

PUBLIC MATTER

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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Mia R. Ellis Senior Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380</p> <p>Bar # 228235</p>	<p>Case Number(s): 12-O-10007-RAH 12-O-11215 12-O-15592 (inv.) 13-O-10635 (inv.) 13-O-13192 (inv.) 13-O-14523 (inv.) 13-O-14881 (inv.) 13-O-16451(inv.)</p>	<p>For Court use only</p> <p>FILED</p> <p>DEC 03 2013</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Emeka Godfrey Onwualu Law Offices of Emeka G. Onwualu 708 E. Manchester Blvd., Ste. C1 Inglewood, CA 90301 310-282-9933</p> <p>Bar # 161868</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p>	
<p>In the Matter of: EMEKA GODFREY ONWUALU</p> <p>Bar # 161868</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 14, 1992.
- (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.



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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) 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-10513 et. al.
 - (b) Date prior discipline effective June 21, 2012
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules 3-110(A), 3-700(D)(2), 1-300(A)
 - (d) Degree of prior discipline 60 days actual suspension, one-year stayed suspension, two-year probation
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:

State Bar Court case # 01-O-4408, effective October 23, 2004, Rules of Professional Conduct, rule 3-110(A), twelve months stayed suspension and two-years probation.

Please see stipulation page 16 -17.
- (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.

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- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Please see stipulation page 17.
- (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. Please see stipulation page 17.
- (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.

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- (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:

Please see Prefiling Stipulation page 17.

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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 _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ 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 _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:** Restitution. Please see stipulation page 19.

11. On April 14, 2011, Juarez paid Respondent an additional \$500 in advanced fees.
12. On April 20, 2011, the court issued a writ of possession in favor of Federal National, pursuant to the judgment in the UD action.
13. After October 2011, Juarez left six phone messages for Respondent inquiring about the status of his case. Respondent received the messages but did not respond.
14. Respondent failed to perform any services of value to Juarez in the rescission action.
15. At no time did Respondent notify Juarez that he would not perform any services on behalf of Juarez in the rescission action; nor did Respondent take any other steps to avoid reasonably foreseeable prejudice to his client.
16. Respondent did not earn any portion of the \$4,150 in fees Juarez advanced to him.
17. Respondent abandoned Juarez's matter and effectively terminated the employment.
18. To date, Respondent has failed to refund the \$4,150 to Juarez.
19. To date, Respondent has failed to provide Juarez with an accounting for the \$4,150 in fees Juarez advanced to him.

CONCLUSIONS OF LAW:

20. By failing to file an answer or perform any services of value on behalf of Juarez in the UD action and failing to attempt to rescind the sale or otherwise perform any legal services of value in the rescission action, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).
21. By failing to respond to Juarez's messages, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, in wilfull violation of Business and Professions Code, section 6068(m).
22. By failing to file an answer or take any other action on behalf of Juarez in the UD action, failing to make any attempt to rescind the trustee's sale, and thereafter failing to respond to Juarez's inquiries or perform any services of value for Juarez, Respondent constructively terminated his employment with Juarez, and upon termination of employment, failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in wilfull violation of Rules of Professional Conduct, rule 3-700(A)(2).
23. By failing to provide Juarez with an accounting for the \$4,150 in fees Juarez advanced, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilfull violation of Rules of Professional Conduct, rule 4-100(B)(3).
24. By failing to refund the \$4,150 in advanced fees to Juarez, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 12-O-11215 (Complainant: Maria Cerna)

FACTS:

