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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1325 Bar # 172472	Case Number(s): 12-O-10849-RAP 12-O-11094 12-O-11095 12-O-11097 12-O-11099 12-O-11100 12-O-11101 12-O-11103 12-O-11104 12-O-11107 12-O-11711	For Court use only <div style="text-align: center;"> FILED MAY 23 2013  STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent Paul J. Virgo 5200 W. Century Blvd., Ste. 345 Los Angeles, CA 90045 (310) 642-6900 Bar # 67900	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
In the Matter of: ANDREA SCURRY LOVELESS Bar # 231735 A Member of the State Bar of California (Respondent)	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <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 June 28, 2004.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 18 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)


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Actual Suspension



- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

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

- (1) **Prior record of discipline** [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case 10-O-07372, et al.
 - (b) Date prior discipline effective July 28, 2012
 - (c) Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code section 6106.3. See Attachment, page 12, "Additional Facts Re Aggravating Circumstances"
 - (d) Degree of prior discipline one year stayed suspension, two years' probation, and restitution.
 - (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 Attachment, page 12, "Additional Facts Re Aggravating Circumstances"
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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 Attachment, page 12, "Additional Facts Re Aggravating Circumstances"
- (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 Attachment, pages 12-13, "Additional Facts Re Additional Mitigating Circumstances"

D. Discipline:

- (1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of two years.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent must be placed on probation for a period of three years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of six months.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: .
- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:

- Substance Abuse Conditions
- Law Office Management Conditions
- Medical Conditions
- Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

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- No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:** If Respondent completes Ethics School or passage of the Multistate Professional Responsibility Examination as required in her prior disciplinary matter prior to effective date of those conditions herein, she shall be deemed to have complied with those conditions of this stipulation.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ANDREA SCURRY LOVELESS

CASE NUMBER(S): 12-O-10849; 12-O-11094; 12-O-11095; 12-O-11097;
12-O-11099; 12-O-11100; 12-O-11101; 12-O-11103;
12-O-11104; 12-O-11107; 12-O-11711

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and Rules of Professional Conduct.

Case No. 12-O-10849 (Complainant: Heather Proseus)

FACTS:

1. On November 3, 2009, Arizona resident Heather Proseus employed Respondent to perform legal services in connection with a home mortgage loan modification for Proseus's Arizona property.
2. On or about November 3, 2009, Proseus paid Respondent an advanced fee of \$3,020.
3. Arizona law prohibits the practice of law in Arizona by persons not admitted to practice law in Arizona, other than with exceptions for circumstances not relevant to this matter.
4. Respondent is not now, nor ever has been, admitted to practice law in the state of Arizona.
5. Respondent completely refunded Proseus's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

6. By accepting employment with Proseus in order to perform legal services in connection with a home mortgage loan modification for Proseus's Arizona property, Respondent practiced law in the state of Arizona and thereby wilfully violated the regulations of the profession in the state of Arizona, in willful violation of Rules of Professional Conduct, rule 1-300(B).
7. By entering into an agreement for, charging, and collecting fees from Proseus, when she was not licensed to practice law in Arizona, Respondent entered into an agreement for, charged, and collected an illegal fee from Proseus, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11094 (Complainant: Ronald Caldwell)

FACTS:

8. On November 3, 2009, Illinois resident Ronald Caldwell employed Respondent to perform legal services in connection with a home mortgage loan modification for Caldwell's Illinois property.
9. Caldwell paid Respondent an advanced fee of \$3,500.
10. Illinois law prohibits the practice of law in Illinois by persons not admitted to practice law in Illinois, other than with exceptions for circumstances not relevant to this matter.
11. Respondent is not now, nor ever has been, admitted to practice law in the state of Illinois.
12. Respondent completely refunded Caldwell's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

13. By accepting employment with Caldwell in order to perform legal services in connection with a home mortgage loan modification for Caldwell's Illinois property, Respondent practiced law in the state of Illinois, and thereby violated the regulations of the profession in the state of Illinois, in willful violation of Rules of Professional Conduct, rule 1-300(B).
14. By entering into an agreement for, charging, and collecting fees from Caldwell, when she was not licensed to practice law in Illinois, Respondent entered into an agreement for, charged, and collected an illegal fee from Caldwell, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11095 (Complainant: Robert Kennewell)

