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<b>State Bar Court of California</b> Hearing Department Los Angeles ALTERNATIVE DISCIPLINE PROGRAM			PUBLIC MATTER
Counsel For The State Bar  Katherine Kinsey Deputy Trial Counsel State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 213-765-1503  Bar # 183740	Case Number (s) 11-O-17380-RAH 11-O-17438	(for Court's use)  <div style="text-align: center; font-size: 24pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-weight: bold;">MAR 19 2013</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>	
Counsel For Respondent  Paul J. Virgo Century Law Group 5200 W. Centuray Blvd. Suite #345 Los Angeles, CA 90045 310-642-6900  Bar # 67900	Submitted to: <b>Program Judge</b>  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>		
In the Matter Of: Christopher Charles Barsness  Bar # 222861  A Member of the State Bar of California (Respondent)	<input type="checkbox"/> PREVIOUS STIPULATION REJECTED		

**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 4, 2002.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 10 pages, excluding the order.

*cb*



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**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. See attached page 8
- (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. See attached page 8
- (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:**

See attached pages 8 and 9

ve this line.)

atter of: Christopher Charles Barsness	Case Number(s): 11-O-17380; 11-O-17438
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## Financial Conditions

### a. Restitution

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

Payee	Principal Amount	Interest Accrues From
Wendell Baker	\$2,600	July 28, 2011

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

### b. Installment Restitution Payments

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

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

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

### c. Client Funds Certificate

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

CP

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: Christopher Charles Barsness

CASE NUMBER(S): 11-O-17380; 11-O-17438

**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-17380 (Complainant: Wendell Baker)

**FACTS:**

1. On November 16, 2010, Wendell Baker ("Baker") filed a Chapter 13 bankruptcy petition in pro-per (the "bankruptcy matter").
2. On November 29, 2010, Baker employed Respondent to represent him in the bankruptcy matter and paid \$1000 in cash to Respondent as advanced attorney's fees.
3. On November 30, 2010, Respondent filed a substitution of attorney, a motion to extend motion to extend the deadline for filing schedules, statement of related cases, debtor's certification of employment income, notice of available chapters, Schedule A, Schedule D, Schedule E, Schedule F, Schedule G, Schedule H, amended creditor matrix, and verification of the amended matrix, for which Respondent paid the \$26 filing fee in the bankruptcy matter.
4. On December 7, 2010, Respondent filed Baker's Schedule B, Schedule C, Schedule I, Schedule J, Statement of Financial Affairs, Notice of 341 hearing, Chapter 13 repayment plan, and Statement of Current Monthly Disposable Income in the bankruptcy matter.
5. On December 29, 2011, Respondent appeared at the December 29, 2011 creditor's meeting and learned that the meeting had been rescheduled to February 9, 2011.
6. On January 18, 2011, Elizabeth Rojas, Chapter 13 Standing Trustee, served notice that the Chapter 13 confirmation hearing was rescheduled to March 8, 2011. Respondent received notice of the March 8, 2011 confirmation hearing.
7. On March 8, 2011, the Bankruptcy Court ("Court") held the Chapter 13 confirmation hearing, but Respondent did not appear. On March 8, 2011, the Court dismissed the bankruptcy matter. On April 13, 2011, the Court issued an order and notice dismissing the bankruptcy matter. Respondent received the order. Respondent knew about the dismissal but did not advise Baker and did not file a motion to vacate the dismissal.

8. On March 9, 2011, Respondent emailed Baker stating that he had a medical emergency in his family but did not inform Baker that the bankruptcy had been dismissed.

9. On March 22, 2011, Respondent emailed Baker informing him that his bankruptcy plan would not be confirmed but did not inform Respondent that his bankruptcy matter had already been dismissed.

10. On March 22, 2011, Baker received a check from the trustee, which caused him to become concerned about his bankruptcy matter. During the first week of April 2011, Baker contacted the trustee and learned for the first time that Respondent failed to appear for the March 8, 2011 hearing and that his bankruptcy matter had been dismissed. On April 15, 2011, Baker filed a motion to vacate the dismissal.