25. On June 21, 2011, Maria Cerna ("Cerna") went to Respondent's office seeking legal assistance to file a Chapter 13 bankruptcy petition. Cerna met with non-attorney Hernando Garcia ("Garcia"). Cerna did not meet with Respondent. Garcia advised Cerna that he was an attorney and that instead of filing for bankruptcy, Cerna could attempt to rescind the future foreclosure sale of her two real properties: one on East 52nd Street (the "52nd Street property") and one on Montclair Street (the "Montclair Street property").
26. Respondent failed to supervise Garcia. Garcia provided legal advice to Cerna and held himself out as an attorney.
27. On June 21, 2011, Cerna signed a retainer agreement hiring Respondent for services related to the 52nd Street property, including, but not limited to, to attempt to rescind any sale of property sold in foreclosure.
28. On June 23, 2011, Cerna paid Respondent \$500 in advanced fees.
29. On July 2, 2011, Cerna signed a retainer agreement hiring Respondent to attempt to rescind the foreclosure sale of the Montclair Street property.
30. On July 5, 2011, Cerna paid Respondent \$200 by check and \$300 in cash as advanced fees.
31. On August 6, 2011, Cerna also paid Respondent an additional \$500 in advanced fees to stop a foreclosure of Cerna's 52nd Street property.
32. On August 15, 2011, Cerna paid Respondent an additional \$260 in advanced fees.
33. On October 22, 2011, Cerna paid Respondent an additional \$500 in advanced fees.
34. On October 24, 2011, Ocean Development, Inc. ("Ocean Development") purchased Cerna's 52nd Street property at a foreclosure sale. Ocean Development served Cerna with a three day notice to quit.
35. On November 2, 2011, Ocean Development filed an unlawful detainer complaint against Cerna seeking damages and possession of the 52nd Street property ("UD action").
36. On November 3, 2011, Cerna faxed the complaint in the UD action to Respondent. Respondent received the fax but failed to respond to the UD action on Cerna's behalf.
37. On November 3, 2011, Cerna paid Respondent an additional \$1,000 in advanced fees.
38. On November 8, 2011, Ocean Development filed a request for entry of default against Cerna in the UD action and served it on Cerna.

39. On November 10, 2011, Cerna faxed Respondent the request for entry of default in the UD action. Respondent received the fax but failed to respond to the request for entry of default on Cerna's behalf.

40. On November 22, 2011 and January 14, 2012, Cerna signed two additional retainer agreements with Respondent to attempt to rescind the foreclosure of the 52nd Street Property. On November 22, 2011, Cerna paid Respondent \$2,500. Cerna did not meet with Respondent on either date.

41. On January 7, 2012, Cerna paid Respondent an additional \$1,000 in advanced fees.

42. On January 17, 2012, Respondent filed a lawsuit on Cerna's behalf Los Angeles County Superior Court (the "rescission action"), seeking, *inter alia*, cancellation and vacation of the foreclosure sale of the 52nd Street property. The case was ultimately dismissed.

43. After filing the rescission action on January 17, 2012, Respondent failed to perform any work to advance or litigate the rescission action.

44. Respondent has failed to perform any legal work of value on behalf of Cerna.

45. Respondent did not earn any portion of the \$6,760 in fees Cerna advanced to him.

46. By failing to defend Cerna in the UD action and failing to litigate the rescission action, Respondent constructively terminated his employment with Cerna. Respondent did not inform Cerna of his intent to withdraw from representation or take any other steps to avoid reasonably foreseeable prejudice to Cerna.

47. To date, Respondent has not returned the \$6,760 to Cerna.

48. To date, Respondent has failed to provide Cerna with an accounting for the \$6,760 in fees Cerna advanced to him.

CONCLUSIONS OF LAW:

49. By failing to supervise Garcia, failing to respond to the UD action and the request for entry of default, and failing to perform any legal services of value for Cerna in connection with the UD action and the litigation of the rescission action, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).

50. By failing to defend Cerna in the UD action and failing to litigate the rescission action, Respondent constructively terminated his employment with Cerna, and upon termination of employment, failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in wilfull violation of Rules of Professional Conduct, rule 3-700(A)(2).

51. By failing to provide Cerna with an accounting for the \$6,760 in fees Cerna advanced, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilfull violation of Rules of Professional Conduct, rule 4-100(B)(3).

52. By failing to refund the \$6,760 in advanced fees to Cerna, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 12-O-15592 (Complainant: Frances Moore)

FACTS:

53. On February 18, 2011, Frances Moore ("Moore") retained Respondent to pursue home mortgage loan modifications and to file a lawsuit against her lenders for three different properties. Moore paid a total of \$15,400 in advanced fees.

54. Respondent did not fully perform each and every service he contracted to perform or represented that he would perform for Moore, prior to demanding, charging, collecting or receiving any fees.

