

ORIGINAL

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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT

<p>Counsel For The State Bar</p> <p>Jessica A. Lienau 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1165</p> <p>Bar # 269753</p>	<p>Case Number(s): Case Nos: 11-O-16385; 11-O-16535; 11-O-17858; 11-O-18017; 11-O-19305; 12-O-10970; 12-O-10650; 12-O-11313; Investigation Nos.: 12-O-12688; 12-O-13057</p>	<p>For Court use only</p> <p>FILED MAY 30 2012 <i>Jic</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Paul J. Virgo 9909 Topanga Blvd. #282 Chatsworth, CA 91311 (310) 666-9701</p> <p>Bar # 67900</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: NICHOLAS O. HEDDING</p> <p>Bar # 227160</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 2, 2003.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (20) 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)



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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):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case 10-O-05022 et al
 - (b) Date prior discipline effective Pending with the Supreme Court
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules 1-300(B), 3-110(A), 3-700(D)(1), 3-700(D)(2), 4-100(A), 4-100(B)(3), 4-200(A), Rules of Professional Conduct and Sections 6090.5(a)(2), 6103, 6106.3, Business and Professions Code
 - (d) Degree of prior discipline two (2) years suspension, stayed, on the conditions of 18 months actual suspension, three (3) years probation, probationary conditions and restitution conditions
 - (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. In four matters, Respondent allowed employees to misappropriate client funds and Respondent has been unable to account for these funds.

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- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Respondent's inability to account for the misappropriated funds is a serious aggravating circumstance.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent cooperated with the State Bar and other law enforcement agencies during the investigation of these matters, including entering into this stipulation.
- (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.

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- (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:

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to AAA Insurance Company in the amount of \$ 5,995.00 plus 10 percent interest per year from September 28, 2010. If the Client Security Fund has reimbursed AAA Insurance Company for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than N/A days from the effective date of the Supreme Court order in this case.
- (3) **Other:** Restitution Conditions: Respondent must make restitution to Loma Linda University Medical Center in the amount of \$17,000.00 plus 10 percent interest per year from November 11, 2010. If the Client Security Fund has reimbursed Loma Linda University Medical Center for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Kerry Lawson in the amount of \$2,500.00 plus 10 percent interest per year from May 27, 2011. If the Client Security Fund has reimbursed Kerry Lawson for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Terry Stanton in the amount of \$4,485.00 plus 10 percent interest per year from December 1, 2010. If the Client Security Fund has reimbursed Terry Stanton for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Adam Neider and Allison Theony in the amount of \$2,495.00 plus 10 percent interest per year from January 5, 2010. If the Client Security Fund has reimbursed Adam Neider and Allison Theony for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Carlos Godinez in the amount of \$14,075.00 plus 10 percent interest per year from December 13, 2010. If the Client Security Fund has reimbursed ACarlos Godinez for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Sandra Nunez in the amount of \$49,841.15 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Sandra Nunez for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
Respondent must make restitution to Gabriel V. Rubaneko, M.D. in the amount of \$8,410.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Gabriel V. Rubaneko, M.D. 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.

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- Respondent must make restitution to Ivar E. Roth, D.P.M., M.P.H. in the amount of \$13,170.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Ivar E. Roth, D.P.M., M.P.H. for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Dorner Physical Therapy in the amount of \$1,960.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Dorner Physical Therapy for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to United Medical Imaging Healthcare, Inc. in the amount of \$7,200.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed United Medical Imaging Healthcare, Inc. for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Dr. John J. Caamano in the amount of \$1,888.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Dr. John J. Caamano for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Start Physical Therapy in the amount of \$23,491.00 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Start Physical Therapy for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Psychological Assessment Services in the amount of \$3,631.60 plus 10 percent interest per year from December 6, 2010. If the Client Security Fund has reimbursed Psychological Assessment Services for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Jose and Eva Villalpando in the amount of \$3,000.00 plus 10 percent interest per year from August 20, 2010. If the Client Security Fund has reimbursed Jose and Eva Villalpando for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Thomas Gust in the amount of \$3,420.00 plus 10 percent interest per year from January 9, 2010. If the Client Security Fund has reimbursed Thomas Gust for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.
- Respondent must make restitution to Katharyn Grill in the amount of \$250.00 plus 10 percent interest per year from August 23, 2011. If the Client Security Fund has reimbursed Katharyn Grill 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.

