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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Erin McKeown Joyce Senior Trial Counsel 1149 South Hill Street Los Angeles, California 90015 (213) 765-1356</p> <p>Bar # 149946</p>	<p>Case Number(s):</p> <p>12-O-12556 12-O-16857 12-O-16864 12-O-17121 12-O-18187 13-O-10320 13-O-11891 13-O-12212 13-O-12458 13-O-13200 13-O-13633 13-O-15048 13-O-15488 13-O-16119 13-O-16459 13-O-16463 13-O-17056</p>	<p>For Court use only</p> <p>FILED</p> <p>DEC 13 2013</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Jason Allan Smith 26400 La Alameda Ste 106 Mission Viejo, CA 92691 (949) 336-1400</p> <p>Bar # 237584</p>	<p>Submitted to: Settlement Judge</p>	
<p>In the Matter of: JASON ALLAN SMITH</p> <p>Bar # 237584</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted July 31, 2005.
- (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 25 pages, not including the order.



(Effective January 1, 2011)

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12/15/13

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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: two (2) billing cycles immediately following the effective date of the Supreme Court Order in this matter. (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 12-O-11922, et al. See page 20 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of the facts and circumstances of Respondent's prior imposition of discipline.
 - (b) Date prior discipline effective not yet. Decision issued October 8, 2013.
 - (c) Rules of Professional Conduct/ State Bar Act violations: One count of Business and Professions Code section 6068(m) (failure to respond to client inquiries), two counts of Business and Professions Code section 6106.3 (collecting advanced fees for a loan modification) and one count of Rule of Professional Conduct 4-100(B)(3) (failure to render accounts of client funds).
 - (d) Degree of prior discipline 90-day actual suspension, one-year stayed suspension and two-year probation.
 - (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.

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- (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.
- (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 the Attachment to the Stipulation re Facts, Conclusions of Law and Disposition at page 20.
- (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. See the Attachment to the Stipulation re Facts, Conclusions of Law and Disposition at page 20.

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- (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. See the Attachment to the Stipulation re Facts, Conclusions of Law and Disposition at pages 20 and 21.
- (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. See the Attachment to the Stipulation re Facts, Conclusions of Law and Disposition at page 21.
- (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:

Prefiling stipulation - See page 21 of the Attachment to the Stipulation Re Facts, Conclusions of Law and Disposition for a fuller explanation and factual basis for this mitigating circumstance.

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of three 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 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

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- 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: .

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- (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: JASON ALLAN SMITH	Case Number(s): 12-O-12556, 12-O-16857, 12-O-16864, 12-O-17121, 12-O-18187, 13-O-10320, 13-O-11891, 13-O-12212, 13-O-12458, 13-O-13200, 13-O-13633, 13-O-15048, 13-O-15488, 13-O-16119, 13-O-16459, 13-O-16463, 13-O-17056
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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
Richard and Patricia Rodgers	\$5,000	November 30, 2011
James Sparks	\$1,000	March 18, 2010
Eneida Anjos	\$750	April 13, 2010
Gustavo Calderon*	\$5,000	February 8, 2012

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than (not applicable). Pursuant to the actual suspension provision on page 4, section D(3)(a)(ii), Respondent will remain suspended until he pays restitution in full.

*Payees continued on page 24.

b. Installment Restitution Payments

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

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

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

c. Client Funds Certificate

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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";

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- 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.

Case No. 12-O-16857 – Complainants Richard and Patricia Rodgers

FACTS:

8. On November 30, 2011, Richard and Patricia Rodgers hired Respondent for legal services related to a residential mortgage loan modification.

9. The Rodgerses paid Respondent an advanced fee of \$5,000 for those services.

10. Respondent was unsuccessful in obtaining a loan modification acceptable to his clients.

CONCLUSIONS OF LAW:

11. By collecting an advanced fee to perform mortgage loan modification services on behalf of the Rodgerses in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 12-O-16864 – Complainant James Sparks

FACTS:

12. On March 18, 2010, James Sparks hired Respondent for legal services related to a residential mortgage loan modification.

13. Sparks paid Respondent \$1,000 for those services.

14. Respondent was unsuccessful in obtaining a loan modification acceptable to his client.

CONCLUSIONS OF LAW:

15. By collecting an advanced fee to perform mortgage loan modification services on behalf of Sparks in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 12-O-17121 – Complainant Josephine Quinn

FACTS:

16. On September 15, 2010, Josephine Quinn hired Fixed Rate Financial for legal services related to a residential mortgage loan modification. Fixed Rate referred Quinn to Respondent.