55. On April 5, 2011, Respondent filed a civil action for damages on Moore's behalf in Los Angeles County Superior Court. On September 19, 2011, the case was dismissed after the court granted the defendant's demurrer and motion to strike the first amended complaint. Respondent received notice of the dismissal.

56. Respondent failed to inform Moore that the lawsuit was dismissed.

57. On August 25, 2011, Respondent filed another civil action for damages on Moore's behalf in Los Angeles County Superior Court. The defendants filed a demurrer arguing, among other things, res judicata as to the prior case. On December 7, 2011, the court granted defendants' demurrer and dismissed the case. Respondent received notice of the dismissal.

58. Respondent failed to inform Moore that the lawsuit was dismissed.

59. On January 31, 2012, Respondent filed an action in federal court on Moore's behalf in the United States District Court for the Central District of California. Respondent amended the complaint and defendants ultimately filed a motion to dismiss on March 20, 2012, which was not opposed. On April 19, 2012, the federal court dismissed Moore's case with prejudice and without leave to amend. Respondent received notice of the dismissal.

60. Respondent failed to inform Moore that the lawsuit was dismissed.

61. On June 4, 2012, Moore terminated Respondent.

62. Respondent did not perform any legal services of value for Moore and did not earn any portion of the \$15,400 in advanced fees Moore paid him.

63. To date, Respondent has not returned any portion of the \$15,400 to Moore.

64. To date, Respondent has failed to provide Moore with an accounting for the \$15,400 in fees Moore advanced to him.

65. On July 30, 2012, the State Bar opened an investigation regarding the complaint submitted by Moore.

66. On August 21, 2012 and November 27, 2012, a State Bar investigator mailed Respondent letters that were properly addressed to Respondent's membership records address. The letters requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Moore's complaint. Respondent received the letters but did not respond.

67. At no time did Respondent cooperate or participate in the investigation of the Moore complaint.

CONCLUSIONS OF LAW:

68. By repeatedly filing lawsuits of no value that were quickly dismissed, failing to perform loan modification services with respect to Moore's three mortgage loans, and failing to perform any legal work of value on behalf of Moore, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).

69. By negotiating, arranging, or offering to perform a home mortgage loan modification or other form of mortgage loan forbearance for a fee for Moore and collecting \$15,400 in advanced fees prior to fully performing each and every service Respondent contracted to perform or represented that he would perform, in violation of Civil Code section 2944.7(a)(1), Respondent wilfully violated Business and Professions Code section 6106.3(a).

70. By failing to inform Moore that the three lawsuits were dismissed, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in wilfull violation of Business and Professions Code section 6068(m).

71. By failing to provide Moore with an accounting for the \$15,400 in fees Moore advanced, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilfull violation of Rules of Professional Conduct, rule 4-100(B)(3).

72. By failing to refund the \$15,400 in advanced fees to Moore, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

73. By failing to provide a response to the State Bar investigator's letters and by failing to otherwise cooperate and participate in the State Bar's investigation of the Moore complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilfull violation of Business and Professions Code section 6068(i).

Case No. 13-O-10635 (Complainant: Maria Munoz)

FACTS:

74. On August 8, 2010, Maria Munoz ("Munoz") retained Respondent to pursue a home mortgage loan modification. She only met with non-attorneys, who gave her legal advice. She never met Respondent; nor did he ever provide her any legal advice.

75. Respondent failed to supervise his non-attorney staff.

76. Respondent did not fully perform each and every service he contracted to perform or represented that he would perform for Munoz, prior to demanding, charging, collecting or receiving any fees.

77. Munoz initially paid \$1,500. On September 6, 2010, at Respondent's non-attorney staff's request, Munoz paid another \$2,000 in advanced fees. On September 11, 2010, Munoz visited the office and the non-attorney staff advised that everything in the case was going great.

78. On September 25, 2010, Munoz went to Respondent's office and Respondent's non-attorney staff advised Munoz that there was nothing more they could do for her.

79. Munoz asked for a refund. Respondent received her request but did not respond.

80. Respondent failed to perform any legal services of value on behalf of Munoz and did not earn any portion of the \$3,500 in fees Munoz advanced to him.