6. Between July 8, 2010 and September, 2010, Respondent allowed an ALF employee, on behalf of the Olivas, to settle the Olivas' claims with Auto Club, Taylor's insurer.

7. On September 22, 2010, the Olivas each signed a "Release in Full Settlement and Compromise" provided by Auto Club, which included a provision that any settlement would settle all claims for injuries. On September 22, 2010, an ALF employee sent the signed releases to Auto Club.

8. On September 22, 2010, Auto Club issued check number 1680912 to ALF and Micaela Olivas in the amount of \$5,500.00. On September 22, 2010, Auto Club issued check number 1680913 to ALF and Alfredo Olivas in the amount of \$6,000.00. Respondent received both checks. Respondent allowed an ALF employee to endorse the checks with his signature. Neither check was deposited into a client trust account.

9. On November 18, 2010, Auto Club wrote to Respondent requesting information as to whether Respondent, on the Olivas' behalf, had settled the Olivas' personal injury claims. In the letter, Auto Club asked Respondent to immediately remit payment of the \$5,995.00 that Auto Club had paid to Mendyk Chiropractic as payment for the Olivas' services. Respondent received this letter. Respondent did not contact Auto Club about this matter.

10. On February 18, 2011, Auto Club wrote to Respondent stating that Auto Club was aware that the Olivas' personal injury claims had been settled and requesting payment of the \$5,995.00 that Auto Club had paid to Mendyk Chiropractic as payment for the Olivas' services. Respondent received this letter. Respondent did not contact Auto Club about this matter.

11. On June 22, 2011, Micaela Olivas was presented with a settlement breakdown from an ALF employee of the settlement funds, which indicated that \$5,500.00 was the total amount of the settlement, and that of the \$5,500.00, \$1,815.00 would be retained by ALF and Respondent as attorneys fees, that she would receive \$1,900.00, and that Mendyk Chiropractic would receive \$1,785.00 of the \$2,890.00 owed for her chiropractic bill. Micaela Olivas signed the settlement breakdown on June 22, 2011.

12. On June 22, 2011, Alfredo Olivas was presented with a settlement breakdown from an ALF employee of the settlement funds, which indicated that \$6,000.00 was the total amount of the settlement, and that of the \$6,000.00, \$2,000.00 would be retained by ALF and Respondent as attorneys fees, that he would receive \$2,000.00, and that Mendyk Chiropractic would receive \$2,000.00 of the \$3,065.00 owed for his chiropractic bill. Alfredo Olivas signed the settlement breakdown on June 22, 2011.

13. On June 22, 2011, an ALF employee gave the Olivas two checks from ALF's general business account, both dated July 7, 2011. Check number 5002 was made out to Micaela Olivas in the amount of \$1,900.00. Check number 5001 was made out to Alfredo Olivas in the amount of \$2,000.00.

14. On June 22, 2011, the Olivas attempted to negotiate Check Numbers 5001 and 5002. On June 23, 2011, the Olivas' financial institution, Chase Bank, notified the Olivas that the checks were postdated to July 7, 2011, and that the Olivas would need to represent the checks on or after July 7, 2011.

15. On July 11, 2011, the Olivas attempted to negotiate Check Numbers 5001 and 5002 a second time. On July 20, 2011, both checks were returned to Chase Bank as having insufficient funds.

16. On August 9, 2011, Auto Club wrote to Respondent stating that Auto Club was aware that the Olivas' personal injury claims had been settled and requesting payment of the \$5,995.00 that Auto Club had paid to Mendyk Chiropractic as payment for the Olivas' services. Respondent received this letter. Respondent did not contact Auto Club about this matter.

17. Between September 28, 2010 and January 9, 2012, Respondent allowed ALF employees to dishonestly misappropriate \$11,500.00 of the Olivas' settlement funds for their own use.

18. On January 9, 2012, Respondent paid restitution to the Olivas in the form of two cashier's checks in the amounts of \$1,900.00 and \$2,000.00.

19. Since September 28, 2010, Respondent has not paid to Auto Club any of the of the Olivas' settlement funds that were disbursed to Respondent and ALF.

CONCLUSIONS OF LAW:

20. By not depositing the \$11,500.00 received on behalf of the Olivas in his Client Trust Account, Respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

21. By allowing ALF employees to misappropriate \$11,500.00 of the Olivas' funds, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Case No. 11-O-16535 (Complainant: Kenneth B. Stream, Esq.)

