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PUBLIC MATTER

FILED

MAR 11 2013

**STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO**

11 STATE BAR COURT

12 HEARING DEPARTMENT - SAN FRANCISCO

13
14 In the Matter of:) Case Nos. 11-O-19295, [12-O-15897;
15 JOHN WESLEY VILLINES,) 13-O-10160]
No. 193672,) NOTICE OF DISCIPLINARY CHARGES
16)
17 A Member of the State Bar)
18)

19 **NOTICE - FAILURE TO RESPOND!**

20 **IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE**
21 **WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT**
THE STATE BAR COURT TRIAL:

- 22 (1) **YOUR DEFAULT WILL BE ENTERED;**
23 (2) **YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU**
WILL NOT BE PERMITTED TO PRACTICE LAW;
24 (3) **YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN**
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
25 (4) **YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.**
26 **SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE**
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
27 **ORDER RECOMMENDING YOUR DISBARMENT WITHOUT**
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
28 **RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**



1 The State Bar of California alleges:
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3 JURISDICTION

4 1. JOHN WESLEY VILLINES ("Respondent") was admitted to the practice of law in
5 the State of California on January 5, 1998, was a member at all times pertinent to these charges,
6 and is currently a member of the State Bar of California.

7 COUNT ONE

8 Case No. 11-O-19295
9 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

10 2. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
11 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
12 follows:

13 3. On or about July 30, 2009, Joe Ramirez ("Ramirez") employed Respondent to
14 represent him in order to file and prosecute a lawsuit against his home mortgage lender in order
15 to rescind his mortgage and restore his credit.

16 4. Between on or about July 31, 2009, through January 15, 2010, Ramirez paid
17 Respondent a total of \$10,095 in advanced legal fees. Ramirez paid Respondent in monthly
18 installment payments ranging from \$1,250 to \$2,595 in advanced legal fees.

19 5. Respondent did not file a lawsuit on behalf of Ramirez and he provided no other
20 legal services of any value for Ramirez in connection with rescinding Ramirez's mortgage
21 and/or restoring his credit.

22 6. By not performing any legal services of value to Ramirez, including but not limited
23 to filing a lawsuit against Ramirez's home mortgage lender, Respondent intentionally,
24 recklessly, or repeatedly failed to perform legal services with competence.

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COUNT TWO

Case No. 11-O-19295
Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

7. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

8. The allegations of Count One are incorporated herein by reference.

9. Respondent did not provide services of any value to Ramirez. Respondent did not earn any of the advanced fees paid by Ramirez. At no time did Respondent refund any of the \$10,095 paid by Ramirez.

10. By failing to refund the \$10,095 in advanced fees paid by Ramirez, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned.

COUNT THREE

Case No. 11-O-19295
Rules of Professional Conduct, rule 4-100(B)(3)
[Failure to Render Accounts of Client Funds]

11. Respondent wilfully violated Rules of Professional Conduct, rule 4-100(B)(3), by failing to render appropriate accounts to a client regarding all funds coming into Respondent's possession, as follows:

12. The allegations of Counts One and Two are incorporated herein by reference.

13. On or about June 13, 2011, Ramirez sent a letter to Respondent requesting an accounting for the advanced fees Ramirez paid Respondent. Respondent received the letter and responded that he would be sending an accounting to Ramirez very soon. To date, Respondent has not provided an accounting to Ramirez of the \$10,095 Ramirez paid in advanced fees.

14. By failing to provide an accounting to Ramirez , Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession.

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COUNT FOUR

Case No. 12-O-15897
Business and Professions Code, section 6068(a)
[Failure to Comply With Laws]

15. Respondent wilfully violated Business and Professions Code, section 6068(a), by failing to support the Constitution and laws of the United States and of this state, by advertising or holding himself out as practicing or entitled to practice law or otherwise practicing law or attempting to practice law while he was suspended from membership in the State Bar in violation of Business and Professions Code sections 6125 and 6126, as follows:

16. By Order filed on or about May 21, 2012, effective on or about June 20, 2012, in *In the Matter of John Villines*, Order Number S199350, (State Bar Court Case Numbers 09-O-16075, et al.,) the California Supreme Court suspended Respondent for two years, execution of that suspension was stayed and he was placed on probation for four years subject to nine month actual suspension and until he makes restitution to five clients in the amount of \$46,205.00.

17. On or about May 21, 2012, the clerk of the Supreme Court properly served a copy of this order on Respondent at his State Bar membership records address. Respondent received the May 21, 2012 Order shortly after May 21, 2012 and was therefore aware or grossly negligent in not being aware of its contents and the effective date of his suspension.

18. On or about August 17, 2012, while Respondent was actually suspended from the practice of law, a Special Investigator from the California Department of Real Estate (DRE Investigator) went to the office of Respondent located at 726 14th Street, Suite E, Modesto, California 95354. On or about that date, the Post Office Box in the lobby of the building identified the location as John W. Villines, Attorney; JV Law, Suite E. As part of the investigation the DRE Investigator interviewed an employee of Respondent, who identified herself as Adrian Yerzy ("Yerzy"). Yerzy informed the DRE Investigator that she handled all the loan modifications and short sales for her boss, attorney John Villines.

19. Respondent was aware or was grossly negligent in not knowing that Yerzy identified Respondent as an attorney subsequent to his actual suspension and took no steps to correct it.