17. Respondent undertook the representation of Quinn for her loan modification. However, Respondent did not perform any legal services of value for Quinn.

18. From the time period from September 2010 until September 2011, Quinn called Respondent on the telephone and left multiple detailed messages requesting a status report on her legal matter. Despite his receipt of the messages from Quinn, Respondent failed to respond to most of Quinn's messages.

19. In that same time frame, Quinn sent Respondent multiple email messages requesting a status report on her legal matter. Despite his receipt of the messages from Quinn, Respondent failed to respond to most of Quinn's messages.

20. Quinn terminated Respondent's employment on September 22, 2011, and requested that Respondent turn over her file to Quinn. Despite his receipt of the notice of termination, Respondent failed to turn over Quinn's file to Quinn.

CONCLUSIONS OF LAW:

21. By failing to perform any legal services of value on Quinn's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

22. By failing to respond to Quinn's multiple telephone and email messages requesting a status report on her legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

23. By failing to return to Quinn her file upon termination as requested by Quinn, Respondent failed to promptly release to the client, at the request of the client, all the client papers and property in wilful violation of Rule of Professional Conduct 3-700(D)(1).

Case No. 12-O-18187 – Complainant Eneida Anjos

FACTS:

24. On April 13, 2010, Eneida Anjos hired Respondent for legal services related to a residential mortgage loan modification.

25. Anjos paid Respondent \$750 for those services.

26. Respondent was unsuccessful in obtaining a loan modification acceptable to his client.

CONCLUSIONS OF LAW:

27. By collecting an advanced fee to perform mortgage loan modification services on behalf of Anjos in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-10320 – Complainant Gustavo Calderon

FACTS:

28. On February 8, 2012, Gustavo Calderon hired Respondent to pursue a wrongful termination lawsuit. That same day, Calderon signed an attorney-client agreement with Respondent which provided for a \$5,000 retainer of advanced attorney fees to be paid to Respondent.

29. Calderon paid Respondent a total of \$5,000 advanced attorney fees.

30. Respondent did not provide any legal services of value to Calderon on his legal matter.

31. On June 22, 2012, Calderon terminated Respondent's employment and requested a refund of the \$5,000 advanced fees. Respondent received the request for the refund, but failed to provide any refund to Calderon.

CONCLUSIONS OF LAW:

32. By failing to perform any legal services of value on Calderon's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

33. By failing to refund to Calderon any part of the \$5,000 advanced attorney fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-11891 – Complainant Ronald Venturi

FACTS:

34. On May 25, 2011, Ronald Venturi hired Fixed Rate Financial for legal services related to a residential mortgage loan modification. Fixed Rate referred Venturi to Respondent.

35. Respondent undertook the representation of Venturi for his loan modification. However, Respondent did not perform any legal services of value for Venturi.

36. From the time period from May 25, 2011 until December 7, 2012, Venturi called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Venturi, Respondent failed to respond to Venturi's messages.

37. In that same time frame, Venturi sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Venturi, Respondent failed to respond to most of Venturi's messages.

38. Dissatisfied by the lack of communication with Respondent, Venturi terminated Respondent's employment on December 7, 2012.

CONCLUSIONS OF LAW:

39. By failing to perform any legal services of value on Venturi's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

40. By failing to respond to Venturi's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

Case No. 13-O-12212 – Complainant Lisa Slack

FACTS:

41. On August 17, 2012, Lisa Slack hired Respondent for a lawsuit against her residential mortgage lender. The following day, August 18, 2013, Slack paid Respondent \$5,000 in advanced attorney fees.

42. Respondent did not perform any legal services of value for Slack.

43. From the time period from August 18, 2012 until April 1, 2013, Slack called Respondent on the telephone and left multiple detailed messages requesting a status report on her legal matter. Despite his receipt of the messages from Slack, Respondent failed to respond to Slack's messages.

44. In that same time frame, Slack sent Respondent multiple email messages requesting a status report on her legal matter. Despite his receipt of the messages from Slack, Respondent failed to respond to most of Slack's messages.

45. Dissatisfied by the lack of communication with Respondent, Slack terminated Respondent's employment on April 1, 2013, and requested a refund of the unearned advanced attorney fees. To date, Respondent has not provided a refund to Slack.