81. To date, Respondent has not returned any portion of the \$3,500 to Munoz.

CONCLUSIONS OF LAW:

82. By failing to supervise his non-attorney staff and failing to perform any legal services of value, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).

83. By negotiating, arranging, or offering to perform a home mortgage loan modification or other form of mortgage loan forbearance for a fee for Munoz and collecting \$3,500 in advanced fees prior to fully performing each and every service Respondent contracted to perform or represented that he would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3(a).

84. By failing to refund the \$3,500 in advanced fees to Munoz, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

Case No. 13-O-13192 (Complainant: Jose Zavala)

FACTS:

85. On January 8, 2013, Jose Zavala ("Zavala") hired Respondent to rescind a foreclosure sale of his home. Zavala met with non-attorney staff Hernando Garcia ("Garcia"), who gave Zavala legal advice. Zavala paid Respondent \$1,500 in advanced fees.

86. Respondent failed to supervise Garcia.

87. Between January 9, 2013 and April 18, 2013, Respondent failed to perform any legal services of value for Zavala.

88. On April 19, 2013, Zavala called Respondent to find out the status of the case. Garcia advised Zavala that Respondent needed more money, but Zavala refused and asked for a refund of the advanced fees. Garcia refused.

89. At no time did Respondent earn any portion of the \$1,500 advanced to him by Zavala. To date, Respondent has not returned any portion of the \$1,500 to Munoz.

90. On May 9, 2013, the State Bar opened an investigation based on the complaint submitted by Zavala.

91. On September 20, 2013, a State Bar investigator mailed Respondent a letter that was properly addressed to Respondent's membership records address. The letter requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Zavala's complaint. Respondent received the letter but did not respond. At no time did Respondent cooperate or participate in the State Bar's investigation of Zavala's complaint.

CONCLUSIONS OF LAW:

92. By failing to supervise Garcia and by failing to perform any legal services of value for Zavala, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competency, in willful violation of Rules of Professional Conduct, rule 3-110(A).

93. By failing to refund the \$1,500 in advanced fees to Zavala, 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).

94. By failing to provide a response to the State Bar investigator's letter regarding Zavala's complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of Business and Professions Code section 6068(i).

Case No. 13-O-14523 (Complainant: Salome Pena)

FACTS:

95. On October 12, 2010, Salome Pena ("Pena") retained Respondent to rescind the foreclosure sale of his home. Pena paid \$5,000 in advanced fees to Respondent.

96. At no time did Respondent perform any legal services of value on behalf of Pena. Respondent did not earn any portion of the \$5,000 in fees Pena advanced to him.

97. In August 2012, Pena filed a small claims action against Respondent for a return of the advanced fees paid. On September 26, 2012, the court entered judgment in favor of Pena and against Respondent for \$5,000.

98. To date, Respondent has not refunded any portion of the \$5,000 to Pena.

99. To date, Respondent has failed to provide Pena with an accounting for the \$5,000 in fees Pena advanced to him.

100. On July 26, 2013, the State Bar opened an investigation regarding the complaint submitted by Pena.

101. On August 21, 2013 and September 9, 2013, a State Bar investigator mailed Respondent letters that were properly addressed to Respondent's membership records address. The letters requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Pena's complaint. Respondent received the letters but did not respond.

102. At no time did Respondent cooperate or participate in the investigation of the Pena complaint.

CONCLUSIONS OF LAW:

103. By failing to perform any legal services of value to Pena, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).

104. By failing to provide Pena with an accounting for the \$5,000 in fees Pena advanced, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in wilfull violation of Rules of Professional Conduct, rule 4-100(B)(3).

105. By failing to refund the \$5,000 in advanced fees to Pena, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

106. By failing to provide a response to the State Bar investigator's letters regarding Pena's complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilfull violation of Business and Professions Code section 6068(i).

Case No. 13-O-14881 (Complainant: Maria Olga Leiva)

FACTS:

107. On February 7, 2011, Maria Olga Leiva ("Leiva") retained Respondent to defend her in an unlawful detainer action ("UD action"). On May 19, 2011, she retained Respondent to rescind the foreclosure sale of her home. She paid Respondent \$7,500 in advanced fees. She met with non-attorney Hernando Garcia ("Garcia") each time and he gave her legal advice. Respondent failed to supervise Garcia. At no time did Respondent provide Leiva with any legal advice.

