

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 12-O-11086 - DFM 12-O-12019 12-O-12223 12-O-12502 12-O-12826 12-O-14168 12-O-18039 (inv.)	For Court use only FILED JAN 25 2013 <i>Mc</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER
In Pro Per Respondent Rosemarie T. Hollander Law Office of Rose Marie Hollander 17155 Newhope Street, Suite A Fountain Valley, CA 92708 714-444-1895 Bar # 114175	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: Rosemarie T. Hollander Bar # 114175 A Member of the State Bar of California (Respondent)	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 August 6, 1984.
- (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 20 pages, not including the order.

(Effective January 1, 2011)

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Actual Suspension



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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):
 - ☐ 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: three (3) billing cycles following the effective date of the Supreme Court order. (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
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Stipulation at 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. See Stipulation at 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.
- (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 Stipulation at page 17

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 6 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:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> 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.

☐ 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:**

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In the Matter of: Rosemarie T. Hollander	Case Number(s): 12-O-11086, 12-O-12019, 12-O-12223, 12-O-12502, 12-O-12826, 12-O-14168, 12-O-18039 (inv.)
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Financial Conditions

a. Restitution

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

Payee	Principal Amount	Interest Accrues From
Maria del Carmen Llamas	\$3190	June 13, 2011
Bruce Kosmala	\$2495	March 16, 2011
James Russell	\$2995	November 28, 2011
Rosito and Leticia Manggana	\$2995	April 22, 2011
Kathleen Anderson	\$3495	April 1, 2011
Omar Gilic	\$1750	July 8, 2011
Craig Strack	\$2995	March 11, 2011

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

b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Maria del Carmen Llamas	\$80	By the 15th of each month
Bruce Kosmala	\$80	By the 15th of each month
James Russell	\$80	By the 15th of each month
Rosito and Leticia Manggana	\$80	By the 15th of each month
Kathleen Anderson	\$80	By the 15th of each month

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Omar Gilic	\$80	By the 15th of each month
Craig Strack	\$80	By the 15th of each month

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

c. Client Funds Certificate

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

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

10. To date, Respondent has failed to provide Llamas with an accounting for the \$3,190 in fees Llamas advanced to her for the loan modification.

CONCLUSIONS OF LAW:

11. By failing to provide Llamas with an accounting for the \$3,190 in fees Llamas advanced to Respondent for loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of Business and Professions Code Section 4-100(B)(3).

12. By agreeing to negotiate a mortgage loan modification for Llamas and collecting \$3,190 in advanced fees from Llamas when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

Case No. 12-O-12019 (Complainant: Bruce Kosmala)

FACTS:

13. On March 2, 2011, Bruce Kosmala ("Kosmala") signed a fee agreement entitled "Attorney-Client Loan Modification Agreement," and employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification for Kosmala's home. The agreement provided that Kosmala would pay \$995 for prequalification and new file set up, \$500 if the house is in foreclosure, \$1500 for compilation and submission of package and review of lender's requirements, and \$500 for negotiation with lender and obtaining approval for loan modification. Kosmala signed an ACH authorization for Respondent to withdraw attorney's fees from his account.

14. On March 2, 2011, Kosmala paid Respondent \$995 in advanced fees for the loan modification. At the time, Respondent had not fully completed all of the loan modification services she had agreed to perform.

15. On March 15, 2011, Respondent submitted a loan modification request to JP Morgan Chase on Kosmala's behalf.

16. On March 16, 2011, Kosmala paid Respondent \$1,500 in advanced fees for the loan modification request. At the time, Respondent had not fully completed all of the loan modification services she had agreed to perform.

17. In April 2011, Kosmala's lender, JP Morgan Chase, denied Kosmala's loan modification. On or about May 2, 2011, Respondent's staff appealed the denial. On or about May 18, 2011, Kosmala's lender denied the appeal.

18. On June 7, 2011, Respondent's staff re-submitted a second loan modification application package on behalf of Kosmala. On or about November 2, 2011, Kosmala's lender denied Kosmala's second loan modification application.

19. To date, Respondent has failed to provide Kosmala with an accounting for the \$2,495 in fees Kosmala advanced to her for the loan modification.

CONCLUSIONS OF LAW:

20. By agreeing to negotiate a mortgage loan modification for Kosmala and collecting \$2,495 in advanced fees from Kosmala when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

21. By failing to provide Kosmala with an accounting for the \$2,495 in fees Kosmala advanced to Respondent for loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Business and Professions Code Section 4-100(B)(3).