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COUNT SIX

Case No. 13-O-10160
Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

26. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

27. On or about July 24, 2009, Tracy Scott (“Scott”) employed Respondent to represent her in order to file and prosecute a lawsuit against her home mortgage lender in order to rescind her mortgage or in the alternative to negotiate and obtain a loan modification.

28. Between on or about July 24, 2009, and on or about March 17, 2010, Scott paid Respondent a total of \$14,345 in advanced legal fees. Scott paid Respondent in monthly installment payments ranging from \$1,500 to \$3,845.

29. Respondent did not file a lawsuit on behalf of Scott and he provided no other legal services of any value for Scott in connection with rescinding Scott’s mortgage or obtaining a loan modification.

30. By not performing any legal services of value, including but not limited to filing a lawsuit against Scott’s home mortgage lender, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

COUNT SEVEN

Case No. 13-O-10160
Business and Professions Code, section 6106.3
[Violation of Civil Code section 2944.7(a)]

31. Respondent wilfully violated Business and Professions Code, section 6106.3, by negotiating, arranging or otherwise offering to perform a mortgage loan modification or mortgage loan forbearance for a fee paid by the borrower, and demanding, charging, collecting or receiving 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)(1) of the Civil Code, as follows:

32. The allegations of Count Six are incorporated herein by reference.

1 33. The effective date of Civil Code section 2944.7(a)(1) was October 11, 2009.
2 Respondent did not fully perform each and every service he had contracted to perform or
3 represented that he would perform for Scott, prior to demanding, charging collecting or
4 receiving \$9,000 in advanced attorney fees from Scott, after the effective date of Civil Code
5 section 2944.7(a)(1).

6 34. By negotiating, arranging, or offering to perform a mortgage loan modification for a
7 fee paid by a borrower, and demanding, charging, collecting and receiving fees from Scott prior
8 to fully performing each and every service he had contracted to perform or represented that he
9 would perform, Respondent violated Civil Code section 2944.7(a)(1) in violation of Business
10 and Professions Code section 6106.3.

11 COUNT EIGHT

12 Case No. 13-O-10160
13 Rules of Professional Conduct, rule 3-700(D)(2)
14 [Failure to Refund Unearned Fees]

15 35. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by
16 failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

17 36. The allegations of Count Six and Seven are incorporated herein by reference.

18 37. Respondent did not provide services of any value to Scott. Respondent did not earn
19 any of the advanced fees paid by Scott. At no time did Respondent refund any of the \$5,345 in
20 advanced fees paid by Scott prior to October 2009.

21 38. By failing to refund the \$5,345 in advanced paid by Scott, Respondent failed to
22 refund promptly any part of a fee paid in advance that has not been earned.

23 COUNT NINE

24 Case No. 13-O-10160
25 Business and Professions Code, section 6068(i)
26 [Failure to Cooperate in State Bar Investigation]

27 39. Respondent wilfully violated Business and Professions Code, section 6068(i), by
28 failing to cooperate and participate in a disciplinary investigation pending against Respondent,
as follows:

1 40. The allegations of Counts Six, Seven, and Eight are incorporated herein by
2 reference.

3 41. On or about December 26, 2012, the State Bar opened an investigation, case number
4 13-O-10150, pursuant to a complaint filed by Tracy Scott (the "Scott matter").

5 42. On or about January 18, 2013, a State Bar Investigator wrote to Respondent
6 regarding the Scott matter. The investigator's letter was placed in a sealed envelope addressed
7 to Respondent at his State Bar of California membership records address. Respondent received
8 the investigator's letter.

9 43. The investigator's letter requested that Respondent respond in writing to specified
10 allegations of misconduct being investigated by the State Bar in the Scott matter.

11 44. On or about February 1, 2013, Respondent wrote a letter to the investigator wherein
12 he stated that he would respond to the allegations of misconduct in the Scott matter by February
13 25, 2013. Respondent did not respond further to the investigator's letter or otherwise
14 communicate with the investigator.

15 45. By not providing a written response to the allegations in the Scott matter or
16 otherwise cooperating with the investigation of the Scott matter, Respondent failed to cooperate
17 and participate in a disciplinary investigation pending against Respondent.

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20 **NOTICE - INACTIVE ENROLLMENT!**

21 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR
22 COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE
23 SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL
24 THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO
THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN
INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE
ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE
RECOMMENDED BY THE COURT.**

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26 **NOTICE - COST ASSESSMENT!**

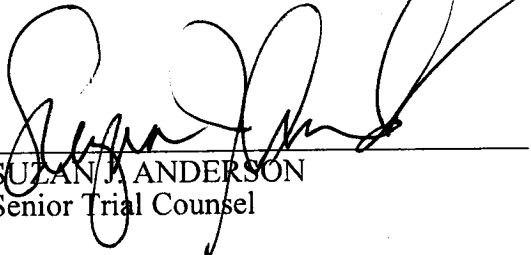
27 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC
28 DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS
INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**

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AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL



DATED: March 11, 2013

By: _____
SUSAN J. ANDERSON
Senior Trial Counsel

DECLARATION OF SERVICE

by

U.S. CERTIFIED MAIL AND U.S. FIRST-CLASS MAIL

CASE NUMBER(s): 11-O-19295, [12-O-15897; 13-O-10160]

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 7196 9008 9111 6623 0739 at San Francisco, addressed to: (see below)



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
John Villines	John Villines PO Box 580049 Modesto, CA 95358-0002	Electronic Address	



via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: March 11, 2013

SIGNED:

Meagan McGowan
Declarant