108. Respondent failed to perform any legal services of value on behalf of Leiva and did not earn any portion of the \$7,500 in fees Leiva advanced to him.

109. By failing to perform any legal services on Leiva's behalf, Respondent effectively terminated their relationship.

110. To date, Respondent has not refunded any portion of the \$7,500 to Leiva.

111. On August 5, 2013, the State Bar opened an investigation regarding the complaint submitted by Leiva.

112. On September 17, 2013 and October 8, 2013, a State Bar investigator mailed Respondent letters that were properly addressed to Respondent's membership records address. The letters requested a written response to specific allegations of misconduct being investigated by the State Bar with respect to Leiva's complaint. Respondent received the letters but did not respond.

113. At no time did Respondent cooperate or participate in the investigation of the Leiva complaint.

CONCLUSIONS OF LAW:

114. By failing to perform any legal services of value for Leiva, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in wilfull violation of Rules of Professional Conduct, rule 3-110(A).

115. By failing to refund the \$7,500 in advanced fees to Leiva, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilfull violation of Rules of Professional Conduct, rule 3-700(D)(2).

116. By failing to provide a response to the State Bar investigator's letters regarding Leiva's complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilfull violation of Business and Professions Code section 6068(i).

Case No. 13-O- 16451(Complainant: State Bar Investigation)

FACTS:

117. On December 15, 2011, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in case numbers 10-O-10513 et. al.

118. On May 22, 2012, the California Supreme Court filed an Order (the "Order") in case number S200010 (State Bar case numbers 10-O-10513, et. al.) suspending Respondent for one (1) year, stayed, and placing him on probation for two (2) years with conditions, including that he be actually suspended for sixty (60) days.

119. The Order was properly served on Respondent, who received it.

120. The Order became effective on June 21, 2012.

121. As a condition of probation pursuant to the Order, Respondent was to comply with the State Bar Act and the Rules of Professional Conduct and to report such compliance to the Office of Probation in writing under penalty of perjury each January 10, April 10, July 10, and October 10 ("quarterly reports") during the probation period. Respondent has not complied with this condition of probation with respect to the first four quarterly reports as follows:

Due	Submitted	Comments
10/10/12	11/19/12	Report submitted 40 days late
1/10/13	1/17/13	Report submitted 7 days late
4/10/13		Report not submitted
7/10/13		Report not submitted

122. As a condition of probation pursuant to the Order, Respondent was to promptly review the terms and conditions of probation with his assigned Probation Monitor to establish a manner and schedule of compliance. During the period of probation, Respondent was to furnish to the Probation Monitor such reports as were requested in addition to the quarterly reports required to be submitted to the Office of Probation. Finally, Respondent was to cooperate fully with the Probation Monitor. Respondent has not complied with this condition of probation in that he failed to promptly review the terms and conditions of probation with his Probation Monitor.

123. In a July 3, 2012 letter to Respondent, the Office of Probation instructed Respondent to contact his Probation Monitor, Robert A. Seldon, by July 13, 2012. Respondent received the letter but did not contact his Probation Monitor until July 19, 2012. Respondent also failed to comply in that he did not cooperate fully with the Probation Monitor. The Probation Monitor left a voice mail message for Respondent on January 16, 2013 asking that Respondent return the call. Respondent received the message but never returned the call. Additionally, Respondent did not provide copies of any of his quarterly reports to his Probation Monitor at any time.

124. As a condition of probation pursuant to the Order, within one year of the effective date of the discipline - by June 21, 2013, Respondent was to provide satisfactory proof to the Office of Probation of attendance at State Bar Ethics School and passage of the test given at the end of that session. Respondent has not complied in that to date he has failed to provide such proof.