Case No. 12-O-12223 (Complainant: James Russell)

FACTS:

22. On October 25, 2011, James Russell ("Russell") signed a fee agreement entitled "Attorney-Client Loan Modification Agreement," and employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification for Russell's home. The agreement provided that Russell would pay \$995 for prequalification and new file set up, \$1500 for compilation and submission of package and review of lender's requirements, and \$500 for negotiation with lender and obtaining approval for loan modification.

23. On October 26, 2011, Russell paid Respondent \$995 in advanced fees for the loan modification. At the time, Respondent had not fully completed all of the loan modification services she had agreed to perform

24. On November 22, 2011, Respondent caused documents related to a loan modification to be faxed to Russell's lender, GMAC.

25. On November 28, 2011, Russell paid Respondent \$1,500 in advanced fees for the loan modification. On or about December 21, 2011, Russell paid Respondent \$500 in advanced fees for the loan modification. At the time of each payment, Respondent had not fully completed all of the loan modification services she had agreed to perform.

26. To date, Respondent has failed to provide Russell with an accounting of the \$2,995 in fees Russell advanced to her for the loan modification.

CONCLUSIONS OF LAW:

27. By agreeing to negotiate a mortgage loan modification for Russell and collecting \$2,995 in advanced fees from Russell when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

28. By failing to provide Russell with an accounting for the \$2,995 in fees Russell advanced to Respondent for loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Business and Professions Code Section 4-100(B)(3).

Case No. 12-O-12502 (Complainant: Rosito and Leticia Manggana)

FACTS:

29. On March 9, 2011, Rosito and Leticia Manggana (collectively, the "Mangganas") employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification for the Mangganas' real property.

30. On March 22, 2011, the Mangganas paid Respondent \$1,497.50 in advanced fees for the loan modification. On or about April 22, 2011, the Mangganas paid Respondent \$1,497.50 in advanced fees for the loan modification. At the time, Respondent had not completed all of the loan modification services she had agreed to perform.

31. On May 13, 2011, Respondent's staff submitted a third party authorization form to the Mangganas' lender in connection with the loan modification.

32. Between June 9, 2011, and September 11, 2011, the Mangganas sent multiple emails to Respondent's staff, specifically to Demond Wilson, Leonardo Leon, Sandy Dimoska and Cusie Custis, requesting status updates and information regarding the Mangganas' loan modification. Respondent and her staff received the Mangganas' emails, but failed to respond. Thereafter, Respondent failed to communicate with the Mangganas in any way.

33. Respondent failed to submit a request for a loan modification application to the Mangganas' lender, or perform any service of value to the Mangganas.

34. To date, Respondent has failed to provide the Mangganas with an accounting for the \$2,995 in fees the Mangganas advanced to her for the loan modification.

CONCLUSIONS OF LAW:

35. By failing to submit a loan modification request, negotiate a loan modification, or perform any legal services of value in the Mangganas' loan modification, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

36. By agreeing to negotiate a mortgage loan modification for the Mangganas and collecting \$2,995 in advanced fees from the Mangganas when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

37. By failing to provide the Mangganas with an accounting for the \$2,995 in fees the Mangganas advanced to Respondent for loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Business and Professions Code Section 4-100(B)(3).

38. By failing to respond to the Mangganas' emails requesting status updates and information regarding the Mangganas' loan modification, 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 willful violation of Business and Professions Code section 6068(m).

Case No. 12-O-12826 (Complainant: Kathleen Anderson)

FACTS:

39. On February 25, 2011, Kathleen Anderson ("Anderson") employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification.

40. On February 28, 2011, Anderson paid Respondent \$1,747.50 in advanced fees for the loan modification. At the time, Respondent had not completed all of the loan modification services she had agreed to perform.

41. On April 1, 2011, Anderson paid Respondent \$1,747.50 in advanced fees for the loan modification. At the time, Respondent had not completed all of the loan modification services she had agreed to perform.

42. At the time Anderson employed Respondent, in February 2011, Anderson informed Respondent's staff that she had obtained a loan modification a few months earlier.

43. On August 24, 2011, Respondent spoke to Anderson and informed Anderson that she could not assist Anderson in obtaining a loan modification, because Anderson had refinanced within a year. Respondent agreed to provide Anderson with a refund. Respondent agreed to refund \$500 per month until the fees were fully refunded. On or about August 25, 2011, Respondent sent Anderson a letter memorializing their conversation.

44. Between September 16, 2011, and December 15, 2011, Respondent refunded a total of \$2,000 in unearned advanced fees to Anderson.

45. To date, Respondent has failed to return the balance of \$1,495 in unearned advanced fees paid by Anderson for the loan modification.

46. Respondent did not earn any portion of the \$3,495 in fees Anderson advanced to her because Respondent did not do any work of value for Anderson.