FACTS:

22. At all times relevant herein, Respondent owned and operated American Law Firm ("ALF").

23. On July 21, 2009, Dolores Areas ("Areas") was a passenger in one of the vehicles involved in a multi-car crash where the drivers of all three vehicles were found to be partially at fault. On July 21, 2009, Areas was transported from the scene of the collision to Loma Linda University Medical Center ("Loma Linda") for treatment of injuries.

24. Loma Linda provided emergent and ongoing treatment to Areas following the July 21, 2009 accident.

25. After Areas' discharge from Loma Linda in July 2009, Areas hired Respondent on a contingency fee basis to represent her in her personal injury claims against the drivers of the vehicles. Areas did not meet with Respondent personally but at all times met with and spoke to ALF staff.

26. Loma Linda hired the law firm of Gresham, Savage, Nolan & Tilden ("Gresham") to represent its interest in Areas' third party claims. On December 7, 2009, Gresham, on behalf of Loma Linda, asserted a hospital lien in the amount of \$43,800.43 for unpaid services rendered to Areas.

27. On May 12, 2010, Gresham wrote to the insurance companies of the drivers in the July 21, 2009 accident ("the drivers"), reminding the respective insurance companies that Loma Linda held a lien in the amount of \$43,800.43 for unpaid services rendered to Areas and requesting an update on the

status of any settlement. Respondent was sent a copy of these letters on May 12, 2010. Respondent received these letters.

28. On June 21, 2010, Gresham wrote to the insurance companies of the drivers, reminding them that Loma Linda holds a lien in the amount of \$43,800.43 for unpaid services rendered to Areas and requesting an update on the status of any settlement. Respondent was sent a copy of these letters on June 21, 2010. Respondent received these letters.

29. On October 19 and 20, 2010, Gresham wrote to the insurance companies of the drivers, reminding them that Loma Linda holds a lien in the amount of \$43,800.43 for unpaid services rendered to Areas and requesting an update on the status of any settlement. Respondent was sent a copy of these letters on October 19 and 20, 2010. Respondent received these letters.

30. On November 1, 2010, Respondent wrote to Infinity Insurance Company ("Infinity"), an insurance company of one of the driver's, and stated, *inter alia*, that Areas would accept Infinity's settlement offer of \$13,000.00 and that Respondent and ALF would not hold Infinity liable for any liens. Respondent's signature was affixed to this letter with a rubber stamp by an ALF employee. Infinity received this letter.

31. On November 11, 2010, USAA Casualty Insurance Company, an insurance company of one of the driver's involved in the July 21, 2009 accident, issued to "American Law Firm & Dolores Areas & Loma Linda University Medical Ctr" a settlement check in the amount of \$5,000.00. The check's memo states that it is "Full and Final Injury Settlement Including All Liens Known and Unknown for Loss of 7/20/09." Respondent received this check. An ALF employee stamped Respondent's endorsement on the check and Areas endorsed the check. An ALF employee deposited the endorsed check without notifying Loma Linda of receipt of the check and without obtaining an endorsement from Loma Linda. Respondent did not deposit the check in his Client Trust Account.

32. On December 14, 2010, Gresham sent Respondent, via certified mail, a letter informing him of Loma Linda's hospital lien in the amount of \$43,800.43. Respondent received this letter on December 15, 2010.

33. On July 6, 2011, Infinity issued to "Hedding Law Group, LLUMC c/o Gresham Savage Trust Account and Dolores Areas" a settlement check in the amount of \$15,000.00. Infinity stated in correspondence with Respondent that \$3,000.00 of the \$15,000.00 check was settlement funds for another passenger in the same accident as Areas who was also represented by Respondent. Respondent received this check. An ALF employee stamped Respondent's endorsement on the check and Areas endorsed the check. An ALF employee deposited the endorsed check without notifying Loma Linda of receipt of the check and without obtaining an endorsement from Loma Linda. Respondent did not place the check in his Client Trust Account.

34. Sometime after July 6, 2011, an ALF employee paid to Areas approximately \$10,000.00 in settlement funds from an ALF general business account.

35. At no time after receiving settlement funds did Respondent make payments to Loma Linda.

36. Respondent allowed ALF employees to dishonestly misappropriate \$17,000.00 (\$5,000 check dated November 11, 2010 and \$13,000 of the \$15,000 check dated July 6, 2011) of Areas' settlement funds for their own use.