CONCLUSIONS OF LAW:

46. By failing to perform any legal services of value on Slack's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

47. By failing to respond to Slack's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

48. By failing to refund to Slack any part of the \$5,000 advanced attorney fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-12458 – Heather Thompson

FACTS:

49. On March 20, 2012, Heather Thompson hired Fixed Rate Financial for legal services related to a residential mortgage loan modification. Fixed Rate referred Thompson to Respondent.

50. Respondent undertook the representation of Thompson for her loan modification. However, Respondent did not perform any legal services of value for Thompson.

51. From the time period from March 20, 2012 until March 8, 2013, Thompson called Respondent on the telephone and left multiple detailed messages requesting a status report on her legal

matter. Despite his receipt of the messages from Thompson, Respondent failed to respond to Thompson's messages.

52. In that same time frame, Thompson sent Respondent multiple email messages requesting a status report on her legal matter. Despite his receipt of the messages from Thompson, Respondent failed to respond to most of Thompson's messages.

53. Dissatisfied by the lack of communication with Respondent, Thompson terminated Respondent's employment on March 8, 2013.

CONCLUSIONS OF LAW:

54. By failing to perform any legal services of value on Thompson's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

55. By failing to respond to Thompson's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

Case No. 13-O-13200 – Jeremy Dye

FACTS:

56. On March 7, 2013, Jeremy Dye hired Respondent for legal services related to a personal bankruptcy. Dye paid Respondent \$1,306 in advanced fees for the Chapter 7 bankruptcy.

57. Respondent undertook the representation of Dye for his bankruptcy. However, Respondent did not perform any legal services of value for Dye.

58. From the time period from March 7, 2013 until September 26, 2013, Dye called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Dye, Respondent failed to respond to Dye's messages.

59. In that same time frame, Dye sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Dye, Respondent failed to respond to most of Dye's messages.

60. Dissatisfied by the lack of communication with Respondent, Dye terminated Respondent's employment on September 26, 2013, and requested a refund of the unearned advanced fees. To date, Respondent has not provided a refund to Dye.

CONCLUSIONS OF LAW:

61. By failing to perform any legal services of value on Dye's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

62. By failing to respond to Dye's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

63. By failing to refund to Dye any part of the \$1,306 advanced attorney fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-13633 – Mohammed Fattah

FACTS:

64. On April 29, 2013, Mohammed Fattah hired Respondent for legal services related to a personal bankruptcy. Fattah paid Respondent \$1,506 in advanced fees for the Chapter 7 bankruptcy.

65. Respondent undertook the representation of Fattah for his bankruptcy. However, Respondent did not perform any legal services of value for Fattah.

66. From the time period from April 29, 2013 until June 15, 2013, Fattah called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Fattah, Respondent failed to respond to Fattah's messages.

67. In that same time frame, Fattah sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Fattah, Respondent failed to respond to most of Fattah's messages.

68. Dissatisfied by the lack of communication with Respondent, Fattah terminated Respondent's employment on June 15, 2013, and requested a refund of the unearned advanced fees. To date, Respondent has not provided a refund to Fattah.

CONCLUSIONS OF LAW:

69. By failing to perform any legal services of value on Fattah's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

70. By failing to respond to Fattah's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

71. By failing to refund to Fattah any part of the \$1,506 advanced fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-15048 – Kenneth Dixon

FACTS:

72. On March 4, 2013, Kenneth Dixon hired Respondent for legal services related to a personal bankruptcy. Dixon paid Respondent \$1,806 in advanced fees for the Chapter 7 bankruptcy.

73. Respondent undertook the representation of Dixon for his bankruptcy. However, Respondent did not perform any legal services of value for Dixon.

74. From the time period from March 4, 2013 until July 25, 2013, Dixon called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Dixon, Respondent failed to respond to Dixon's messages.

75. In that same time frame, Dixon sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Dixon, Respondent failed to respond to most of Dixon's messages.

76. Dissatisfied by the lack of communication with Respondent, Dixon terminated Respondent's employment on July 25, 2013, and requested a refund of the unearned advanced fees. To date, Respondent has not provided a refund to Dixon.

