

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Suzan J. Anderson Supervising Trial Counsel 1149 S. Hill Street Los Angeles, California 90015 (213) 765-1209 Bar # 160559	Case Number(s): 11-O-12505, et al. (Please see Attachment, page 10 for full list of case numbers)	For Court use only PUBLIC MATTER FILED <i>R</i> DEC 12 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
In Pro Per Respondent Benjamin Diego Hellewell P.O. Box 31382 Palm Beach Gardens, Florida 33420 (702) 301-7780 Bar # 263188	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: BENJAMIN DIEGO HELLEWELL Bar # 263188 A Member of the State Bar of California (Respondent)		

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 June 1, 2009.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 16 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)

Actual Suspension



- (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: Costs to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

- (1) ☐ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☐ State Bar Court case # of prior case
 - (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. Please see Attachment, page 13.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Please see Attachment, page 12.
- (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 \$ \$1,750 on July 10, 2010 in restitution to Dace Serafimovs without the threat or force of disciplinary, civil or criminal proceedings. Respondent also paid Kathy Cox \$1,000 on June 22, 2010 without the threat of force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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(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:

Please see Attachment, pages 12 and 13.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of three 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 four 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 two 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:

E. Additional Conditions of Probation:

(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.

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- (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: Respondent lives in Florida and will take six (6) hours of MCLE-approved courses in Ethics.
- (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:

- (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

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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:**

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Attachment language (if any):

Please see Attachment, pages 10 through 15.

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In the Matter of: BENJAMIN DIEGO HELLEWELL, 263188	Case Number(s): 11-O-12505, et al.
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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
Please see Attachment, pages 13-14 for required restitution		

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than one month prior to the end of the probation in this matter.

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";

b. Respondent has kept and maintained the following:

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

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

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

d. Client Trust Accounting School

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BENJAMIN DIEGO HELLEWELL

CASE NUMBER(S): 10-O-05890, 10-O-05898, 10-O-05900, 10-O-05902,
10-O-07297, 10-O-07893, 10-O-08109, 10-O-09492,
10-O-10818, 11-O-10108, 11-O-10659, 11-O-10887,
11-O-10890, 11-O-12505, 11-O-12520, 11-O-12657,
11-O-13270, 11-O-13271, 11-O-14245, 11-O-15195,

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

STATEMENT OF FACTS

1. From July 2009 to May 2010, Respondent was associated with a loan modification company entitled National Financial Rescue Group ("NFRG"). During Respondent's association that company changed its name to American Forensic Loan Auditors ("AFLA"). NFRG and AFLA were owned and operated by non-attorneys.
2. NFRG and AFLA advertised on the internet.
3. Respondent was employed by the following clients to represent them in order to negotiate with their home mortgage lender and obtain a modification of their home mortgage loans:

Case Number	Client	Date Client employed Respondent	Advanced Fees paid by client to Respondent	Client's State of Residence and Location of Property
10-O-05890	Michael & Aneatra Harper	March 2, 2010	2,000	California
10-O-05898	Thomas Olwell	August 10, 2009	1,500	California
10-O-05900	Dace Serafimovs	September 8, 2009	1,750 (refunded July 10, 2010)	New York
10-O-05902	William Hampton	August 28, 2009	3,000	California
10-O-07297	Eric Rayford	November 2, 2009	2,500	Missouri
10-O-07893	Federme Dauphin	December 4, 2009	1,250	Massachutes
10-O-08109	Rick Worth	March 5, 2010	1,000	Nevada
10-O-09492	Raymond Zumfelde	October 22, 2009	2,000	California
10-O-10818	Robert Newton	November 20, 2009	2,500	Florida
11-O-10108	Danh Hung	October 28, 2009	2,500	California
11-O-10659	Torri Coco	February 18, 2010	2,000	Texas

11-O-10887	William Rhinehart	January 29, 2010	2,500	California
11-O-10890	Erika Jackson	October 30, 2009	2,000	Georgia
11-O-12505	Betty & Karl Northcross	December 18, 2009	2,000	Colorado
11-O-12520	Richard Crawford	February 9, 2010	2,200	North Carolina
11-O-12657	Kimberly Lewis	February 9, 2010	2,000	Maryland
11-O-13270	Leah Smestad	February 23, 2010	2,400	Wisconsin
11-O-13271	Jan Baker	February 15, 2010	2,400	Colorado
11-O-14245	Bernadette Rivera	February 9, 2010	2,100	New Mexico
11-O-15195	Robert Caspari	February 13, 2010	2,800	California

4. Each of those clients listed above who resided outside the state of California entered into a contract for legal services with Respondent whereby Respondent agreed to modify their home mortgage loans on properties in the states where they resided. Respondent is not presently, and has never been, licensed to practice law in any state other than California. Respondent knew that the clients and their properties were located in jurisdictions in which he was not entitled to practice law.