FACTS:

15. On October 1, 2009, Oregon resident Robert Kennewell employed Respondent to perform legal services in connection with a home mortgage loan modification for Kennewell's Oregon property.
16. Kennewell paid Respondent an advanced fee of \$4,000.
17. Oregon law prohibits the practice of law in Oregon by persons not admitted to practice law in Oregon, other than with exceptions for circumstances not relevant to this matter.
18. Respondent is not now, nor ever has been, admitted to practice law in the state of Oregon.
19. Respondent completely refunded Kennewell's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

20. By accepting employment with Kennewell in order to perform legal services in connection with a home mortgage loan modification for Kennewell's Oregon property, Respondent practiced law in the state of Oregon, and thereby wilfully violated the regulations of the profession in the state of Oregon, in willful violation of Rules of Professional Conduct, rule 1-300(B).

21. By entering into an agreement for, charging, and collecting fees from Kennewell, when she was not licensed to practice law in Oregon, Respondent entered into an agreement for, charged, and collected an illegal fee from Kennewell, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11097 (Complainant: Santos Villalobos)

FACTS:

22. On March 18, 2010, Illinois resident Santos Villalobos employed Respondent to perform legal services in connection with a home mortgage loan modification for Villalobos's Illinois property.

23. Villalobos paid Respondent an advanced fee of 3,300.

24. Illinois law prohibits the practice of law in Illinois by persons not admitted to practice law in Illinois, other than with exceptions for circumstances not relevant to this matter.

25. Respondent is not now, nor ever has been, admitted to practice law in the state of Illinois.

26. Respondent completely refunded Villalobos's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

27. By accepting employment with Villalobos in order to perform legal services in connection with a home mortgage loan modification for Villalobos's Illinois property, Respondent practiced law in the state of Illinois, and thereby wilfully violated the regulations of the profession in the state of Illinois, in willful violation of Rules of Professional Conduct, rule 1-300(B).

28. By entering into an agreement for, charging, and collecting fees from Villalobos, when she was not licensed to practice law in Illinois, Respondent entered into an agreement for, charged, and collected an illegal fee from Villalobos, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11099 (Complainant: Gedeon Muducumura)

FACTS:

29. On December 8, 2009, Pennsylvania resident Gedeon Muducumura employed Respondent to perform legal services in connection with a home mortgage loan modification for Muducumura's

Pennsylvania property.

30. Muducumura paid Respondent an advanced fee of \$2,250.

31. Pennsylvania law prohibits the practice of law in Pennsylvania by persons not admitted to practice law in Pennsylvania, other than with exceptions for circumstances not relevant to this matter.

32. Respondent is not now, nor ever has been, admitted to practice law in the state of Pennsylvania.

33. Respondent completely refunded Muducumura's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

34. By accepting employment with Muducumura in order to perform legal services in connection with a home mortgage loan modification for Muducumura's Pennsylvania property, Respondent practiced law in the state of Pennsylvania, and thereby violated the regulations of the profession in the state of Pennsylvania, in willful violation of Rules of Professional Conduct, rule 1-300(B).

35. By entering into an agreement for, charging, and collecting fees from Muducumura, when she was not licensed to practice law in Pennsylvania, Respondent entered into an agreement for, charged, and collected an illegal fee from Muducumura, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11100 (Complainant: Sophia Long)

FACTS:

36. On January 20, 2010, Nevada resident Sophia Long employed Respondent to perform legal services in connection with a home mortgage loan modification for Long's Nevada property.

37. Long paid Respondent an advanced fee of \$2,995.

38. Nevada law prohibits the practice of law in Nevada by persons not admitted to practice law in Nevada, other than with exceptions for circumstances not relevant to this matter.

39. Respondent is not now, nor ever has been, admitted to practice law in the state of Nevada.

40. Respondent completely refunded Long's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

41. By accepting employment with Long in order to perform legal services in connection with

a home mortgage loan modification for Long's Nevada property, Respondent practiced law in the state of Nevada, and thereby violated the regulations of the profession in the state of Nevada, in willful violation of Rules of Professional Conduct, rule 1-300(B).

