

This matter was one of the cases so returned. The parties could not agree on a different discipline, so the matter was referred to this court for trial.¹ While the parties remained bound by the facts and conclusions of law contained within the stipulation, they were permitted to add evidence at trial supplementing mitigating and aggravating factors that both parties contemplated when they executed the stipulation. Trial on limited issues, including certain matters addressed by the Notice of Disciplinary Charges filed on November 13, 2012,² was held on February 25, 2013, and the matter was submitted for decision on the same day.

Having considered the facts and the law, the court recommends two years' stayed suspension and three years' probation on conditions including actual suspension for two years and until he makes specified restitution and complies with standard 1.4(c)(ii), Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct,³ among other things.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on May 31, 1979, and has been a member of the State Bar of California at all times since that date.

March 7, 2012 Pre-Notice Stipulation

Background Facts:

Respondent has been a bankruptcy practitioner since 1979. In February 2008, respondent's wife of 33 years died. In September 2008, Steve Hibler, a prominent member of

¹ The Stipulation Re Facts, Conclusions of Law and Disposition filed on March 7, 2012, is hereby converted to a stipulation as to facts and conclusions of law only, and State Bar Court staff is directed to remove the Stipulation Re Facts, Conclusions of Law and Disposition filed on March 7, 2012, from the State Bar's website.

² The charges addressed in these matters are designated by numbered counts in this decision. Those addressed by the stipulation are not designated by numbered counts.

³ All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

the Saddleback Church, a church with a large congregation, approached respondent with the prospect of respondent providing loan modification services. Hibler was to be a salaried employee of the new loan modification enterprise, as the senior loan negotiator. Hibler had prior experience as a real estate loan originator. On September 18, 2008, respondent incorporated the loan modification enterprise as Jonathan R. Ellowitz Law Group, Inc., a California corporation (hereinafter, JRE). In February 2009, JRE opened its doors for business. Respondent had ultimate responsibility for all aspects of the operation of the loan modification enterprise. JRE's address was 26070 Towne Centre Drive, Foothill Ranch, CA 92610. This was the only address ever included on any of JRE's stationery or advertisements.

On October 11, 2009, section 6106.3 of the Business and Professions Code⁴ section (hereinafter, SB 94) went into effect. SB 94 prohibited respondent from charging or collecting an advance fee in a loan modification representation. In August 2010, JRE closed its doors. On August 8, 2010, JRE sent each then-current client a letter explaining that JRE was no longer in business, and a statement of how the client could further proceed on his or her loan modification matter.

In October 2010, respondent underwent open-heart surgery to treat a life-threatening medical condition. On December 30, 2010, JRE filed for bankruptcy protection. In February 2011, Steve Hibler died of a stroke.

Between March 17, 2009 and May 26, 2010, JRE refunded \$233,569.33 in fees to 115 separate clients, but payments were not made to the complaining witnesses described in this decision.

⁴ Future references to section are to the Business and Professions Code unless otherwise specified.

Case Nos. 10-0-06689, 10-0-08374, 10-0-08377, 10-0-08378, 10-0-08379, 10-0-08380, 10-0-09132, 10-0-0 9134, 10-0-09135, 10-0-09138, 10-0-09145, 10-0-09148, 10-0-09416, 10-0-09417, 10-0-09418, 10-0-09419, 10-0-10020, 10-0-10021, 10-0-10297, 10-0-10410, 10-0-10411, 10-0-11148, 10-0-11367, 11-0-12177, 11-0-12526, 11-0-13720, 11-0-13820

Facts

At all relevant times, respondent had never been a member of any state bars other than California, and was not permitted to practice law in any of the states identified in Table 1, below. The rules or statutes that govern attorney conduct in the states identified in Table 1 all prohibit attorneys not licensed in the respective jurisdictions from practicing law in the respective jurisdictions subject to several limited exceptions not relevant to this matter.