5. Respondent failed to obtain loan modifications for the clients listed above in the state of California, and failed to perform any other legal services of any value to the clients listed above in the state of California in connection with negotiating or obtaining home mortgage loan modifications. Thus, Respondent did not earn the advanced fees collected from the clients.

CONCLUSIONS OF LAW

The parties hereby stipulate and Respondent specifically admits that by his conduct described above, Respondent engaged in acts of serious misconduct warranting the discipline described herein as follows:

1. By failing to obtain loan modifications or perform any other legal services of value in the representation of the above-listed clients in California, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to obtain loan modifications for the above-listed clients in California, failing to perform any other legal services of value for those clients in connection with negotiating and obtaining a home mortgage loan modification, Respondent effectively withdrew from representation of his clients, and failed, upon termination of employment to take reasonable steps to avoid reasonably foreseeable prejudice to his clients, hereby improperly withdrawing from representation and abandoning the above-listed clients in California in willful violation of rule 3-700(A)(2) of the Rules of Professional Conduct.

3. By failing to refund promptly any part of the advanced fees paid to Respondent by each of the clients listed above, despite not having earned that fee, Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct.

4. By entering into contracts for legal services with clients in states in which Respondent was not entitled to practice, to obtain modifications of home mortgage loans on properties located in those states, Respondent practiced law in jurisdictions where to do so would be a violation of the regulations of the

profession in those jurisdictions, in willful violation of rule 1-300(B) of the Rules of Professional Conduct.

5. By entering into agreements for, charging, and collecting legal fees for services from the clients listed above in states other than California, where Respondent was not entitled to practice law, Respondent willfully entered into agreements for, charged, and collected illegal fees in willful violation of rule 4-200(A) of the Rules of Professional Conduct.

6. By negotiating, arranging, or offering to perform a mortgage loan modification for an advanced fee paid by those above-listed clients in California after October 11, 2009, prior to performing each and every service he had contracted to perform or represented that he would perform, in violation of subsection (a)(1) of Section 2944.7 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.

FACTORS IN MITIGATION.

Respondent displayed candor and cooperation with the State Bar throughout these proceedings and by entering into this Stipulation.

Respondent made restitution to Dace Serafimovs of the full advanced fee paid by Mr. Serafimovs without the threat or force of disciplinary, civil or criminal proceedings. Respondent also made restitution to Kathy Cox of the full advanced fee paid by Ms. Cox.

If Respondent were to testify he would state:

"I passed the February 2009 California Bar Exam and was sworn in May of 2009. The following month I interviewed for, and was offered a position as in-house counsel for an existing loan modification company called National Financial Rescue Group (NFRG) which was owned and operated by Ryan Zimmerman and Amir Ahmadi, the "Partners." I had previous experience in the mortgage lending industry so I believed I could provide a beneficial service as an attorney for those seeking help with their current home loans. Since NFRG was already in operation, the business structure provided the means to attract, retain and process loan modifications for clients seeking assistance. I accepted the position and began working with NFRG during the last week of June 2009. Almost immediately after beginning, the Partners explained that in order to provide competent service, that clients should be retaining legal services from an attorney, not just a loan mod company. So we began operating under the name "National Financial Rescue Group/The Law Office of B. Diego Hellewell." We were able to procure many successful loan modifications for clients, but unfortunately not every case is a winner. I realized when some clients made complaints to the state bar that my so-called "employers" were not very interested in paying refunds to clients that felt they didn't get what they paid for. I worked diligently to make sure that several of these issues were resolved and refunds were paid. I regret that I was not able to provide loan modifications for these clients, as one of my main reasons for accepting this employment was that I might be able to help those in need.

I parted ways with NFRG/AFLA in June of 2010 due in part to my "employers" being unwilling to resolve matters with disgruntled clients. I have since continued to attempt resolution of each and every unsatisfied client, and have sought refunds from NFRG/AFLA (which retained all of the financial assets of the venture and continued to operate as a loan modification and forensic loan audit service after my parting.) I have tried in every way to cooperate with the state bar, and make restitution to the best of my ability.