42. By entering into an agreement for, charging, and collecting fees from Long, when she was not licensed to practice law in Nevada, Respondent entered into an agreement for, charged, and collected an illegal fee from Long, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11101 (Complainant: Kathleen Davey)

FACTS:

43. In February 2010, Vermont resident Kathleen Davey employed Respondent to perform legal services in connection with a home mortgage loan modification for Davey's Vermont property.

44. Davey paid Respondent an advanced fee of \$2,550.

45. Vermont law prohibits the practice of law in Vermont by persons not admitted to practice law in Vermont, other than with exceptions for circumstances not relevant to this matter.

46. Respondent is not now, nor ever has been, admitted to practice law in the state of Vermont.

47. Respondent completely refunded Davey's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

48. By accepting employment with Davey in order to perform legal services in connection with a home mortgage loan modification for Davey's Vermont property, Respondent practiced law in the state of Vermont, and thereby wilfully violated the regulations of the profession in the state of Vermont, in willful violation of Rules of Professional Conduct, rule 1-300(B).

49. By entering into an agreement for, charging, and collecting fees from Davey, when she was not licensed to practice law in Vermont, Respondent entered into an agreement for, charged, and collected an illegal fee from Davey, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11103 (Complainant: Johanna Rondeau)

FACTS:

50. On February 7, 2010, New Mexico resident Johanna Rondeau employed Respondent to perform legal services in connection with a home mortgage loan modification for Rondeau's New Mexico property.

51. Rondeau paid Respondent an advanced fee of \$3,020.

52. New Mexico law prohibits the practice of law in New Mexico by persons not admitted to

practice law in New Mexico, other than with exceptions for circumstances not relevant to this matter.

53. Respondent is not now, nor ever has been, admitted to practice law in the state of New Mexico.

54. Respondent completely refunded Rondeau's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

55. By accepting employment with Rondeau in order to perform legal services in connection with a home mortgage loan modification for Rondeau's New Mexico property, Respondent practiced law in the state of New Mexico, and thereby violated the regulations of the profession in the state of New Mexico, in willful violation of Rules of Professional Conduct, rule 1-300(B).

56. By entering into an agreement for, charging, and collecting fees from Rondeau, when she was not licensed to practice law in New Mexico, Respondent entered into an agreement for, charged, and collected an illegal fee from Rondeau, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11104 (Complainant: Kristina Niehaus)

FACTS:

57. On February 10, 2010, Missouri resident Kristina Niehaus employed Respondent to perform legal services in connection with a home mortgage loan modification for Niehaus's Missouri property.

58. Niehaus paid Respondent an advanced fee of \$2,750.

59. Missouri law prohibits the practice of law in Missouri by persons not admitted to practice law in Missouri, other than with exceptions for circumstances not relevant to this matter.

60. Respondent is not now, nor ever has been, admitted to practice law in the state of Missouri.

61. Respondent completely refunded Niehaus's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

62. By accepting employment with Niehaus in order to perform legal services in connection with a home mortgage loan modification for Niehaus's Missouri property, Respondent practiced law in the state of Missouri, and thereby wilfully violated the regulations of the profession in the state of Missouri, in willful violation of Rules of Professional Conduct, rule 1-300(B).

63. By entering into an agreement for, charging, and collecting fees from Niehaus, when she

was not licensed to practice law in Missouri, Respondent entered into an agreement for, charged, and collected an illegal fee from Niehaus, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11107 (Complainant: Landon Weichal)

FACTS:

64. On October 22, 2009, Idaho resident Landon Weichal employed Respondent to perform legal services in connection with a home mortgage loan modification for Weichal's Idaho property.
65. Weichal paid Respondent an advanced fee of \$1800.
66. Idaho law prohibits the practice of law in Idaho by persons not admitted to practice law in Idaho, other than with exceptions for circumstances not relevant to this matter.
67. Respondent is not now, nor ever has been, admitted to practice law in the state of Idaho.
68. Respondent completely refunded Weichal's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

69. By accepting employment with Weichal in order to perform legal services in connection with a home mortgage loan modification for Weichal's Idaho property, Respondent practiced law in the state of Idaho, and thereby violated the regulations of the profession in the state of Idaho, in willful violation of Rules of Professional Conduct, rule 1-300(B).
70. By entering into an agreement for, charging, and collecting fees from Weichal, when she was not licensed to practice law in Idaho, Respondent entered into an agreement for, charged, and collected an illegal fee from Weichal, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 12-O-11711 (Complainant: Lisa Needham)