The complainants identified in Table 1, who were residents of other states and had home mortgages in those states, employed respondent and JRE to assist them with negotiating modifications of their home loans. All of these complainants paid respondent advanced legal fees.

By accepting employment with the complainants identified in this paragraph, in order to perform legal services in connection with their respective loan modifications, respondent effectively held himself out as entitled to practice law in the states identified below:

Table 1

<u>Case No.</u>	<u>Complainant</u>	<u>Date of Hire</u>	<u>Fees</u>	<u>Jurisdiction</u>
10-0-06689	Charles Lindberg	04/30/09	\$3,000	Illinois
10-0-08374	Dan Poulsen	11/01/09	\$4,090	Utah
10-0-08377	Roy Skaggs	07/23/09	\$3,580	Hawaii
10-0-08378	Karma Adamson	04/12/10	\$3,295	Utah
10-0-08379	Lauren Hales	10/12/09	\$3,295	Utah
10-0-08380	Stanley Boteillo	06/15/09	\$3,800	Hawaii
10-0-09132	Ava Ventresca	12/22/09	\$3,295	Pennsylvania
10-0-0 9134	Kim Stephenson	12/16/09	\$3,295	Pennsylvania
10-0-09135	Diego Ferrari	06/30/09	\$3,795	Virginia
10-0-09138	Leon Hartsock	06/30/09	\$2,795	Florida
10-0-09145	Stanley Frederickson	11/03/09	\$3,295	Minnesota
10-0-09148	Jayne Kealoha-Dacuycu	03/16/10	\$3,795	Hawaii
10-0-09416	Cheryl Murakami	04/11/10	\$3,295	Hawaii

10-0-09417	Sandra Hishinuma	08/03/09	\$3,295	Hawaii
10-0-09418	Cynthia Irwin	12/18/09	\$3,295	Florida
10-0-09419	Andrew Wellema	07/23/09	\$2,500	New Jersey
10-0-10020	Matthew Faulk	10/16/09	\$1,700	Utah
10-0-10021	Wendy Noll	10/10/09	\$3,995	Georgia
10-0-10297	Michael Reilly	03/18/10	\$3,795	Hawaii
10-0-10410	Charles Tai	09/21/09	\$4,590	Virginia
10-0-10411	Susan Lopez	01/24/10	\$3,295	Hawaii
10-0-11148	Carol Wun	09/28/09	\$3,295	Virginia
10-0-11367	Thomas Thomsen	03/19/10	\$2,800	Florida
11-0-12177	Tomeka Manuel	06/19/09	\$3,870	Virginia
11-0-12526	Herminia Catayong	05/09/09	\$3,500	Illinois
11-0-13720	Kristine Wagner	02/11/10	\$3,295	Minnesota
11-0-13820	Darrell Jones	10/05/09	\$3,295	Virginia

By entering into agreements for, charging, and collecting fees from the complainants identified in Table 1 when he was not licensed to practice law in any of the jurisdictions there identified, respondent entered into agreements for, charged, and collected an illegal fee from each of the complainants. To date, respondent has not refunded any portion of the illegal, advanced fees that he received from any of the complainants identified in Table 1.

Conclusions

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

Rule 1-300(B) of the Rules of Professional Conduct⁵ provides that an attorney must not practice law in a jurisdiction where to do so would be in violation of regulations of that jurisdiction's profession.

By accepting employment with the above-referenced complainants, when he was not licensed to practice law in any of the jurisdictions where the complainants' resided and maintained home mortgages, respondent violated the regulations of the profession in the respective jurisdictions in willful violation of rule 1-300(B).

⁵ Future references to rules are to the Rules of Professional Conduct unless otherwise specified.

(Rule 4-200(A) [Illegal Fee])

Rule 4-200(A) provides that an attorney must not charge, collect or enter into an agreement for an illegal or unconscionable fee.

By entering into agreements for, charging, and collecting an illegal fee as set forth above, respondent willfully violated rule 4-200(A).

