(Do not write above this line.)

State Bar Court of California
Hearing Department
San Francisco
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Erica L. M. Dennings Office of the Chief Trial Counsel 180 Howard Street, 7th Fl. San Francisco, CA 94105 (415) 538-2285 Bar # 145755	11-O-16078 11-O-16901 11-O-18206 12-O-11763 12-O-13458	PUBLIC MATTER FILED JUN 14 2012 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Richard Miller 1600 S. Main Street, Suite 230 Walnut Creek, CA 94596 Bar # 63760	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: Eliot Scott Gorson Bar # 99717 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 December 1, 1981.

(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."

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(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: (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. Clients lost money and time while waiting for respondent to take action when they might have been able to obtain modifications or other relief with another attorney.

(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. Despite promises to do so, respondent has not made resititution to any clients.

(7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Respondent committed misconduct in five separate matters.

(8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

(1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

(2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.

(3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.

(5) ☐ **Restitution:** Respondent paid $ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ **Good Faith:** Respondent acted in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent was admitted to the practice of law in California on DEcember 1, 1981 and has no prior record of disicpline.

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 one (1) year.

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.

(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:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☒ 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**

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:**

In the Matter of: ELIOT SCOTT GORSON (#99717)	Case Number(s): 11-O-16078, 11-O-16901, 11-O-18206, 12-O-11763, 12-O-13458

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
Armando Jimenez	$7474	2/23/11
Jim Hamilton	$3600	2/14/11
Luis Coronado	$1800	2/17/11
Maria Berrera	$1500	6/9/11
Alberto Falconi	$2800	2/17/12

☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than three months from the effective date of the discipline.

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 reproval), 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.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ELIOT GORSON (#99717)

CASE NUMBER(S): 11-O-16078, 11-O-16901, 11-O-18206, 12-O-11763, 12-O-13458

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.

Case No. 11-O-16078 (Complainant: Armando Jimenez)

FACTS:

1. On February 23, 2011, Armando and Sandy Jimenez ("the Jimenezes"), hired respondent to obtain a home mortgage loan modification. At that time, the Jimenezes' home was already in foreclosure. The Jimenezes paid $1800 as advanced fees on that date and another $1800 on March 23, 2011.

2. At the time of hire, neither respondent nor any attorney explained the terms of the written fee agreement to the Jimenezes. Instead, the fee agreement was explained by one of respondent's non attorney staff.

3. The Jimenezes also signed an authorization for ACIV-Paralegal and Bankruptcy Petition Services to represent them and to speak on their behalf, in connection with all modification/short sale/Bankruptcy efforts pertaining to the loan on their home.

4. Thereafter, the loan modification was denied. Respondent did not obtain a loan modification or any other relief that was of benefit to the Jimenezes.

5. After the loan modification was denied, a non attorney staff person in respondent's office advised the Jimenezes to file for bankruptcy to forestall the foreclosure proceedings.

6. On May 13, 2011 the Jimenezes paid respondent $3874 to file a chapter 13 bankruptcy petition.

7. Thereafter, respondent failed to file a bankruptcy petition on behalf of the Jimenezes.

8. At some point while respondent represented the Jimenezes, their home was sold.

9. At no time did the Jimenezes meet or talk to respondent. At no time did respondent himself perform any work on the Jimenezes loan modification. Respondent's non-attorney staff did all the "work" on the loan modification case.

10. Respondent failed to perform any services of value on behalf of the Jimenezes and, therefore, did not earn any portion of the advanced fees paid by the Jimenezes.

11. To date, respondent has failed to refund any portion of the $3874 in unearned fees to the Jimenezes for the bankruptcy matter.

12. On July 20, 2011, the Jimenezes sent a letter to respondent requesting that he return their files. Respondent received the request but failed to provide the files.

CONCLUSIONS OF LAW:

1. By failing to obtain a loan modification, failing to file a bankruptcy petition, and failing to perform any services of value on behalf of the Jimenezes, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

2. By offering to perform a home mortgage loan modification for the Jimenezes for a fee and collecting fees from the Jimenezes prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent collected or received such fee prior to fully performing each and every service respondent had contracted to perform or represented that he would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

3. By failing to refund any part of the $3874 paid by the Jimenezes for the bankruptcy matter, respondent failed to refund promptly any part of a fee paid in advance that has not been earned in willful violation of rule 3-700(D)(2).

4. By allowing his non-attorney staff to give legal advice to the Jimenezes, including explaining the terms of the written fee agreement, performing all of the loan modification work with little or no supervision, and advising the Jimenezes to file for bankruptcy, respondent aided a person or entity in the unauthorized practice of law in willful violation of rule 1-300(A).