CONCLUSIONS OF LAW:

47. By agreeing to negotiate a mortgage loan modification for Anderson and collecting \$3,495 in advanced fees from Anderson when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

48. By failing to refund \$3,495 of unearned fees promptly, 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).

Case No. 12-O-14168 (Complainant: Omar Gilic)

FACTS:

49. On May 27, 2011, Omar Gilic ("Gilic") signed a fee agreement entitled "Attorney-Client Loan Modification Agreement," and employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification for Gilic's home.

50. On May 27, 2011, Gilic paid Respondent \$750 in advanced fees for the loan modification. June 27, 2011, Gilic paid Respondent \$500 in advanced fees for the loan modification. On or about July 8, 2011, Gilic paid Respondent \$500 in advanced fees for the loan modification.

51. At the time Respondent collected the fees she had not completed all of the loan modification services she had agreed to perform.

52. In August 2011, a member of Respondent's staff named Michelle McCarthy ("McCarthy") informed Gilic that Respondent was closing Gilic's file. Thereafter, Gilic requested a full refund of \$1,750 in advanced fees paid to Respondent.

53. On December 20, 2011, Respondent agreed to return \$1,250 in unearned advanced fees to Gilic.

54. Between January 10, 2012, and March 30, 2012, Gilic sent Respondent's office multiple emails regarding the return of the unearned advanced fees. Stafford and Respondent received the

emails. Stafford and Respondent did not respond to Gilic's emails regarding the return of unearned advanced fees.

55. To date, Respondent has failed to provide Gilic with an accounting for the \$1,750 in fees Gilic advanced to her for the loan modification.

56. On May 31, 2012, the State Bar opened an investigation in Case No. 12-O-14168 based on allegations of misconduct against Respondent by Gilic.

57. On June 6, 2012, a State Bar investigator sent Respondent a letter regarding the allegations in case no. 12-O-14168 requesting a written response to the allegations by June 22, 2012. The investigator mailed the letter to Respondent at her State Bar of California membership address. Respondent received the letter.

58. Respondent did not respond to the State Bar investigator's June 6, 2012 letter.

59. On July 24, 2012, a State Bar investigator sent Respondent another letter regarding the allegations in case no. 12-O-14168 requesting a written response to the allegations by August 13, 2012. The investigator mailed the letter to Respondent at her State Bar of California membership address. Respondent received the letter.

60. Respondent did not respond to the State Bar investigator's July 24, 2012 letter.

CONCLUSIONS OF LAW:

61. By failing to respond to Gilic's emails regarding the return of unearned advanced fees, 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 willful violation of Business and Professions Code section 6068(m).

62. By failing to provide a timely written response to the State Bar investigator's June 6, 2012, and July 24, 2012 letters, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code section 6068(i).

63. By failing to provide Gilic with an accounting for the \$1,750 in fees Gilic advanced to Respondent for loan modification services, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in willful violation of Rules of Professions Code section 4-100(B)(3).

64. By failing to refund \$1,750 in unearned fees, 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).

65. By agreeing to negotiate a mortgage loan modification for Gilic and collecting \$1,750 in advanced fees from Gilic when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she

would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

Case No. 12-O-18039 (Complainant: Craig Strack) (inv.)

FACTS:

66. On March 11, 2011, Craig Strack ("Strack") employed Respondent to provide legal services in connection with negotiating and obtaining a home mortgage loan modification. Strack paid Respondent \$2,995.

67. At the time Respondent collected the fees she had not completed all of the loan modification services she had agreed to perform.

CONCLUSIONS OF LAW:

68. By agreeing to negotiate a mortgage loan modification for Strack and collecting \$2,995 in advanced fees from Strack when Respondent had not completed all loan modification services she had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, and thereby wilfully violated Business and Professions Code section 6106.3(a).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm: 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. These clients have been without the return of their fees for over a year. Respondent's failure to refund their unearned fees deprived them of their money. Standard 1.2(b)(iv).

Multiple/Pattern of Misconduct: Respondent's conduct involved multiple acts. The current misconduct involves multiple acts of wrongdoing as there are eighteen counts of misconduct in seven client matters. The instant case does not evidence a pattern of misconduct as it did not extend over a prolonged course of time. *Young v. State Bar*, (1990) 50 Cal.3d 1204. Standard 1.2(b)(ii)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline: At the time of the misconduct Respondent had been in practice for 27 years without discipline. (See *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.) Even with serious misconduct, Respondent is still entitled to mitigation, despite the language of the standard. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49)

Candor/Cooperation: Respondent has been cooperative in stipulating to facts and conclusions of law. Entering into a Stipulation deserves varying amounts of mitigation. (*In the Matter of Connor* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 107.) The greatest weight is afforded to those stipulations of facts not easily proven or stipulations to level of discipline. (*In the Matter of Silver* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902, 906.) The facts in the instant matters could have

been proven by documentary evidence and witness testimony. Also, Respondent's cooperation is tempered by the fact that she did not provide a written response to State Bar investigation in case number 12-O-14168. Thus, Respondent's cooperation is entitled to some but not great 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 eighteen acts of professional misconduct in seven client matters. 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 to Respondent's misconduct is found in standards 2.2(b) and 2.10 which applies to Respondent's violation(s) of Business and Professional Code sections 6106.3 and Rules of Professional Conduct, rule 4-100(B)(3).