(Rule 3-700(D)(2) [Failure to Return Unearned Fees])

Rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund any part of a fee paid in advance that has not been earned.

By not refunding any portion of the illegal, advanced fees that he received from the complainants, respondent willfully violated rule 3-700(D)(2).

**Case Nos. 10-0-06423, 10-0-08373, 10-0-08375, 10-0-09415, 10-0-10415, 10-0-11195,
11-0-11261**

Facts

In each of the matters in Table 2, the complainants listed employed respondent and JRE to assist them with negotiating modifications of their home loans. Respondent did not perform each and every service that he had contracted to perform on their behalf.

Table 2

<u>Case No.</u>	<u>Complainant</u>	<u>Date of Hire</u>	<u>Fees</u>
10-0-06423	Eddie Quinata I	06/18/09	\$3,580
10-0-08373	Jason Leib	07/17/09	\$2,795
10-0-08375	Cassie Nepstad	06/20/09	\$2,795
10-0-09415	Vinh Trinh	09/16/09	\$3,295
10-0-10415	Lori Evans	03/12/10	\$2,625
10-0-11195	Carlos Rios	09/01/09	\$3,795
11-0-11261	Blake Temple	05/06/09	\$2,995

Respondent did not perform any services of value on behalf of the complainants identified in Table 2 nor did he earn any portion of the advanced fees that he received from them.

To date, respondent has not refunded any portion of the unearned, advanced fees that he received from the complainants identified in Table 2.

Conclusions

(Rule 3-110(A) [Failure to Perform Legal Services with Competence])

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

By not performing any services of value to the complainants identified in Table 2, respondent failed to perform competently in willful violation of rule 3-110(A).

(Rule 3-700(D)(2) [Failure to Return Unearned Fees])

By not refunding any portion of the unearned, advanced fees that he received from the complainants identified in Table 2, respondent willfully violated rule 3-700(D)(2).

Case No. 11-O-16753 – The Dellinger Matter

Facts

Respondent was not a member of the Bar of the State of North Carolina. Its rules of professional conduct prohibit attorneys not licensed in that jurisdiction from practicing law there, subject to several limited exceptions not relevant in this matter.

Virginia Dellinger was a North Carolina resident, with a home mortgage in that state. Dellinger employed respondent and JRE to assist with negotiating modifications of her home loan. On May 27, 2009, Dellinger paid respondent advanced legal fees in the amount of \$2,990.

By accepting employment with Dellinger in order to perform legal services in connection with this loan modifications, respondent effectively held himself out as entitled to practice law in North Carolina.

By entering into agreements for, charging, and collecting fees from Dellinger, when he was not licensed to practice law in North Carolina, respondent entered into an agreement for, charged, and collected an illegal fee from Dellinger.

To date, respondent has not refunded any portion of the illegal, advanced fees that he received from Dellinger.

Conclusions

Count One - (Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By accepting employment with Dellinger when he was not licensed to practice law in North Carolina, respondent violated the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

Count Two - (Rule 4-200(A) [Illegal Fee])

By entering into agreements for, charging, and collecting an illegal fee, respondent willfully violated rule 4-200(A).

(Rule 3-700(D)(2) [Failure to Return Unearned Fees])⁶

By not refunding any portion of the illegal, advanced fees that he received from Dellinger, respondent willfully violated rule 3-700(D)(2).

Case No. 12-O-12956 – The Deodato Matter

Facts

Respondent was not a member of the Bar of the State of Hawaii. The Hawaii rules of professional conduct prohibit attorneys not licensed there from practicing law there, subject to several limited exceptions not relevant in this matter.

⁶ This charge was not included in the Notice of Disciplinary Charges, but was stipulated to by the parties in their December 6, 2012 Joint Stipulation to Facts and Conclusions of Law.