I feel I have been made the scapegoat for a company that was not entirely effective in providing loan modification services to all of its clients, yet I do not excuse myself from the responsibility of being the attorney on record. It was my charge to assure that clients received a valuable benefit for their money, and in some cases that charge was not met. I sincerely regret my involvement in this industry at all, but even more so, feel the weight of remorse for offering a service to clients which I was unable to provide. I repent of my wrongdoing, albeit unintentional, and recognize that undertaking an in-house position of such responsibility and magnitude was beyond my skills as a new attorney. It is my sincere intention in the future to restrict myself to areas of practice that are within my expertise."

FACTORS IN AGGRAVATION.

Respondent's clients were seriously harmed by the above described misconduct. Most, if not all, of the clients who hired Respondent to assist them with their home loan modifications did so because they were financially distressed. Thus, the loss of the use of the money they paid to Respondent for services that were not performed, caused significant harm to Respondent's clients.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
11-O-12505	One	Rule 1-300(A) of the Rules of Professional Conduct
11-O-12505	Four	Section 6068(i) of the Business and Professions Code
11-O-12520	Seven	Section 6068(i) of the Business and Professions Code
11-O-12657	Ten	Section 6068(i) of the Business and Professions Code

RESTITUTION

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

PAYEE	PRINCIPAL AMOUNT	INTEREST ACCRUES FROM
Michael & Aneatra Harper	2,000	March 2, 2010
Thomas Olwell	1,500	August 10, 2009
William Hampton	3,000	August 28, 2009
Eric Rayford	2,500	November 2, 2009

Federme Dauphin	1,250	December 4, 2009
Rick Worth	1,000	March 5, 2010
Raymond Zumfelde	2,000	October 22, 2009
Richard Newton	2,500	November 20, 2009
Danh Hung	2,500	October 28, 2009
Torri Coco	2,000	February 18, 2010
William Rhinehart	2,500	January 29, 2010
Erica Jackson	2,000	October 30, 2009
Betty & Karl Northcross	2,000	December 18, 2009
Richard Crawford	2,200	February 9, 2010
Kimberly Lewis	2,000	February 9, 2010
Leah Smestad	2,400	February 23, 2010
Jan Baker	2,400	February 15, 2010
Bernadette Rivera	2,100	February 9, 2010
Robert Caspari	2,800	February 13, 2010

DISCUSSION RE STIPULATED DISCIPLINE.

Standard 1.3 of the *Standards For Attorney Sanctions For Professional Misconduct* provides that the primary purpose of discipline is the protection of the public, the courts and legal profession; maintenance of high professional standards; and the preservation of public confidence in the legal profession.

Standard 2.4 states that reproof or suspension is the appropriate discipline, with due regard to the extent of the misconduct and the degree of harm to the client, for violations of rule 3-110(A) of the Rules of Professional Conduct.

Standard 2.7 states that a violation of rule 4-200 of the Rules of Professional Conduct shall result in at least a six-month actual suspension, irrespective of mitigating circumstances.

The parties submit that the stipulated discipline in this matter complies with the Standards both specifically and with regard to the general purposes and goals of the disciplinary process.

Respondent's misconduct is aggravated by the fact that it harmed his clients and deprived them of funds they could have used for their mortgages for a substantial period of time. However, Respondent cooperated with the FTC and entered into a stipulated judgment with that office.

Given the aggravating and mitigating circumstances present in this case, a two year suspension, along with the probationary conditions set forth herein, is consistent with the Standards.

Finally, the parties submit that given Respondent's recognition of wrongdoing, along with his conduct in attempting to rectify the harm he caused, the stipulated discipline and probationary

conditions in this matter are sufficient to assure that Respondent will conform his future conduct to ethical standards and, therefore, protect the public, courts, and profession. This is consistent with Standard 1.3.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 25, 2011, the estimated prosecution costs in this matter are \$19,849.00. 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.

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In the Matter of: BENJAMIN DIEGO HELLEWELL, 263188	Case number(s): 11-O-12505, et al.
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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.

11/16/11
Date


Respondent's Signature

BENJAMIN DIEGO HELLEWELL
Print Name

~~11~~
Date


Respondent's Counsel Signature

Print Name

11/18/11
Date


Deputy Trial Counsel's Signature

SUZAN J. ANDERSON
Print Name

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In the Matter of: BENJAMIN DIEGO HELLEWELL, 263188	Case Number(s): 11-O-12505, et al.
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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.

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.)

Dec. 12, 2011
Date


Judge of the State Bar Court

LUCY ARMENDARIZ

(Effective January 1, 2011)

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on December 12, 2011, I deposited a true copy of the following document(s):

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

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

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

BENJAMIN D. HELLEWELL
PO BOX 31382
PALM BEACH GARDENS, FL 33420

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

SUZAN J. ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 12, 2011.



Bernadette C.O. Molina
Case Administrator
State Bar Court