11. On April 27, 2011, the Bankruptcy Court issued an order vacating the dismissal and ordering the section 341(a) meeting and the confirmation hearing rescheduled. Respondent received the court's order.

12. On May 5, 2011, the Court issued an order to show cause ("OSC") why sanctions should not be imposed on Respondent for failure to appear at the March 8, 2011 confirmation hearing. The Court ordered that Respondent file responses and objections in writing on or before June 1, 2011. The Court served Respondent with electronic notice. The Court set a hearing for June 14, 2011, on the OSC. Respondent received notice of the OSC. On May 21, 2011, Respondent filed an opposition to the OSC regarding sanctions.

13. On June 9, 2011, Baker filed a substitution of attorney, substituting Respondent out as attorney in the bankruptcy matter.

14. On June 10, 2011, Baker filed a response to Respondent's opposition to the OSC.

15. On June 13, 2011, the Court issued a tentative ruling on the OSC stating the OSC would be vacated and no appearances were necessary at the OSC scheduled for June 14, 2011. On June 14, 2011, Baker appeared at the OSC, but Respondent did not appear. On June 15, 2011, the Court issued a notice continuing the June 14, 2011 OSC to July 12, 2011. The Court served Respondent with electronic notice.

16. On June 30, 2011, Baker filed a motion requesting disgorgement of the fees and for compensation.

17. On July 12, 2011, the continued hearing on the OSC regarding sanctions proceeded. Respondent did not appear.

18. On July 28, 2011, the Court ordered that Respondent disgorge the \$1,000 fees Baker paid to Respondent. Further, the court sanctioned Respondent in the amount of \$2,000 for his failure to appear at the OSC. The Court ordered that Respondent pay the \$3,000 by August 5, 2011. Respondent did not update his address with the court and the court served Respondent with the order by mail. By September 2011, Respondent had received the order but did not make any payments to Baker until March 2012.

19. On August 31, 2011, the Court filed and entered another OSC as to why the Chapter 13 trustee should not disburse \$3,000 to Baker from Respondent's attorney disbursements in other Chapter

13 cases. The Court ordered Respondent and the Chapter 13 Trustee Elizabeth Rojas to appear at a hearing on September 20, 2011, to explain why the Chapter 13 trustee should not make payments to Baker from any future disbursements of attorney's fees to be made by the Trustee from payment received in other Chapter 13 cases filed by Respondent. The Court served Respondent with the OSC. Respondent received the OSC. Respondent had not updated his address with the court and did not promptly receive the order.

20. On September 20, 2011, the Court held a hearing on the Court's OSC. Respondent did not appear. The Court ordered the Chapter 13 Trustee to disburse \$3,000 to Baker from Respondent's regular attorney disbursements in other Chapter 13 cases.

#### CONCLUSIONS OF LAW:

21. By failing to appear at the confirmation hearing, by allowing the petition to be dismissed, by failing to file a motion to vacate the dismissal, and by failing to perform any legal services of value after the confirmation hearing, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

22. By failing to inform Baker that his bankruptcy matter was dismissed, Respondent failed to keep a client informed about significant events in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

23. By failing to comply with the Court's June 15, 2011, July 28, 2011 orders and August 31, 2011 orders, Respondent disobeyed or violated an order of the Court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear in willful violation of Business and Professions Code section 6103.

#### Case No. 11-O-17438 (Complainant: Victoria Magaw)

#### FACTS:

1. On June 20, 2009, Victoria Magaw ("Magaw") employed attorney Erik Syverson, ("Syverson") and Respondent for a loan modification. The agreement provided that Respondent and Syverson would analyze and research Magaw's current real estate debt and present her with the option available to improve her present debt structure. Services also included reviewing and auditing Magaw's loan documentation for any legal issues that can be used in negotiations. Respondent was responsible for handling Magaw's loan modifications.

2. On or about August 12, 2009, Magaw paid advanced fees of \$3,500 for two loan modifications. Respondent received a portion, if not all, of the advanced fees paid by Magaw.

3. On August 28, 2009, Respondent sent a letter to lender Santa Barbara Bank notifying the lender that he was representing Magaw and requesting documents related to Magaw's loan.