CONCLUSIONS OF LAW:

37. By not depositing the \$17,000.00 received on behalf of Areas in his Client Trust Account, Respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

38. By allowing ALF employees to misappropriate \$17,000.00 of Areas' funds from Loma Linda, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Case No. 11-O-17858 (Complainant: Steven Lawson)

FACTS:

39. The laws of the State of Washington, including the Washington Rules of Professional Conduct, prohibit attorneys not licensed in Washington from practicing law in Washington subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Washington and Respondent was not otherwise entitled to practice law in the State of Washington.

40. At all times herein relevant, Steven Lawson ("Lawson") resided in Washington. On May 27, 2011, Respondent accepted the representation of Lawson, in order to negotiate and obtain for Lawson a home mortgage loan modification for his Washington property.

41. On May 27, 2011, Respondent charged and collected \$1,250.00 in advance attorney fees from Lawson. On June 29, 2011, Respondent charged and collected \$625.00 in advance attorney fees from Lawson. On July 12, 2011, Respondent charged and collected \$300.00 in advance attorney fees from Lawson. On August 1, 2011, Respondent charged and collected \$325.00 in advance attorney fees from Lawson. Respondent collected fees for home loan mortgage modification services before fully performing each and every service he had contracted to perform or represented that he would perform.

42. Between June, 2011 and September 2011, Respondent and agents acting on behalf of Respondent negotiated with Lawson's primary Washington residence home loan mortgage lender, IndyMac Mortgage Services, regarding the modification of Lawson's home loan mortgage.

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

CONCLUSIONS OF LAW:

44. By accepting representation of Lawson as a client, collecting an advanced attorney fee and negotiating with Lawson's lender when he was not entitled to practice law in Washington, Respondent wilfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Washington in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

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

Case No. 11-O-18017 (Complainant: Terry Stanton)

FACTS:

47. On November 22, 2010, Respondent accepted the representation of Terry Stanton ("Stanton"), in order to negotiate and obtain for Stanton a home mortgage loan modification for his California property.

48. On December 1, 2010, Respondent charged and collected \$1,495.00 in advance attorney fees from Stanton. On January 25, 2011, Respondent charged and collected \$2,990.00 in advance attorney fees from Stanton. Respondent collected fees for home loan mortgage modification services before fully performing each and every service he had contracted to perform or represented that he would perform.

CONCLUSIONS OF LAW:

49. By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Stanton, and demanding, charging, collecting and receiving \$4,485.00 from Stanton prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Case No. 11-O-19305 (Complainant: Adam Neider and Allison Theony)

FACTS:

50. The laws of the State of Idaho, including the Idaho Rules of Professional Conduct, prohibit attorneys not licensed in Idaho from practicing law in Idaho subject to several limited exceptions. Respondent is not presently, and never has been, admitted to practice law in the state of Idaho and Respondent was not otherwise entitled to practice law in the State of Idaho.

51. At all times herein relevant, Adam Neider ("Neider") and Allison Theony ("Theony") resided in Idaho. On December 21, 2009, Respondent accepted the representation of Neider and Theony, in order to negotiate and obtain for Neider and Theony a home mortgage loan modification for their Idaho property.

52. On January 5, 2010, Respondent charged and collected \$1,247.50 in advance attorney fees from Neider and Theony. On January 26, 2010, Respondent charged and collected \$1,247.50 in advance attorney fees from Neider and Theony. Respondent collected fees for home loan mortgage modification services before fully performing each and every service he had contracted to perform or represented that he would perform.

53. Between January 2010 and February 2010, Respondent and agents acting on behalf of Respondent negotiated with Neider's and Theory's primary Idaho residence home loan mortgage lender, Select Portfolio Servicing, regarding the modification of Neider's and Theory's home loan mortgage.

54. At no point did Respondent associate with an attorney licensed to practice in Idaho on Neider's and Theory's home loan mortgage modification matter.

CONCLUSIONS OF LAW:

55. By accepting representation of Neider and Theory as clients, collecting an advanced attorney fee and negotiating with Neider's and Theory's lender when he was not entitled to practice law in Idaho, Respondent wilfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Idaho in wilful violation of rule 1-300(B), Rules of Professional Conduct.