5. By allowing his non attorney staff to perform all of the loan modification work and give legal advice to clients with little or no supervision, respondent failed to supervise his non attorney staff, thereby recklessly failing to perform legal services in willful violation of rule 3-110(A).

6. By not releasing the client files to the Jimenezes, Respondent failed to release promptly, upon termination of employment, to the client, at the request of the client, all the client papers and property in willful violation of rule 3-700(D)(1).

Case No. 11-O-16901 (Complainant: Hamilton)

FACTS:

1. On February 14, 2011, Jim Hamilton hired respondent to obtain a home mortgage loan modification. At that time, Hamilton's home was already in foreclosure. Hamilton paid $1800 as

2. advanced fees on that date and another $1800 on March 10, 2011. Hamilton provided all the documents requested of him by respondent's office.

3. After providing an authorization to the lender, respondent failed to take any further steps to obtain a loan modification or other relief for Hamilton. In fact, respondent did not communicate with, or provide documents to, the lender as requested. The request for a loan modification was denied.

4. Respondent failed to perform any services of value on behalf of Hamilton.

5. After May 2011, Hamilton requested that respondent return all of the fees he paid. Respondent was aware of the request but failed to return any fees to Hamilton. To date, respondent has failed to refund any portion of the $3600 to Hamilton.

6. During respondent's representation, Hamilton called respondent at least five times to determine the status of his case, leaving messages for respondent to return his calls. Respondent failed to return his calls and Hamilton was not told the status of his case.

CONCLUSIONS OF LAW:

1. By not taking steps to obtain a loan modification and not providing any services of value to Hamilton, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By offering to perform a home mortgage loan modification for Hamilton for a fee collecting fees from Hamilton prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent charged and collected such fee prior to fully performing each and every service respondent had contracted to perform or represented that he would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

3. By not responding to Hamilton's inquiries about his case, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of section 6068(m) of the Business and Professions Code.

Case No. 11-O-18206 (Complainant: Coronado)

FACTS:

1. Prior to February 17, 2012, Carlos Lopez ("Lopez"), a non lawyer, of American Realty Financial telephoned Luis Cornado ("Cornado") on behalf of respondent to solicit his business for a loan modification. Lopez promised Coronado a 100% success rate in obtaining a modification and that the modification would be complete in 120 days. On that date, Coronado signed a fee agreement with the Law Offices of Eliot Gorson and gave Lopez a cashier's check for $1800 made payable to the Law Offices of Eliot Gorson. Coronado paid $1800 before any work was performed. At the time of hire, neither respondent nor any attorney explained the terms of the written fee agreement to Coronado.

2. Thereafter, respondent failed to obtain a loan modification or perform any services of value for Coronado.

3. Respondent failed to perform any services of value on behalf of Coronado. In August 2011 and November 2011 Coronado requested that respondent return the fees he paid. Respondent was aware of the request but failed to return any fees to the Coronado. To date, respondent has failed to refund any portion of the $1800 fee to Coronado.

CONCLUSIONS OF LAW:

1. By failing to obtain a loan modification or provide any services of value to Coronado, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By offering to obtain a loan modification for Coronado for a fee and collecting fees from Coronado prior to fully performing each and every service respondent contracted to perform or represented he would perform, respondent charged and collected such fee prior to fully performing each and every service respondent had contracted to perform or represented that he would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

3. By allowing Lopez to call Coronado on respondent's behalf for the purpose of convincing Coronado to hire respondent for a loan modification, respondent solicited a potential client with whom he had no family or prior professional relationship in willful violation of rule 1-400(C).

Case No. 12-O-11763 (Complainant: Barrera)

FACTS:

1. On June 9, 2011, Maria Barrera employed the law offices of Eliot Gorson to obtain loan modifications for the first and second mortgages on her home. Barrera wrote a check for $1500 payable to the Law Offices of Eliot Gorson. Barrera paid $1500 to respondent prior to any work being done. Barrera signed a fee agreement with the Law Offices of Eliot Gorson. Barrera did not meet with an attorney. Thereafter, one of Barrera's loans was modified, but not the other. Respondent took no steps to perform any work on behalf of Barrera with respect to modifying the second loan.

2. On March 15, 2012 and April 6, 2012, a State Bar investigator wrote to respondent concerning the allegations in Barrera's complaint. The letters requested a written response to the allegations. Respondent received the letters., but did not provide a written response to the allegations in the Barrera matter.