CONCLUSIONS OF LAW:

125. By failing to timely submit two quarterly reports, failing to submit two quarterly reports, failing to promptly review the terms and conditions of probation with his Probation Monitor, failing to timely contact his Probation Monitor, failing to cooperate fully with the Probation Monitor, failing to provide copies of any of his quarterly reports to his Probation Monitor at any time, and failing to provide proof of attendance at Ethics School and passage of the test at the end of the session, Respondent failed to comply with conditions attached to his discipline, in wilfull violation of Business and Professions Code section 6068(k).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): Effective June 21, 2012, in case numbers 10-O-10513 et. al., Respondent received a one-year stayed suspension and was placed on a two-year probation with conditions including a sixty-day actual suspension, payment of restitution and attendance at courses on law office management. This discipline resulted from a stipulation in which Respondent stipulated to having committed misconduct in five client matters. Respondent stipulated to one count of aiding the unauthorized practice of law (rule 1-300(A)), four counts of failing to perform legal services competently (rule 3-110(A)), and five counts of

failing to refund unearned fees (rule 3-700(D)(2)). This misconduct occurred between July 2010 and May 2011.

Effective October 23, 2004, in case numbers 01-O-4408, et. al, Respondent received a 12-month stayed suspension and was placed on a twenty-four month probation with conditions. The discipline resulted from a stipulation in which Respondent stipulated to two counts of failing to perform legal services competently (rule 3-110(A)) in two client matters. This misconduct occurred between October 2009 and November 2001.

Harm (Std. 1.2(b)(iv)): The current misconduct caused significant harm to seven clients. In each of these cases, Respondent's clients were financially distressed and sought Respondent's assistance at critical junctures in their lives. Respondent's failure to refund the advanced fees has deprived them of their money.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent's conduct involved multiple acts of wrongdoing as there are twenty-nine acts of misconduct in seven client matters. Coupled with the misconduct in the prior discipline, Respondent has demonstrated a pattern of willfully failing to perform services and a habitual disregard for his clients, demonstrating an abandonment of the causes in which he was retained. In *Arm v. State Bar* (1990) 50 Cal.3d 763, 780, the Court found that a pattern of misconduct can be established by including similar misconduct from the prior discipline.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to the filing of five of the above-referenced disciplinary matters, thereby saving State Bar Court time and resources. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.) However, the mitigation is tempered by Respondent's failure to cooperate and participate in the State Bar investigation. Thus, Respondent's cooperation is entitled to some, but not great, weight in mitigation. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the

standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing twenty-nine acts of professional misconduct. Standard 1.6 (a) requires that where a respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable here is Standard 1.7(b), which provides that 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 two prior impositions of discipline the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Respondent has two prior records of discipline, and there are no compelling mitigating circumstances that clearly predominate. However, the current misconduct occurred between January 2011 and August 2013, which is, in part, during the same timeframe as the prior misconduct which occurred from July 2010 and May 2011. Therefore, it is appropriate to consider *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.

In *In the Matter of Sklar*, one of the issues on appeal was whether the Hearing Department appropriately declined to consider the attorney's prior imposition of discipline as aggravating, because the misconduct in the prior matter and the cases at issue, aside from the current probation violation, occurred during the same time period. (*In the Matter of Sklar*, 2 Cal. State Bar Ct. Rptr. at pp. 618-619.) The Review Department held that while the prior discipline was a factor in aggravation, the aggravating impact of the prior disciplinary matter was diminished because the misconduct underlying it occurred during the same time as the misconduct in the case at issue. (*In the Matter of Sklar*, 2 Cal. State Bar Ct. Rptr. at p. 618.) Accordingly, the Review Department considered the "totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." (Id.)

The reasoning in *Sklar* is applicable in the instant case, because Respondent's misconduct in his two prior disciplinary matters overlapped in time and the misconduct in seven of the eight instant matters began during the same timeframe as the misconduct in the last prior disciplinary matter. The misconduct in Respondent's last prior occurred from July 2010 to May 2011 and involved five client matters. The misconduct in the instant case began in January 2011 but continued through August 2013. Therefore, it is appropriate to consider the totality of the misconduct in all thirteen cases (the prior cases plus the current cases) to determine what the discipline would be had all the charged misconduct been considered together.