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

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

Case No. 12-O-10650 (Complainant: Carlos Godinez)

FACTS:

58. At all times relevant herein, Respondent owned and operated American Law Firm ("ALF").

59. On March 4, 2010, Carlos Godinez ("Godinez") hired Respondent, on a contingency fee basis, to represent him in a personal injury action arising from an automobile accident he was involved in on February 25, 2010 with Bonnie Dang ("Dang"). Godinez did not meet with Respondent personally but at all times met with and spoke to ALF staff. Dang was insured by State Farm Mutual Automobile Insurance Company ("State Farm").

60. On December 8, 2010, State Farm sent Respondent a settlement offer and Release form of \$14,075.00, which included a provision that any settlement would settle all of Godinez's claims for injuries. Respondent received this settlement offer.

61. At no time did Respondent or any ALF staff member inform Godinez of the December 8, 2010 settlement offer from State Farm.

62. On December 9, 2010, Respondent allowed his signature to be affixed to the Release by an ALF employee. On December 9, 2010, Respondent allowed an ALF employee to sign Godinez's name to the Release without Godinez's knowledge, authorization and consent. Respondent allowed an ALF employee to send the executed Release to State Farm.

63. On December 13, 2010, State Farm issued a check in the amount of \$14,075.00 to "American Law Firm, Nicholas O. Hedding & Carlos Godinez." Respondent received this check. Respondent allowed an ALF employee to endorse the check. Godinez did not endorse the check and his signature does not appear on the negotiated check. Godinez was not notified of the issuance of the check by State Farm or of Respondent's receipt of the check. The check was not deposited into a client trust account.

64. At no time did Respondent disburse any settlements funds received from State Farm to Godinez or persons on behalf of Godinez.

65. Respondent allowed ALF employees to dishonestly misappropriate \$14,075.00 of Godinez's settlement funds for their own use.

CONCLUSIONS OF LAW:

66. By failing to communicate to Godinez the settlement offer received from State Farm, Respondent failed to keep a client informed of a significant development in willful violation of Business and Professions Code, section 6068(m).

67. By allowing an ALF employee to sign Godinez's name to the Release form without Godinez's knowledge, authorization and consent, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

68. By not depositing the \$14,075.00 received on behalf of Godinez in his Client Trust Account, Respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

69. By allowing ALF employees to misappropriate \$14,075.00 of Godinez's funds, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Case No. 12-O-10970 (Complainant: Sandra Nunez)

FACTS:

70. At all times relevant herein, Respondent owned and operated American Law Firm ("ALF").

71. On January 10, 2010, Sandra Nunez ("Nunez") hired Respondent, on a contingency fee basis, to represent her in a personal injury action arising from an accident she was involved in on December 2, 2009, resulting from work performed on Nunez's store by Rene Bautista ("Bautista"). Nunez did not meet with Respondent personally but at all times met with and spoke to ALF staff. Bautista was insured by State Farm General Insurance Company ("State Farm").

72. On August 8, 2011, State Farm sent Respondent a settlement offer of \$115,000.00 and a Release form, which included a provision that any settlement would settle all of Nunez's claims for injuries. Respondent received this settlement offer.

73. At no time did Respondent or any ALF staff member inform Nunez of the August 8, 2011 settlement offer from State Farm.

74. On August 8, 2011, Respondent allowed an ALF employee to sign Respondent's name to the Release. On August 8, 2011, Respondent allowed an ALF employee to sign Nunez's name to the Release without her knowledge, authorization and consent. Respondent allowed an ALF employee to send the executed Release to State Farm.

75. On December 6, 2010, State Farm issued a medical payment in the form of a check in the amount of \$5,000.00 to "Sandra Nunez and Nicholas O. Hedding, Her Attorney." Respondent received this check. Respondent allowed an ALF employee to endorse his signature on the check. Nunez did not endorse the check and her signature does not appear on the negotiated check. Nunez was not notified of the issuance of the check by State Farm or of the receipt of the check by Respondent. The check was not deposited into a client trust account.

76. On December 13, 2010, State Farm issued a check in the amount of \$115,000.00 to "Sandra Nunez and Hedding Law Group, Her Attorney." Respondent received this check. Respondent allowed an ALF employee to endorse his signature on the check. Respondent allowed an ALF employee to sign Nunez's name to the Release without Nunez's knowledge, authorization and consent. Nunez was not notified of the issuance of the check by State Farm or of the receipt of the check by ALF. The check was not deposited into a client trust account.

77. Between October 6, 2010, and November 2011, Nunez received \$10,408.25 in settlement funds from an employee of ALF. An ALF employee told Nunez that these payments were advances against her eventual settlement. Nunez was not aware of the settlement with State Farm until January 2012.