CONCLUSIONS OF LAW:

77. By failing to perform any legal services of value on Dixon's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

78. By failing to respond to Dixon's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

79. By failing to refund to Dixon any part of the \$1,806 advanced attorney fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-15488 – Complainant William Smawley

FACTS:

80. On August 12, 2011, William Smawley hired Fixed Rate Financial for legal services related to a residential mortgage loan modification. Fixed Rate referred Smawley to Respondent.

81. Respondent undertook the representation of Smawley for his loan modification. However, Respondent did not perform any legal services of value for Smawley.

82. From the time period from August 12, 2011 until November 2012, Smawley called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Smawley, Respondent failed to respond to Smawley's messages.

83. In that same time frame, Smawley sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Smawley, Respondent failed to respond to most of Smawley's messages.

84. Dissatisfied by the lack of communication with Respondent, Smawley terminated Respondent's employment in November 2012.

CONCLUSIONS OF LAW:

85. By failing to perform any legal services of value on Smawley's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

86. By failing to respond to Smawley's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

Case No. 13-O-16119 – Complainants Freddie and Christy Tercero

FACTS:

87. On June 26, 2012, Freddie and Christy Tercero hired Respondent for legal services related to a residential mortgage loan modification.

88. The Terceros paid Respondent an advanced fee of \$1,000 for those services.

89. Respondent was unsuccessful in obtaining a loan modification acceptable to his clients.

CONCLUSIONS OF LAW:

90. By collecting an advanced fee to perform mortgage loan modification services on behalf of the Terceros in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-16459 – Complainant John Quigley

FACTS:

91. On July 23, 2012, John Quigley hired Respondent for a lawsuit against his residential mortgage lender and paid Respondent \$5,700 in advanced attorney fees.

92. Respondent did not perform any legal services of value for Quigley.

93. From the time period from July 23, 2012 until April 2013, Quigley called Respondent on the telephone and left multiple detailed messages requesting a status report on his legal matter. Despite his receipt of the messages from Quigley, Respondent failed to respond to Quigley's messages.

94. In that same time frame, Quigley sent Respondent multiple email messages requesting a status report on his legal matter. Despite his receipt of the messages from Quigley, Respondent failed to respond to most of Quigley's messages.

95. Dissatisfied by the lack of communication with Respondent, Quigley terminated Respondent's employment on April 1, 2013, and requested a refund of the unearned advanced attorney fees. To date, Respondent has not provided a refund to Quigley.

CONCLUSIONS OF LAW:

96. By failing to perform any legal services of value on Quigley's legal matter, after he agreed to undertake the representation, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

97. By failing to respond to Quigley's multiple telephone and email messages requesting a status report on his legal matter, 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 wilful violation of Business and Professions Code section 6068(m).

98. By failing to refund to Quigley any part of the \$5,700 advanced attorney fees which were not earned, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in wilful violation of Rule of Professional Conduct 3-700(D)(2).

Case No. 13-O-16463 – Complainants Mark and Cheryl Sult

FACTS:

99. On February 8, 2012, Mark and Cheryl Sult hired Respondent for legal services related to a residential mortgage loan modification.

100. The Sults paid Respondent an advanced fee of \$3,000 for those services.

101. Respondent was unsuccessful in obtaining a loan modification acceptable to his clients.

CONCLUSIONS OF LAW:

102. By collecting an advanced fee to perform mortgage loan modification services on behalf of the Sults in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-17056 – Complainant Scott Frank

FACTS:

103. On December 10, 2012, Scott Frank hired Respondent for legal services related to a residential mortgage loan modification.

104. Frank paid Respondent an advanced fee of \$1,995 for those services.

105. Respondent was unsuccessful in obtaining a loan modification acceptable to his client.

CONCLUSIONS OF LAW:

106. By collecting an advanced fee to perform mortgage loan modification services on behalf of Frank in violation of Civil Code section 2944.7, Respondent willfully violated Business and Professions Code section 6106.3.

AGGRAVATING CIRCUMSTANCES

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent's conduct in the matters comprising this disciplinary stipulation, and his conduct in the four client matters which were the basis of the prior discipline, which all occurred during the same time period as the present misconduct, evidence multiple acts of misconduct. Standard 1.2(b)(ii). (*In the Matter of Peterson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139.)

Prior Record of Discipline (Standard 1.2(b)(i)): Respondent has one prior imposition of discipline, a 90-day actual suspension, one-year stayed suspension and two-year probation, which is not yet effective, arising from State Bar Case Nos. 12-O-11922, et al. In the prior discipline, Respondent was found culpable of failing to provide an accounting in violation of Rule of Professional Conduct 4-100(B)(4), failing to respond to reasonable client inquiries in violation of Business and Professions Code section 6068(m), and collecting advanced fees for loan modification services in violation of Business and Professions Code section 6106.3 in two separate matters.