If all misconduct charged in all thirteen cases had been considered together, the discipline would have increased to disbarment. The majority of the misconduct in the priors and the current matter involved the same type of cases: failing to perform services of value related to clients who were in financial distress and in fear of losing their homes. Respondent has engaged in multiple instances of wrongdoing, which has caused significant harm to his vulnerable clients, and Respondent has failed to make

restitution to those clients. Moreover, taking all thirteen cases together, Respondent's misconduct evidences a pattern that has spanned three years and continued through August 2013. (See *Twohy v. State Bar* (1989) 48 Cal.3d 502,512 [habitual disregard by an attorney for the interests of his clients combined with failure to communicate justifies disbarment].) Standard 2.4 requires disbarment for a pattern of willfully failing to perform services demonstrating the attorney's abandonment of the causes for which he was retained. Therefore, had the present matters been brought at the same time as the prior matters, the proper level of discipline would have been disbarment. Moreover, some of the current misconduct, including failing to comply with conditions of probation, failing to supervise and perform services of value, failing to refund unearned fees, and failing to cooperate with State Bar investigations, occurred after Respondent had been disciplined in his second discipline matter. This is a serious aggravating factor that demonstrates that even after having been disciplined twice previously, Respondent has not conformed his conduct to the requirements of the Rules of Professional Conduct, the State Bar Act and a Supreme Court disciplinary order. Accordingly, disbarment is appropriate and required to fulfill the purposes of attorney discipline as set forth in standard 1.3: protecting the public, the courts, and the legal profession; maintaining high professional standards by attorneys; and preserving public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of October 29, 2013, the prosecution costs in this matter are \$13,056.73. Respondent further acknowledges that this is an estimate and 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.

RESTITUTION.

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

Respondent waives any objection to payment by CSF upon application for attorney fees paid.


PAYEE	PRINCIPAL AMOUNT	INTEREST ACCRUES FROM
Arcadio Juarez	\$4,150	April 14, 2011
Maria Cerna	\$6,760	January 14, 2012
Frances Moore	\$15,400	February 18, 2011
Maria Munoz	\$3,500	August 8, 2010
Jose Zavala	\$1,500	January 2, 2013
Salome Pena	\$5,000	October 5, 2010
Maria Olga Leiva	\$7,500	March 19, 2011

(Do not write above this line.)

In the Matter of: EMEKA GODFREY ONWUALU	Case number(s): 12-O-10007, 12-O-11215, 12-O-15592 (inv.) 13-O-10635 (inv.), 13-O-13192 (inv.) 13-O-14523 (inv.), 13-O-14881 (inv.), 13-O-16451(inv.)
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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.

10/06/13  Emeka Godfrey Onwualu
Date Respondent's Signature Print Name

11/6/13  Mia Ellis
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: EMEKA GODFREY ONWUALU	Case Number(s): 12-O-10007, 12-O-11215, 12-O-15592, 13-O-10635, 13-O-13192, 13-O-14523, 13-O-14881, 13-O-16451
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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.

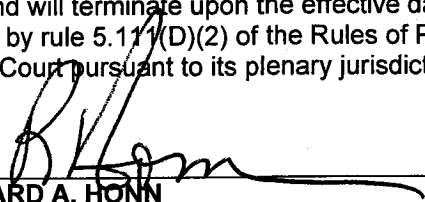
1. On page 17 of the stipulation, in the final line of the first full paragraph, "between October 2009 and November 2001" is deleted, and in its place is inserted "between January and November 2001."

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 EMEKA GODFREY ONWUALU 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

11/27/13


RICHARD A. HONN
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 December 3, 2013, 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

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

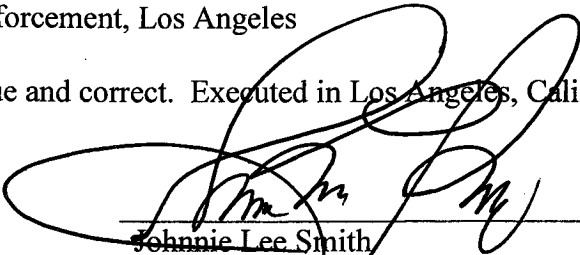
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EMEKA G. ONWUALU
LAW OFFICES OF EMEKA GODFREY
ONWUALU
708 E MANCHESTER BLVD STE C1
INGLEWOOD, CA 90301

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 3, 2013.



Johnnie Lee Smith
Case Administrator
State Bar Court