Rama Deodato was a Hawaii resident, with a home mortgage in that state. Deodato employed respondent and JRE to assist with negotiating modifications of Deodato's home loan. On October 8, 2009, Deodato paid respondent advanced legal fees in the amount of \$3,295.

By accepting employment with Deodato to perform legal services in connection with this loan modification, respondent effectively held himself out as entitled to practice law in Hawaii.

By entering into an agreement for, charging, and collecting fees from the Deodato, when he was not licensed to practice law in Hawaii, respondent entered into an agreement for, charged, and collected an illegal fee from Deodato.

To date, respondent has not refunded any portion of the illegal, advanced fees that he received from Deodato.

Conclusions

Count Three - (Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By accepting employment with Deodato when he was not licensed to practice law in Hawaii, respondent violated the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

Count Four - (Rule 4-200(A) [Illegal Fee])

By entering into an agreement for, charging, and collecting an illegal fee, respondent willfully violated rule 4-200(A).

(Rule 3-700(D)(2) [Failure to Return Unearned Fees])⁷

By not refunding any portion of the illegal, advanced fees that he received from Deodato, respondent willfully violated rule 3-700(D)(2).

⁷ This charge was not included in the Notice of Disciplinary Charges, but was stipulated to by the parties in their December 6, 2012 Joint Stipulation to Facts and Conclusions of Law.

Case No. 12-O-13349 – The Castro Matter

Facts

On January 28, 2010, Nino and Giselle Castro employed respondent to negotiate with their lender in connection with their mortgage terms and conditions to perform a modification on their behalf regarding investment property the Castros owned. On January 28, 2010, the Castros paid respondent \$2,500 in advanced attorney fees.

Respondent did not fully perform each and every service he had contracted to perform or represented that he would perform for the Castros, prior to demanding, charging, collecting or receiving advanced attorney fees. The \$2,500 collected from the Castros was in violation of section 2944.7 subsection (a)(1) of the Civil Code. Respondent entered into an agreement for charging or collecting an illegal fee and did not earn any portion of the advanced fees they paid him. He has not refunded any portion of the unearned fees to the Castros.

Conclusions

Count Five - (§ 6106.3 subd. (a) [Violation of Civil Code section 2944.7(a)]

Section 6106.3 provides that an attorney's conduct in violation of Civil Code section 2944.7(a) constitutes cause for the imposition of discipline.

By negotiating, arranging or offering to perform a mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower and demanding, charging, collecting and receiving fees from the Castros prior to fully performing each and every service he had contracted to perform or represented that he would perform, respondent violated section 2944.7 subsection (a)(1) of the Civil Code, and, therefore, violated section 6106.3.

Count Six - (Rule 4-200(A) [Illegal Fee])

By entering into an agreement for, charging, or collecting an illegal fee, respondent willfully violated rule 4-200(A).

Count Seven - (Rule 3-700(D)(2) [Failure to Return Unearned Fees])

By not refunding any portion of the unearned fees the Castros paid him, respondent willfully violated rule 3-700(D)(2).

Aggravation

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

This matter involved many clients and many instances of misconduct.

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

Respondent has demonstrated indifference toward the consequences of his misconduct because, as of the date of trial, he had not refunded, in whole or in part, the fees he wrongfully collected. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 913.)

Harm to Client (Std. 1.2(b)(iv).)

The State Bar presented evidence of several of respondent's former clients regarding the harm they suffered as a result of respondent's misconduct. Although the harm was significant, it also reflected the general negative financial situation many of respondent's clients were experiencing. Often, the harm complained of was none of respondent's responsibility. Therefore, the State Bar has proven some aggravation because of the harm suffered by respondent's clients.

Mitigation

No Prior Record (Std. 1.2(e)(i).)

Respondent has been a member of the State Bar since 1979 and has no prior record of discipline. Although not part of the original stipulation, the court takes judicial notice of

respondent's official membership records. This is a significant accomplishment and a substantial mitigating factor.⁸

Extreme Emotional/Physical Difficulties (Std. 1.2(e)(iv).)