MITIGATING CIRCUMSTANCES

Emotional/Physical Difficulties (Std. 1.2(e)(iv)): At the time of the stipulated acts of misconduct, Respondent suffered extreme emotional difficulties stemming from his depression and anxiety over his divorce and child custody dispute. Respondent's emotional difficulties stemming from his depression distracted him from his practice and contributed to his failure to perform with competence and failure to communicate with his clients.

Respondent sought professional treatment for his depression in Spring 2012. His regular counseling has helped Respondent effectively handle his depression.

Respondent's successful treatment for his depression, and the passage of time have restored him to the practice of law without further adverse impact from this stress. Mitigating weight may be given even where no expert evidence is given to establish an emotional difficulty or physical disability was "directly responsible" for the misconduct, where there are facts supporting that that condition impaired the respondent's judgment and affected his ability to deal appropriately with the stress created. (*In re Brown* (1995) 12 Cal.4th 205, 222.)

Family Problems: From October 27, 2011 to the present time, Respondent has been engaged in a bitter divorce and custody battle with his ex-wife. Even before the filing of the dissolution action by Respondent's now ex-wife, Respondent was experiencing severe marital troubles. They have four children under 13 years old.

Respondent's child custody litigation began during the time period of the misconduct. Respondent's serious family problems distracted him from his practice and contributed to his failure to perform and communicate in the legal matters entrusted to him.

Respondent recognized the adverse effects the stress of the divorce and the child custody dispute was having in his personal and professional lives. Acting on this recognition, he began counseling in Spring 2012 with a therapist. That counseling gave him the insight and methods to effectively handle the stress resulting from his divorce and the custody dispute. His counseling and the passage of time have restored him to the practice of law without further adverse impact from this stress. Respondent continues in counseling with his therapist as a preventative measure.

Family problems may be considered in mitigation even absent expert testimony. In *Hunnicutt v. State Bar* (1988) 44 Cal.3d 362, 373-374, mitigation was given where evidence was shown that family problems occurring at the time of the misconduct were since resolved. In *Friedman v. State Bar* (1990) 50 Cal.3d 235, 243, mitigation was given where evidence was shown that at the time of the misconduct the attorney “began to experience marital problems, which subjected him to stress and as a result adversely affected his professional ability.” Further, some mitigating weight may be given even where no expert evidence is given to establish an emotional difficulty or physical disability was “directly responsible” for the misconduct, where there are facts supporting that that condition impaired the Respondent’s judgment and affected his ability to deal appropriately with the stress created. (*In re Brown* (1995) 12 Cal.4th 205, 222.) As in *Hunnicutt* and *Friedman*, Respondent’s family problems subjected him to significant stress and adversely affected his professional judgment and performance which has since been resolved. Some mitigating weight may be given even absent expert testimony as to a direct connection between the two.

Good Character (Standard 1.2(e)(vi)): Respondent submitted character letters from three attorneys and two members of the community familiar with Respondent’s misconduct and Respondent’s community service. Moreover, Respondent presented testimony of five witnesses at the trial in his prior discipline matter who all were conversant in the misconduct in which Respondent engaged, and who unequivocally averred to Respondent’s good character. These witnesses have vouched for Respondent’s good character even though they are aware of the additional misconduct in the matters which comprise this stipulation. The testimony of the five character witnesses in the prior discipline trial is relevant here, since the time period of the misconduct in the prior discipline and these matters overlapped, and the same factors which contributed to Respondent’s misconduct affected both the prior discipline and the misconduct acknowledged in this stipulation.

Respondent’s good character has been attested by a wide range of members of the legal and general communities who are fully aware of Respondent’s misconduct in connection with the matters which comprise this stipulation. (See *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171.) Respondent has established that he is entitled to mitigating credit for an extraordinary demonstration of good character.

Pre-filing Stipulation: Respondent met with the State Bar trial counsel, admitted his misconduct, and entered this Stipulation fully resolving these matters. Respondent’s cooperation at this early stage has saved the State Bar significant resources and time. Respondent’s stipulation to the facts, culpability, and discipline is a mitigating circumstance. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spait* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521).

