On or about November 17, 2010, Respondent accepted the representation of Soraya Nauroz ("Nauroz"), a resident of California, in order to negotiate and obtain for Nauroz a home mortgage loan modification for her residential property.

On or about April 26, 2010, Respondent charged and collected \$2,000.00 in advanced attorney fees from Nauroz before fully performing each and every service he had contracted to perform or represented that he would perform. On or about June 21, 2010, Respondent charged and collected \$1,995.00 in advanced attorney fees from Nauroz before fully performing each and every service he had contracted to perform or represented that he would perform.

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Nauroz, and demanding, charging, collecting and receiving \$3,995.00 from Nauroz prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-15403: Unauthorized Practice of Law in Another Jurisdiction, Illegal Fee and Violation of California Civil Code § 2944.7(a):

The laws of the State of Maryland, including the Maryland Rules of Professional Conduct, prohibit attorneys not licensed in Maryland from practicing law in Maryland subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Maryland and Respondent was not otherwise entitled to practice law in the State of Maryland during the time period addressed in this Notice of Disciplinary Charges.

At all times herein relevant, Ronald Jones ("Jones") resided in Maryland. On or around July 2010, Respondent accepted the representation of Jones, in order to negotiate and obtain for Jones home mortgage loan modifications for two of his Maryland property.

On or about July 26, 2010, Respondent charged and collected \$2,000.00 in advance attorney fees from Jones. On or about August 26, 2010, Respondent charged and collected \$2,000.00 in advance attorney fees from Jones.

Between on or around July 2010, and on or around July 2011, Respondent and agents acting on behalf of Respondent negotiated with Jones' home loan mortgage lender regarding the modifications of Jones' home loan mortgages.

At no point did Respondent associate with an attorney licensed to practice in Maryland on Jones' home loan mortgage modification matter.

By accepting representation of Jones as a client, collecting an advanced attorney fee and negotiating with Jones' lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Maryland in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Jones, and demanding, charging, collecting and receiving \$4,000.00 from Jones prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was October 25, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3, Title IV, Standards for Attorney Sanctions for Professional Misconduct, provides that the primary purposes of the disciplinary system are: "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 2.2(b) holds that a violation of rule 4-100 that does not result in the wilful misappropriation of client funds shall result in a three month actual suspension, irrespective of mitigating circumstances.

Standard 2.4(b) holds that a failure to perform in individual client matters, not demonstrating a pattern, shall result in reproof or suspension depending on the extent of the misconduct and the extent of harm to the client.

Standard 2.6 holds that a violation of §§ 6068 and 6103, Business and Professions Code, shall result in disbarment or suspension depending on the gravity of the offense or harm, if any, to the victim.

Standard 2.10 holds that the violation of rule 1-300(B), Rules of Professional Conduct [Unauthorized Practice of Law in Another Jurisdiction], rule 3-700(D)(1) [Failure to Return Client File], rule 3-700(D)(2) [Failure to Refund Unearned Fees], rule 4-200(A) [Illegal Fee], § 6090.5 [Seeking an Agreement to Withdraw a State Bar Complaint], and § 6106.3 [Violation of California Civil Code § 2944.7(a) and 2944.6(a)] shall result in reproof or suspension, depending on the gravity of the offense or the harm to the victim.

The Standards call for a level of discipline ranging between three months actual suspension and disbarment. Based on the facts of this case, a two year suspension with 18 months of actual suspension and three years of probation is an appropriate level of discipline.

Respondent's misconduct consists of three failures to perform (rule 3-110(A)), two failures to obey a court order (§6103), one count of seeking to make an agreement to withdraw a State Bar complaint (§6090.5(a)), one failure to return unearned fees (rule 3-700(D)(2)), one failure to account (rule 4-100(B)(3)), one failure to maintain client funds (rule 4-100(A)), one failure to release a client file (rule 3-700(D)(1)), fourteen violations of SB 94 (§6106.3) and seven counts of the unauthorized practice of law/accepting an illegal fee (rules 1-300(B) and 4-200(A)).

As an initial matter, it is important to note that although Respondent's misconduct involves the collection of illegal fees, Respondent was not charging unconscionable fees. Respondent had a mistaken but good faith belief that he could represent out-of-state clients in loan modification matters if the representation was solely negotiating with the client's lender.

Respondent's SB 94 violations involved Respondent breaking his loan modification services into phases and charging clients fees after a specific phase of work was complete. Although Respondent acknowledges that this conduct constitutes a technical violation of SB 94, Respondent did not intend to charge upfront fees in an effort to avoid performing after collecting fees.

Although there are no cases with a substantially similar fact pattern, caselaw supports a two year suspension with 18 months of actual suspension and three years of probation.