Standard 2.2 provides for culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.10 states that culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or of a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension 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.

In the Matter of Swazi Taylor (Review Dept. 1212) 5 Cal. State Bar Ct. Rpr. __; 2012 WL 5489045. The Review Department found Respondent culpable of nine counts of violating Business and Professions Code section 6106.3. Factors in aggravation included harm, multiple acts of misconduct and lack of insight/remorse. The Review Department recommended that Respondent be actually suspended for six months, two years probation, and remain suspended until he makes restitution for all the fees he illegally collected.

Respondent's conduct in these cases is serious and the harm to her clients is significant. She repeatedly violated loan modification statutes designed to protect the public. Respondent's conduct harmed her clients as she collected illegal fees and, in most instances, has failed to provide full refunds. In applying *Taylor*, the instant case involves seven client matters, while *Taylor* involved eight client matters. However, unlike *Taylor*, the instant case also involves, among other things, failures to account, refund unearned fees, failure to perform and failure to communicate. Thus, balancing the facts, conclusions of law, and the factors in aggravation and mitigation, the parties stipulate that a level of discipline consistent with *Taylor*, six months actual suspension, adequately serves the purposes of attorney discipline.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 21, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 21, 2012, the prosecution costs in this matter are \$8,468.36. 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.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and State Bar Client Trust Accounting School, (Rules Proc. of State Bar, rule 3201.)

RESTITUTION

To the extent that Respondent has paid any restitution prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, Respondent will be given credit for such payments provided satisfactory proof of such payment(s) is or has been shown to the Office of Probation.

Respondent must make all payments to the above-referenced complainants before making payment to the Client Security Fund.

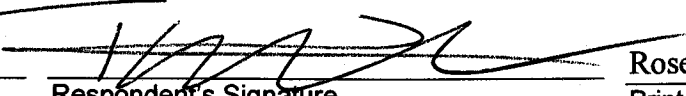
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In the Matter of:
Rosemarie T. Hollander

Case number(s):
12-O-11086, 12-O-12019, 12-O-12223, 12-O-12502,
12-O-12826, 12-O-14168, 12-O-18039 (inv.)

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>12/26/12</u> Date	 Respondent's Signature	<u>Rosemarie T. Hollander</u> Print Name
 Date	 Respondent's Counsel Signature	 Print Name
 Date	 Deputy Trial Counsel's Signature	<u>Mia R. Ellis</u> Print Name

(Do not write above this line.)

In the Matter of: Rosemarie T. Hollander	Case number(s): 12-O-11086, 12-O-12019, 12-O-12223, 12-O-12502, 12-O-12826, 12-O-14168, 12-O-18039 (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.

Date	Respondent's Signature	Rosemarie T. Hollander Print Name
Date	Respondent's Counsel Signature	Print Name
12/28/12	Mia Ellis	Mia R. Ellis
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:
Rosemarie T. Hollander

Case Number(s):
12-O-11086, 12-O-12019, 12-O-12223, 12-O-
12502, 12-O-12826, 12-O-14168,
12-O-18039 (inv.)

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.

On p. 7, Financial Conditions, delete the principal amount of \$3,495 payable to Kathleen Anderson and insert in its place the amount of \$1,495 because respondent had refunded \$2,000 as stated on page 15, paragraph 44.

On p. 15, paragraph 48, delete the amount of \$3,495 and insert in its place the amount of \$1,495 since respondent refunded \$2,000 between September and December 2011, which was shortly after she told the client Anderson that she would refund the amount.

On p. 19, the first line, correct "1212" to the year "2012."

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.)**

Date

1/24/13


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 January 25, 2013, I deposited a true copy of the following document(s):

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

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:

**ROSEMARIE T. HOLLANDER
LAW OFC ROSE MARIE HOLLANDER
17155 NEWHOPE ST STE A
FOUNTAIN VALLEY, CA 92708**

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

MIA ELLIS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 25, 2013.



Tammy Cleaver
Case Administrator
State Bar Court