AUTHORITIES SUPPORTING DISCIPLINE

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertan* (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.)

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 of Procedure of State Bar, title IV, Standards for Attorney Sanctions for Professional 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; standard 1.3.)

Generally, the Standards are applied to only the misconduct in the current matters to determine the appropriate level of discipline; however, in certain situations, the misconduct from the prior discipline and the misconduct in the current matters should be considered together in determining discipline.

The reasoning for considering the prior discipline and the current misconduct together to determine the appropriate level of discipline is set forth in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In *Sklar*, the attorney had prior discipline and was involved in a second disciplinary proceeding involving misconduct which occurred during the same time period as his prior discipline. The court acknowledged that “... part of the rationale for considering a prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney’s inability to conform his or her conduct to ethical norms [citation]. It is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case.” (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at 619.) *Sklar* concluded that it was appropriate to consider the totality of the misconduct in the attorney’s prior discipline and the pending matters to determine what discipline was appropriate had all the misconduct been brought together rather than separately.

A similar rationale and application is appropriate here. Respondent’s misconduct in the current matters occurred at the same time as the misconduct in his prior discipline. Rather than considering a strict application of the standards to the current misconduct as if it was subsequent and further misconduct committed by an attorney displaying an inability to conform his conduct to ethical norms, it is appropriate to consider the current misconduct together with his prior misconduct which all occurred during the same time period.

The gravamen of Respondent’s misconduct is his repeated failures to communicate and to perform in his clients’ bankruptcy and residential mortgage loan modification cases. In this stipulation, Respondent has acknowledged six violations of Business and Professions Code section 6106.3 (accepting advanced fees for loan modification services), along with 11 violations of Rule of Professional Conduct 3-110(A) (failing to perform with competence), 10 violations of Business and Professions Code section 6068(m) (failing to respond to reasonable client inquiries), six violations of Rule of Professional Conduct 3-700(D)(2) (failing to refund unearned fees) and one violation of Rule of Professional Conduct 3-700(D)(1) (failing to return client file).

In his prior discipline, Respondent was found culpable of one count of failing to provide an accounting in violation of Rule of Professional Conduct 4-100(B)(4), one count of failing to respond to reasonable status inquiries in violation of Business and Professions Code section 6068(m) and two counts of accepting advanced fees for loan modification services in violation of Business and Professions Code section 6106.3.

The misconduct in this stipulation occurred between March 2010 and the first half of 2013. The misconduct in the prior discipline occurred between May 2011 through the end of 2011. The time period during which the misconduct in the current discipline occurred spanned both before and after the time period during which the misconduct in the prior discipline was committed.

Respondent admits to committing 34 acts of professional misconduct. Standard 1.6(a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are

prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe, and therefore appropriate Standard to employ to assess Respondent's misconduct is Standard 2.6, relating to Respondent's wilful violation of Business and Professions Code section 6068(m), failing to respond to client inquiries in ten matters. Standard 2.6 provides "[c]ulpability of a member of a violation of any of the following provisions of the Business and Professions Code [including Business and Professions Code section 6068(m)] shall result in disbarment or suspension depending on 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: (a)."

In considering the gravity of the misconduct, Respondent's misconduct occurred over a three-year time period from March 2010 through the first half of 2013. Respondent's misconduct is serious. Respondent has repeatedly failed to communicate with his clients and failed to perform services for those clients. He owes refunds to 12 clients, having failed to promptly refund unearned fees. Respondent also violated Business and Professions Code section 6106.3 in four matters.

In considering the degree of harm to the clients, in the prior discipline matters, Respondent failed to communicate, failed to account and failed to refund fees collected in violation of Business and Professions Code section 6106.3. His clients suffered significant harm. In the matters which comprise this stipulation, Respondent owes significant restitution to 12 clients. He failed to perform in 11 matters and failed to communicate in 10 matters, causing prejudice to his clients' legal matters entrusted to Respondent. The harm Respondent's misconduct caused his clients is significant.

The aggravating and mitigating circumstances must also be considered. In aggravation are Respondent's multiple acts and his prior discipline. Prior discipline should be considered in aggravation "[w]henver discipline is imposed." (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715.) However, for the reasons previously set forth, the weight of the prior discipline is diminished in these matters.