CONCLUSIONS OF LAW:

1. By offering to obtain a loan modification for Barrera for a fee and collecting fees from Barrera prior to fully performing each and every service respondent contracted to perform, respondent charged and collected such fee prior to fully performing each and every service respondent had contracted to perform or represented that he would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

2. By not taking any steps to obtain a loan modification on Barrera's second mortgage, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

3. By not providing a written response to the allegations in the Barrera complaint, respondent failed to cooperate in a State Bar investigation, in willful violation of section 6068(i) of the Business and Professions Code.

Case No. 12-O-13458 (Complainant: Falconi)

FACTS:

1. In February 2012, Alberto Falconi hired respondent to obtain loan modification. Falconi paid $2800. Falconi signed a fee agreement with the Law Offices of Eliot Gorson. Thereafter, respondent performed no services of value on behalf of Falconi.

CONCLUSIONS OF LAW:

1. By offering to obtain a loan modification for Falconi for a fee and collecting fees from Falconi prior to fully performing each and every service respondent contracted to perform, respondent charged and collected such fee prior to fully performing each and every service respondent had contracted to perform or represented that he would perform in violation of section 2944.7(a) of the Civil Code, respondent willfully violated Business and Professions Code section 6106.3.

2. By failing to obtain a loan modification or provide any services of value to Falconi, respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 24, 2012

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.4 (b) multiple offenses involving failure to communicate and perform shall result in reproval or suspension depending upon the extent of the misconduct and degree of harm to the client.

Standard 2.10 requires reproval on suspension for violation of any provision of Business and Professions Code or Rules of Professional Conduct not specified in the standards according to gravity of the offense of harm.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY

The parties waive any variance between the Notice of Disciplinary Charges filed on January 26, 2012 in case numbers 11-O-16078 and 11-O-16901 and April 10, 2012 in case number 11-O-18206 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

RESTRICTIONS WHILE ON ACTUAL SUSPENSION

1. During the period of actual suspension, respondent shall not:
    - Render legal consultation or advice to a client;
    - Appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer
    - Appear as a representative of a client at a deposition or other discovery matter;
    - Negotiate or transact any matter for or on behalf of a client with third parties;
    - Receive, disburse, or otherwise handle a client's funds; or
    - Engage in activities which constitute the practice of law.

2. Respondent shall declare under penalty of perjury that he or she has complied with this provision in any quarterly report required to be filed with the Probation Unit, pertaining to periods in which the respondent was actually suspended from the practice of law.

DISMISSALS

The parties respectfully request that the Court dismiss the following counts with prejudice in the interests of justice:

Case no. 11-O-16078	
Count One (C)	rule 4-200(A)
Count Two (C)	rule 4-200(A)
Count Two (D)	rule 3-700(D)(2)

Case no. 11-O-16901	
Count Three	rule 4-200(A)
Count Four	rule 3-700(D)(2)

Case no. 11-O-18206	
Count Three	rule 4-200(A)
Count Four	rule 3-700(D)(2)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 24, 2012, the prosecution costs in this matter are $12,252. 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 ELIOT SCOTT GORSON (#99717)	Case number(s): 11-O-16078, 11-O-16901, 11-O-18206, 12-O-11763, 12-O-13458

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 Fact, Conclusions of Law and Disposition.

5-29-12 Date	Respondent's Signature	Eliot S. Gorson Print Name
5/29/12 Date	Richard S. Miller Respondent's Counsel Signature	Richard S. Miller Print Name
29 May 2012 Date	Erica L. M. Dennings Deputy Trial Counsel's Signature	Erica L. M. Dennings Print Name

(Do not write above this line.)

In the Matter of: ELIOT SCOTT GORSON (#99717)	Case Number(s): 11-O-16078; 11-O-16901; 11-O-18206; 12-O-11763; & 12-O-13458

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.

1. On page 4 in paragraph (D)(3), insert an "X" in the box next to the heading, "Actual Suspension."
2. On page 4 in subparagraph(3)(a)(ii), delete the words, "in the Financial Conditions form attached to this stipulation" and in their place insert the following: "on page 7 of this stipulation."
3. On page 5, in paragraph E(10), delete the "x" from the box that precedes the words, "The following conditions are attached hereto and incorporated" and also delete the "x" from the box within that same paragraph that precedes the words, "Financial Conditions."
4. On page 7, delete the heading at the top of the page that says, "Financial Conditions."
5. In section "a. Restitution" on page 7, delete the "x" from the box that appears underneath the table that lists the payees to whom restitution must be paid, the amounts of restitution to be paid, and the dates from which interest will accrue and delete the sentence that appears next to that box in its entirety.

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.)**

June 14, 2012
Date

Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 14, 2012, 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:

RICHARD STEVEN MILLER
1600 S MAIN ST #230
WALNUT CREEK, CA 94596

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

ERICA L. M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 14, 2012.

Mazie Yip
Case Administrator
State Bar Court