Respondent's wife died shortly before the proven misconduct occurred. However, despite the seriousness of this loss, no clear and convincing evidence was offered as to the impact this had on his practice and its connection to the misconduct. As such, no mitigation was given for these difficulties.

Candor/Cooperation to Victims/State Bar (Std. 1.2(e)(v).)

Respondent cooperated with the State Bar by initially entering into a stipulation of facts, conclusions of law, and disposition which saved a significant amount of time in trial. Respondent is entitled to significant mitigation for this cooperation.

Remorse/Recognition of Wrongdoing (Std. 1.2(e)(vii).)

Respondent was remorseful about his misconduct and has not undertaken loan modification work again. When he entered the field, he felt it was an opportunity to help clients, which is what he did in his bankruptcy work. He regrets having advertising sent into other states. He did not intend to hold himself out as a lawyer in other states because he did not think that doing loan modification work was the practice of law. He now realizes his grave error.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest

⁸ The record reflects that the State Bar filed a motion to modify the stipulation. By order of November 21, 2012, the court granted this motion in part. After filing the motion, the State Bar and respondent agreed to withdraw their request for mitigation based on respondent's lack of a prior record. However, given the importance of this factor in determining the proper discipline, and respondent's lengthy period of practice without discipline, the court considered this a factor in mitigation despite the parties' withdrawal, as noted above.

possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).) Discipline is progressive. However, the standards do not require a prior record of discipline as a prerequisite for imposing any appropriate sanction, including disbarment. (Std. 1.7(c).)

Standards 2.4(b), 2.7 and 2.10 apply in this matter. The most severe sanction is prescribed by standard 2.7 which suggests a minimum six-month actual suspension for rule 4-200 violations regardless of mitigating circumstances.

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

This case involved 37 clients and culpability of violating rules 1-300(B) (three counts), 3-110(A) (one count), 3-700(D)(2) (five counts), 4-200(A) (four counts) and section 6106.3(a) (one count). In aggravation, the court considered multiple acts of misconduct and client harm. Mitigating circumstances included no prior discipline in about 30 years of practice, a significant consideration, candor and cooperation and remorse.

The State Bar recommends respondent's disbarment. Respondent seeks six months' actual suspension, among other things, because there was no dishonesty involved.

The court found instructive *In the Matter of Wells, supra*, 4 Cal. State Bar Ct. Rptr. 896. In *Wells*, the attorney represented two clients while residing in South Carolina although she was not admitted to practice law there. She also charged and collected illegal and unconscionable fees, did not return unearned fees or maintain funds in trust and committed multiple acts involving moral turpitude. Mitigating factors included extreme emotional distress, good character and stipulating to material facts. Aggravating circumstances were one prior disciplinary record, multiple acts of misconduct, significant harm to clients, the public and the administration of justice and indifference to the consequences of her misconduct. The discipline imposed was two years' stayed suspension and two years' probation on conditions including actual suspension for six months and until restitution was paid. The instant matter does not involve moral turpitude or a prior disciplinary record, but the totality of the circumstances herein are much more serious than in *Wells* and merit greater discipline. The court is also concerned about a very experienced attorney's ignorance of the most basic rules regarding his license to practice law.

Accordingly, having considered the facts and law, the court recommends, among other things, actual suspension for two years and until respondent makes specified restitution as set forth below and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Std. 1.4(c)(ii).)

Recommendations

It is recommended that respondent Jonathan Richard Ellowitz, State Bar number 86234, be suspended from the practice of law in California for two years, that execution of that period of

suspension be stayed, and that respondent be placed on probation⁹ for a period of three years subject to the following conditions:

1. Respondent Jonathan Richard Ellowitz is suspended from the practice of law for a minimum of the first two years of probation, and respondent will remain suspended until the following requirement(s) are satisfied:
 - a. Respondent must provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std 1.4(c)(ii).)
 - b. Respondent must pay restitution to the Payees listed below in the amounts listed below plus 10 percent interest per year from the dates listed below. If the Client Security Fund (CSF) has reimbursed a payee 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.