4. On March 1, 2010, Magaw emailed her financial documentation to her lender.

5. On March 4, 2010, Respondent submitted a hardship letter to the lender on Magaw's

behalf.

6. On March 9, 2010, Respondent's office faxed proof of Magaw's employment to the lender. This was the last contact between Respondent and the lender and Respondent ceased working on Magaw's matter. Thereafter, Magaw continued to work on her loan modification directly with the lender.

7. On or about April 19, 2010, Respondent sent Magaw an email, advising that in order for Respondent to continue working on her case, Respondent would charge Magaw a monthly processing fee of \$300 for each month going forward. However, Respondent had not completed the services he had already agreed to perform for the initial \$3,500.

8. On or about April 19, 2010, Magaw called Respondent and terminated his services.

9. Respondent only performed minimal legal services on behalf of Magaw prior to termination.

10. Respondent did not earn the \$3,500 paid as advanced fees by Magaw.

11. In August 2012, Syverson refunded the \$3,500 in unearned fees to Magaw.

#### CONCLUSIONS OF LAW:

12. By failing to perform any significant legal services of value on Magaw's loan modification matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

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

#### ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b)(iv) Multiple Acts: Respondent's five acts of misconduct in two client matters evidences multiple acts of misconduct.

Standard 1.2(b)(ii) Harm: Respondent's failure to promptly refund unearned fees harmed his clients. (See *Matthew v. State Bar* (1989) 49 Cal.3d 784, 791 [Finding respondent's failure to return unearned fees caused clients financial and other harm and is an aggravating factor.])

#### ADDITIONAL MITIGATING CIRCUMSTANCES.

Respondent was admitted to the practice of law on December 4, 2002 and has no prior record of discipline. *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106 fn. 13 [Noting that the Supreme Court has repeatedly applied Standard 1.2(e)(i) in cases, including those involving serious misconduct.]

Financial Difficulties: In 2008, Respondent lost his job as in-house counsel for a company and subsequently went on unemployment. Respondent started his own law firm in 2009. Because of the loss of income, in 2008, Respondent fell behind on his mortgage payments, his home fell into foreclosure and leading to his house being sold at a short sale in 2009. Respondent's financial difficulties led to him filing for bankruptcy, which was discharged in 2011. As a result of his financial difficulties, Respondent did not have all the funds available to provide a refund to Magaw after she terminated his services.

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was October 18, 2012.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 14, 2012, the prosecution costs in this matter are \$4,469.24. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.



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In the Matter of: Christopher Charles Barsness	Case number(s): 11-O-17380 and 11-O-17438
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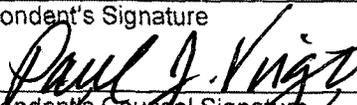
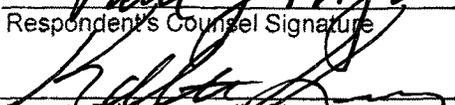
**SIGNATURE OF THE PARTIES**

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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

Date	Respondent's Signature	Christopher Charles Barsness
<u>11/28/2012</u>		Print Name
Date	Respondent's Counsel Signature	Paul J. Virgo
<u>12/10/12</u>		Print Name
Date	Deputy Trial Counsel's Signature	Katherine Kinsey
		Print Name

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In the Matter of: Christopher Charles Barsness	Case Number(s): 11-O-17380 and 11-O-17438
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### ALTERNATIVE DISCIPLINE PROGRAM ORDER

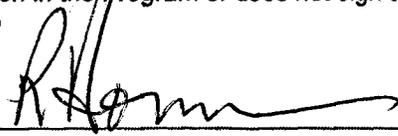
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date

3/19/13



Judge of the State Bar Court

**RICHARD A. HONN**

CP

## 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 March 19, 2013, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

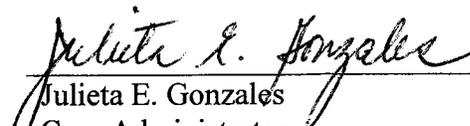
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CHRISTOPHER CHARLES BARSNESS ESQ  
26371 PALOMA, UNIT 70  
FOOTHILL RANCH, CA 92610

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

Lara Bairamian, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 19, 2013.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court