FACTS:

71. On November 3, 2009, Arizona resident Lisa Needham employed Respondent to perform legal services in connection with a home mortgage loan modification for Needham's Arizona property.
72. Needham paid Respondent an advanced fee of \$3,000.
73. Arizona law prohibits the practice of law in Arizona by persons not admitted to practice law in Arizona, other than with exceptions for circumstances not relevant to this matter.
74. Respondent is not now, nor ever has been, admitted to practice law in the state of Arizona.

75. Respondent completely refunded Needham's advanced fee after the commencement of these disciplinary proceedings.

CONCLUSIONS OF LAW:

76. By accepting employment with Needham in order to perform legal services in connection with a home mortgage loan modification for Needham's Arizona property, Respondent practiced law in the state of Arizona, and thereby violated the regulations of the profession in the state of Arizona, in willful violation of Rules of Professional Conduct, rule 1-300(B).

77. By entering into an agreement for, charging, and collecting fees from Needham, when she was not licensed to practice law in Arizona, Respondent entered into an agreement for, charged, and collected an illegal fee from Needham, in willful violation of Rules of Professional Conduct, rule 4-200(A).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): Respondent has been a member of the State Bar since June 28, 2004, and has been disciplined on one prior occasion.

Effective July 28, 2012, the California Supreme Court ordered that Respondent be suspended from the practice of law in California for one year, that execution of the suspension be stayed, and that she be placed on probation for two years, subject to certain conditions, including restitution to three of the four clients (including the principal amount plus interest at 10 percent per annum). The discipline resulted from Respondent's misconduct in case numbers 10-O-07372, 10-O-09733, 11-O-10172, and 11-O-13228. Respondent's misconduct consisted of four matters in which she charged and collected advanced fees for home mortgage loan modification services prior to completing all those services. Respondent's prior misconduct occurred between December 2009 and February 2010.

Harm (Std. 1.2(b)(iv)): Respondent significantly harmed each of the clients identified above, by collecting illegal fees from them.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent committed 22 separate acts of misconduct in the 11 matters resolved by this stipulation, including 11 instances of practicing law in a jurisdiction in which she was not authorized to do so, and 11 instances of charging and collecting an illegal fee.

ADDITIONAL FACTS RE ADDITIONAL MITIGATING CIRCUMSTANCES.

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, 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.)

Pro Bono Representation: Respondent has presented evidence, including client declarations, establishing that she has represented numerous clients pro bono, over the course of several years,

including in family law, probate, bankruptcy, criminal, and general civil matters. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono work as mitigating factor].)

Community Service/Volunteer Activities: Since 2007, Respondent has served one day per month at the Food Pantry ministry of Saddleback Church in Lake Forest, California. She also had been a volunteer self-defense instructor at battered women's shelters in San Diego County and Orange County, California until September 2011, when she began to suffer from pregnancy complications and other health problems. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 518, 529 [civic service and charitable work entitled to weight in mitigation].)

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 22 two 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.

Respondent's current misconduct concerns 11 client matters, each of which involving Respondent's practice of law in other jurisdictions where she was not authorized to practice law, and her charging and collecting of fees which were therefore illegal. There is no standard specifically applicable to a violation of rule 1-300(B) or for an illegal fee under rule 4-200(A). Accordingly the applicable standard is Standard 2.10, which requires reproof or suspension for a willful violation of any Rule of Professional Conduct not specified in the Standards, according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

As discussed above, Respondent's misconduct in 11 client matters constitute serious and multiple acts of misconduct. Further, Respondent's prior record of discipline is a serious aggravating factor. Standard 1.7(a) 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 one prior imposition of discipline as

defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Respondent's prior discipline became effective on July 28, 2012, and included a one year stayed suspension. Respondent's misconduct for which she received her prior discipline was a single charge of violating Civil Code section 2944.7(a) (accepting illegal advanced fees on behalf of clients seeking loan modification services) which occurred in four matters. Respondent committed the acts of misconduct in the prior matters between December 2009 and February 2010. Respondent committed the current misconduct between October 2009 and March 2010, a time period substantially overlapping that covered by her prior misconduct. The analysis in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619, permits the court to reweigh such overlapping disciplinary matters as if they were a single disciplinary matter. The prior discipline was for a single violation of Business and Professions Code section 6106.3 (although committed in four client matters) for which Respondent received one year stayed suspension. Had the current misconduct, contemporaneous with the prior misconduct, been considered with the prior matters, a six-month actual suspension would be the appropriate level of discipline under the circumstances, as discussed below.