78. Respondent allowed ALF employees to dishonestly misappropriate \$109,591.75 (\$115,000 of settlement funds minus the \$10,408.25 paid to Nunez) of Nunez's settlement funds for their own use.

CONCLUSIONS OF LAW:

79. By failing to communicate to Nunez the settlement offer received from State Farm, Respondent failed to keep a client informed of a significant development in willful violation of Business and Professions Code, section 6068(m).

80. By allowing an ALF employee to sign Nunez's name to the Release form and to a settlement check without Nunez's knowledge, authorization and consent, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

81. By not depositing the \$120,000.00 received on behalf of Nunez in his Client Trust Account, Respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

82. By allowing ALF employees to misappropriate \$109,591.75 of Nunez's settlement funds, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Case No. 12-O-11313 (Complainant: Jose and Eva Villalpando)

FACTS:

83. On July 28, 2010, Respondent accepted the representation of Jose and Eva Villalpando (collectively "the Villalpondos"), in order to negotiate and obtain for the Villalpondos a home mortgage loan modification for their California property.

84. On August 20, 2010, Respondent charged and collected \$1,750.00 in advance attorney fees from the Villalpondos. On September 24, 2010, Respondent charged and collected \$1,250.00 in advance attorney fees from the Villalpondos. Respondent collected fees for home loan mortgage modification services before fully performing each and every service he had contracted to perform or represented that he would perform.

CONCLUSIONS OF LAW:

85. By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by the Villalpondos, and demanding, charging, collecting and receiving \$3,000.00 from the Villalpondos prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Investigation No. 12-O-12688 (Complainant: Thomas Gust)

FACTS:

86. On January 8, 2010, Respondent accepted the representation of Thomas Gust ("Gust"), in order to negotiate and obtain for Gust a home mortgage loan modification for his Oklahoma property.

87. On January 9, 2010, Respondent charged and collected \$2,995.00 in advance attorney fees from Gust. On April 14, 2010, Respondent charged and collected \$425.00 in advance attorney fees from Gust. Respondent collected fees for home loan mortgage modification services before fully performing each and every service he had contracted to perform or represented that he would perform.

CONCLUSIONS OF LAW:

88. By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by Gust, and demanding, charging, collecting and receiving \$3,420.00 from Gust prior to fully performing each and every service he had contracted to perform or represented that he would perform, in violation Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

Investigation No. 12-O-13057 (Complainant: Katharyn Grill)

FACTS:

89. On August 22, 2011, Respondent accepted the representation of Katharyn Grill ("Grill"), to make an appearance on her behalf on August 25, 2011 at an Order to Show Cause Hearing ("OSC Hearing"), in Los Angeles Superior Court Case No. BC459297.

90. On August 23, 2011, Respondent charged and collected \$250.00 in advance attorney fees from Grill.

91. On August 25, 2011, the Court in Los Angeles Superior Court Case No. BC459297 held the OSC Hearing. Respondent did not attend the OSC Hearing on August 25, 2011, on Grill's behalf.

92. Respondent earned no portion of the \$250.00 in advance fees that was paid to him by Grill. At no time has Respondent refunded any portion of the \$250.00 in advance fees to Grill.

CONCLUSIONS OF LAW:

93. By failing to refund unearned attorneys fees to Grill, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in wilful violation of Rules of Professional Conduct, rule 3-700(D)(2).

PENDING PROCEEDINGS.

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

AUTHORITIES SUPPORTING DISCIPLINE.

Standards.

The Standards for Attorney Sanctions for Professional Misconduct support disbarment in this matter.

Standard 1.3 provides guidance as to the imposition of discipline and interpretation of specific Standards. That Standard states that the primary purpose of discipline is the protection of the public, the courts and the legal profession.

Standard 1.6 states that where different sanctions are prescribed by the Standards in one proceeding, the most severe sanction controls. Here, the Standards call for sanctions varying from suspension to disbarment. Pursuant to Standard 1.6, disbarment is the appropriate sanction.

Standard 1.7(a) states:

If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Respondent has one prior imposition of discipline, which became effective in 2012, consisting of 18 months actual suspension and two years stayed suspension, so discipline greater than 18 months actual suspension is the presumptive discipline in this matter. Respondent's prior imposition of

discipline is not remote in time. Rather it became effective this year. The offenses for which Respondent was previously disciplined were not minimal in severity.