<u>Case No.</u>	<u>Payee</u>	<u>Principal Amount</u>	<u>Interest Accrues From</u>
10-0-06423	Eddie Quinata	\$3,580	July 30, 2009
10-0-06689	Charles Lindberg	\$3,000	May 30, 2009
10-0-08373	Jason Leib	\$2,795	August 30, 2009
10-0-08374	Dan Poulsen	\$4,090	December 30, 2009
10-0-08375	Cassie Nepstad	\$2,795	July 30, 2009
10-0-08377	Roy Skaggs	\$3,580	August 30, 2009
10-0-08378	Karma Adamson	\$3,295	May 30, 2010
10-0-08379	Lauren Hales	\$3,295	November 30, 2009
10-0-08380	Stanlby Boteillo	\$3,800	July 30, 2009
10-0-09132	Ava Ventresca	\$3,295	January 30, 2010
10-0-09134	Kim Stephenson	\$3,295	January 30, 2010
10-0-09135	Diego Ferrari	\$3,795	July 30, 2009
10-0-09138	Leon Hartsock	\$2,795	July 30, 2009
10-0-09145	Stanley Frederickson	\$3,295	January 30, 2010
10-0-09148	Jayme Kealoha-Dacuycu	\$3,795	April 30, 2010
10-0-09415	Vinh Trinh	\$3,295	December 30, 2009
10-0-09416	Cheryl Murakami	\$3,295	May 30, 2010
10-Q-09417	Sandra Hishinuma	\$3,295	September 30, 2009
10-0-09418	Cynthia Irwin	\$3,295	January 30, 2010
10-0-09419	Andrew Wellema	\$2,500	August 30, 2009
10-0-10020	Matthew Faulk	\$1,700	November 30, 2009
10-0-10021	Wendy Noll	\$3,995	November 30, 2009
10-0-10297	Michael Reilly	\$3,795	April 30, 2010

⁹ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

10-0-10410	Charles Tai	\$4,590	October 30, 2009
10-0-10411	Susan Lopez	\$3,295	February 28, 2010 ¹⁰
10-0-10415	Lori Evans	\$2,625	April 30, 2010
10-0-11148	Carol Wun	\$3,295	October 30, 2009
10-0-11195	Carlos Rios	\$3,795	October 30, 2009
10-0-11367	Thomas Thomsen	\$2,800	April 30, 2010
11-0-11261	Blake Temple	\$2,995	June 30, 2009
11-0-12177	Tomeka Manuel	\$3,870	July 30, 2009
11-0-12526	Herminia Catayong	\$3,500	June 30, 2009
11-0-13720	Kristine Wagner	\$3,295	March 30, 2010
11-0-13820	Darrell Jones	\$3,295	November 30, 2010
11-0-16753	Virginia Dellinger	\$2,990	May 27, 2009
12-0-12956	Rama Deodato	\$3,295	October 8, 2009
12-0-13349	Nino and Giselle Castro	\$2,500	January 28, 2010

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
4. Within 30 days after 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. During the probation period, respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, respondent must state in each report whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

¹⁰ The parties' stipulation stated this date as February 30, 2010. Since there is no such date, the court chose the closest date to it, February 28, 2010.

6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
7. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

Multistate Professional Responsibility Examination

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

California Rules of Court, Rule 9.20

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

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business

and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: May 23, 2013



RICHARD A. HONN
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 May 23, 2013, I deposited a true copy of the following document(s):

DECISION

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:

**SAMUEL C. BELLICINI ESQ
FISHKIN & SLATTER, LLP
1575 TREAT BLVD
STE 215
WALNUT CREEK, CA 94598**

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

Monique T. Miller, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 23, 2013.



Paul Barona
Case Administrator
State Bar Court