Respondent's misconduct is mitigated by her extensive pro bono representations, and voluntary contributions of her time in community service activities, as well as by her cooperation in entering into a full stipulation with the Office of Chief Trial Counsel prior to trial. Also, Respondent made complete refunds to all the clients whose cases are represented in this stipulation, albeit after the commencement of these disciplinary proceedings. While not mitigating (see *Hitchcock v. State Bar* (1989) 48 Cal. 3d 690, 708-709), such refunds negate any need for further restitution herein.

When the magnitude of the misconduct committed herein is considered, along with the aggravating and mitigating circumstances that are presented, discipline consisting of a two-year stayed suspension, two years' probation, with conditions including six months actual suspension, is consistent with the Standards, and accomplishes the purposes of attorney discipline.

Case law also supports the level of discipline. In *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, Respondent Wells had violated rule 1-300(B) by her unauthorized practice of law in two matters in South Carolina and violated rule 4-200(A) by taking illegal fees, which she had not refunded. She also committed moral turpitude when she misled the State Bar investigator and misled the attorney investigating her violation of South Carolina law. The court found the moral turpitude of greater concern than her rule violations. Wells also had one prior discipline. Wells was disciplined with six months actual suspension.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-10849	3	Rule 3-700(D)(2)
12-O-11094	6	Rule 3-700(D)(2)
12-O-11095	9	Rule 3-700(D)(2)
12-O-11097	12	Rule 3-700(D)(2)
12-O-11099	15	Rule 3-700(D)(2)
12-O-11100	18	Rule 3-700(D)(2)
12-O-11101	21	Rule 3-700(D)(2)
12-O-11103	24	Rule 3-700(D)(2)
12-O-11104	27	Rule 3-700(D)(2)
12-O-11107	30	Rule 3-700(D)(2)
12-O-11711	33	Rule 3-700(D)(2)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of May 13, 2013, the prosecution costs in this matter are approximately \$14,448. 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.

EXCLUSION FROM MCLE CREDIT.

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: ANDREA SCURRY LOVELESS	Case number(s): 12-O-10849-RAP 12-O-11094 12-O-11095 12-O-11097 12-O-11099 12-O-11100 12-O-11101 12-O-11103 12-O-11104 12-O-11107 12-O-11711
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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.

_____	_____	Andrea S. Loveless
Date	Respondent's Signature	Print Name
<u>5/13/2013</u>	<u>Paul J. Virgo</u>	Paul J. Virgo
_____	_____	_____
Date	Respondent's Counsel Signature	Print Name
<u>5-13-13</u>	<u>[Signature]</u>	Timothy G. Byer
_____	_____	_____
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: ANDREA SCURRY LOVELESS	Case Number(s): 12-O-10849-RAP 12-O-11094 12-O-11095 12-O-11097 12-O-11099 12-O-11100 12-O-11101 12-O-11103 12-O-11104 12-O-11107 12-O-11711
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ACTUAL SUSPENSION ORDER

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

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

PAGE 4 - SECTION E. (1) - DELETE CHECKMARK FROM BOX

*PAGE 16 - 3RD FULL PARAGRAPH - DELETE - "TWO YEARS" PROBATION
INSERT - "THREE YEARS PROBATION"*

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.)**

05-21-2013
Date


Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 23, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

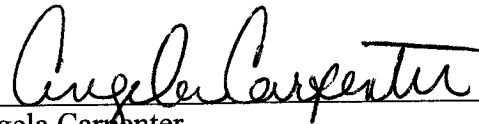
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O. LEAR
PAUL VIRGO
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

TIMOTHY BYER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 23, 2013.



Angela Carpenter
Case Administrator
State Bar Court