Standard 2.2(a) states that disbarment is the appropriate discipline for cases involving a misappropriation of client funds unless the amount of funds is insignificantly small or the most compelling mitigating circumstances clearly predominate. Here, the amount of misappropriated client funds totals more than \$135,000.00. Standard 2.2(b) stated that a commingling violation shall result in a minimum three month actual suspension. Here, Respondent is culpable of two commingling violations.

Standard 2.3 holds that an act of moral turpitude warrants discipline ranging from actual suspension to disbarment, depending on the extent to which the victim of the misconduct is harmed or misled and depending on the magnitude of the misconduct and the degree to which it relates to the attorney's acts within the practice of law.

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

Considering the facts and circumstances surrounding Respondent's misconduct, and both the aggravating and mitigating circumstances that are present, the parties submit that the intent and goals of the Standards for Professional Conduct are met in this matter by disbarring the Respondent.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 2, 2012, the prosecution costs in this matter are \$11,297.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): Case Nos: 11-O-16385; 11-O-16535; 11-O-17858; 11-O-18017; 11-O-19305; 12-O-10970; 12-O-10650; 12-O-11313; Investigation Nos.: 12-O-12688; 12-O-13057
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Nolo Contendere Plea Stipulations to Facts, Conclusions of Law, and Disposition

The terms of pleading nolo contendere are set forth in the Business and Professions Code and the Rules of Procedures of the State Bar. The applicable provisions are set forth below:

Business and Professions Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere will be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court will find the member culpable. The legal effect of such a plea will be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

Rules of Procedure of the State Bar, rule 5.56. Stipulations to Facts, Conclusions of Law, and Disposition

“(A) **Contents.** A proposed stipulation to facts, conclusions of law, and disposition must comprise:

[] . . . []

(5) a statement that the member either:

- (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
- (b) pleads nolo contendere to those facts and misconduct;

[] . . . []

(B) **Plea of Nolo Contendere.** If the member pleads nolo contendere, the stipulation must also show that the member understands that the plea is treated as an admission of the stipulated facts and an admission of culpability.”

I, the Respondent in this matter, have read the applicable provisions of Business and Professions Code section 6085.5 and rule 5.56 of the Rules of Procedure of the State Bar. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea will be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).


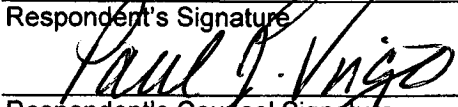
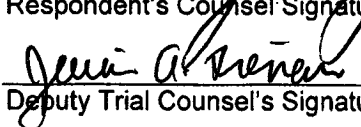
5/10/12 _____
Date Respondent's Signature Nicholas O. Hedding
Print Name

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case number(s): Case Nos: 11-O-16385; 11-O-16535; 11-O-17858; 11-O-18017; 11-O-19305; 12-O-10970; 12-O-10650; 12-O-11313; Investigation Nos.: 12-O-12688; 12-O-13057
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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.

<u>5/10/12</u> Date	 Respondent's Signature	<u>Nicholas O. Hedding</u> Print Name
<u>5/11/2012</u> Date	 Respondent's Counsel Signature	<u>Paul J. Virgo</u> Print Name
<u>5/11/2012</u> Date	 Deputy Trial Counsel's Signature	<u>Jessica A. Lienau</u> Print Name

(Do not write above this line.)

In the Matter of: NICHOLAS O. HEDDING	Case Number(s): Case Nos: 11-O-16385; 11-O-16535; 11-O-17858; 11-O-18017; 11-O-19305; 12-O-10970; 12-O- 10650; 12-O-11313; Investigation Nos.: 12-O- 12688; 12-O-13057
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DISBARMENT ORDER

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

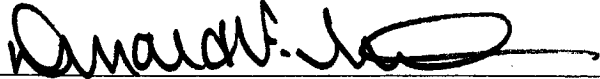
- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

On page 10 of the stipulation, in paragraph number 36, in the second line, the amount "\$13,000" is changed to "\$12,000."

The court is informed by the parties that Kerry Lawson is the payee of the restitution ordered in Case No. 11-O-17858 because of the death of Respondent's client, Steven Lawson.

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

Respondent Nicholas O. Hedding is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date 5/24/12 
DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 30, 2012, I deposited a true copy of the following document(s):

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

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

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

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

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

JESSICA LIENAU, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 30, 2012.



Tammy Cleaver
Case Administrator
State Bar Court