In *In the Matter of Wells* (Review Dept. 2005) 2005 WL 3293313, the Review Department recommended that the respondent be suspended for two years, stayed, with six months of actual suspension. In *Wells*, the respondent was found to have engaged in the unauthorized practice of law in South Carolina on two occasions. The respondent was also found to have held herself out as entitled to practice in South Carolina when she was not. The respondent charged not only illegal fees, but her fees were found to be excessive and unconscionable. The respondent was found culpable of moral turpitude by lying to both the State Bar and the South Carolina Solicitor's Office during the course of the investigation of her conduct. In aggravation, the respondent had a prior record of discipline, was found to have engaged in multiple acts of wrongdoing, was found to have harmed the public the administration of justice and her clients, and the respondent demonstrated indifference to the consequences of her misconduct.

Although Respondent here has engaged in more instances of the unauthorized practice of law, Respondent was acting in good faith, whereas the *Wells* court found that the respondent there was not acting in good faith. Respondent has not engaged in any conduct involving moral turpitude. Respondent here did not charge excessive and unconscionable fees and has agreed to fully refund each out-of-town client prior to the filing of any formal charges. Respondent has cooperated with the State Bar during this investigation.

In *In the Matter of Harney* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266, the Review Department placed the respondent on a six month actual suspension for concealing the statutory fee limit under the Medical Injury Compensation Reform Act ("MICRA") from both the court and his client. The respondent collected a fee that was \$266,850 in excess of the MICRA limit. The respondent was found culpable of a number of other violations, including conduct involving moral turpitude. The *Harney* court, like the *Wells* court, acknowledged that illegal fee cases do not necessarily warrant the same discipline as an unconscionable fee matter. In this case, Respondent's violations of SB 94 do not warrant the more serious discipline that unconscionable fees do.

Respondent's misconduct is surrounded by some aggravating circumstances, specifically that his misconduct evidences multiple acts of wrongdoing. However, the UPL violations occurred within an approximately one year period when Respondent mistakenly, but in good faith, believed that he was not engaging in the unauthorized practice of law.

All of Respondent's misconduct unrelated to his loan modification practice, such as his failure to perform, failure to return unearned fees, and failure to obey a court order, occurred around April 2010. Although not an excuse, the mother of Respondent's child was in and out of the hospital and Respondent acknowledges that he let his duties to his clients and the courts lapse. Respondent chose to take responsibility for his misconduct by agreeing to discipline prior to the filing of formal charges.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 25, 2011, the prosecution costs in this matter are \$17,961.00. 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: NICHOLAS O. HEDDING	Case Number(s): 10-O-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Rodolfo and Martha Anaya	\$1,200.00	February 19, 2010
Teresa Murphy	\$2,495.00	April 6, 2010
Robyn Davidoff	\$3,695.00	November 23, 2009
Bobby and Barbara Martin	\$2,495.00	October 10, 2009

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of his probationary period.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Effective January 1, 2011)

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): 10-0-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Sayed Shah	\$3,459.00	May 10, 2010
Toshihiro Endo	\$2,400.00	May 12, 2009
Mary Swaidner	\$1,662.00	December 31, 2009
Reza Chitgar	\$1,000.00	March 22, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of his probationary period.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
 - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): 10-0-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Patrick and Jennie Rose	\$3,500.00	August 31, 2010
Mun and Erika Song	\$2,000.00	April 13, 2010
Gnoui Gegamyan	\$1,399.00	April 9, 2010
Cadman Chiropractic	\$3,056.25	November 31, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of his probationary period.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): 10-O-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
The Los Angeles County Superior Court	\$1,620.00	January 4, 2011
John and Kathleen Tatum	\$2,500.00	December 12, 2010+
Soraya Nauroz	\$3,995.00	April 26, 2010
Kalama Hiapo III	\$1,400.00	August 28, 2009

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of his probationary period.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): 10-O-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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Financial Conditions

a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Ronald Jones	\$4,000.00	July 26, 2010

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than the expiration of his probationary period.

b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
 - a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School


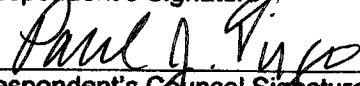
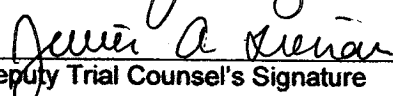
- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case number(s): 10-O-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

11/2/11 Date	 Respondent's Signature	Nicholas O. Hedding Print Name
11/2/2011 Date	 Respondent's Counsel Signature	Paul J. Virgo Print Name
11/7/2011 Date	 Deputy Trial Counsel's Signature	Jessica A. Lienau Print Name

(Do not write above this line.)

In the Matter of:
NICHOLAS O. HEDDING

Case Number(s):
10-0-05022; 10-O-08267; 10-O-10594; 10-O-10596; 10-O-10996; 10-O-11200; 11-O-10408; 11-O-12668; 11-O-12674; 11-O-13348; 11-O-13942; 11-O-14551; 11-O-14636; 11-O-14752; 11-O-14753; 11-O-15203; 11-O-15403

ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:


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

On page 4 of the stipulation, the "X" in the box next to paragraph D(1)(a)(ii) is deleted.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date:

11/10/11


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 14, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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


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

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

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

JESSICAN LIENAU, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 14, 2011.



Tammy Cleaver
Case Administrator
State Bar Court