In mitigation, Respondent's emotional difficulties stemming from his bitter divorce and custody battle, and his severe family problems contributed to his misconduct. They both distracted him from his practice. Respondent has been treating with a mental health professional. Respondent has established through the testimony of several witnesses who are fully aware of his misconduct that he possesses good character. Moreover, Respondent has fully cooperated with the State Bar to resolve these matters with a pre-filing stipulation, which is a recognized mitigating circumstance.

Significant actual suspension until restitution is paid is warranted for an attorney's failure to perform and failure to refund unearned fees. (See *Lister v. State Bar* (1990) 51 Cal.3d 1117 [nine months' actual suspension for failing to perform in three client matters and failing to refund unearned fees]; *Conroy v. State Bar* (1991) 53 Cal.3d 495 [one-year actual suspension for failure to perform and communicate in one client matter with prior discipline]).

Following Standard 2.6, and considering the totality of the misconduct considered in the prior and current matters, particularly in light of the gravity and extent of the misconduct and degree of harm to the clients, and considering the aggravating and mitigating circumstances, the appropriate level of discipline is a two-year actual suspension for all of Respondent's misconduct in these matters and the prior discipline.

Imposition of a two-year actual suspension, with an “and until” provision, requiring Respondent to provide restitution to his clients before he is reinstated, and until he makes an affirmative showing of fitness under Standard 1.4(c)(ii) will be sufficient to protect the public, the courts and the legal profession under Standard 1.3, and falls squarely within the Standards for discipline in these matters.

FINANCIAL CONDITIONS

These financial conditions are continued from the Financial Conditions form (pages 7, 8 and 9). Respondent must pay the following restitution on the same terms as set forth on the Financial Conditions page 7 to the following payees, in addition to the four payees listed on page 7:

Payee	Principal Amount	Interest Accrues From
Lisa Slack	\$5,000	August 17, 2012
Jeremy Dye	\$1,306	March 7, 2013
Mohammed Fattah	\$1,506	April 29, 2013
Kenneth Dixon	\$1,806	March 4, 2013
Freddie and Christy Tercero	\$1,000	June 26, 2012
John Quigley	\$5,000	July 23, 2012
Mark and Cheryl Sult	\$3,000	February 8, 2012
Scott Frank	\$1,995	December 10, 2012

EXCLUSION FROM MCLE CREDIT

Pursuant to Rule of Procedure 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School.

(Do not write above this line.)

In the Matter of: JASON ALLAN SMITH	Case number(s): 12-O-12556, 12-O-16857, 12-O-16864, 12-O-17121 12-O-18187, 13-O-10320, 13-O-11891, 13-O-12212 13-O-12458, 13-O-13200, 13-O-13633, 13-O-15048 13-O-15488, 13-O-16119, 13-O-16459, 13-O-16463 13-O-17056
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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.

11/27/13
Date


Respondent's Signature

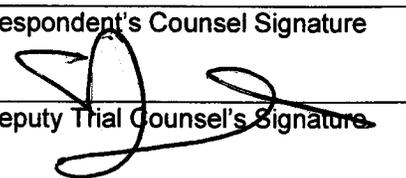
Jason Allan Smith
Print Name

Date

Respondent's Counsel Signature

Print Name

11-27-13
Date


Deputy Trial Counsel's Signature

Erin McKeown Joyce
Print Name

(Do not write above this line.)

<p>In the Matter of: JASON ALLAN SMITH</p>	<p>Case Number(s): 12-O-12556, 12-O-16857, 12-O-16864, 12-O-17121, 12-O-18187, 13-O-10320, 13-O-11891, 13-O-12212, 13-O-12458, 13-O-13200, 13-O-13633, 13-O-15048, 13-O-15488, 13-O-16119, 13-O-16459, 13-O-16463, 13-O-17056</p>
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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.

P. 11 - PARAG. 13 - DELETE "SPARKS PAID RESPONDEMENT \$1,000" - INSERT - "SPARKS PAID RESPONDEMENT AN ADVANCED FEE OF \$1,000"

P. 12 - PARAG. 25 - DELETE - "ANJEL PAID RESPONDEMENT \$750" - INSERT - "ANJEL PAID RESPONDEMENT AN ADVANCED FEE OF \$750"

P. 24 - FINANCIAL CONDITION TABLE - JOHN GUILLEY PRINCIPAL AMOUNT - DELETE - "5,000" INSERT - "5,700"

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.)**

12-11-2013
Date


RICHARD A. PLATEL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 13, 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:

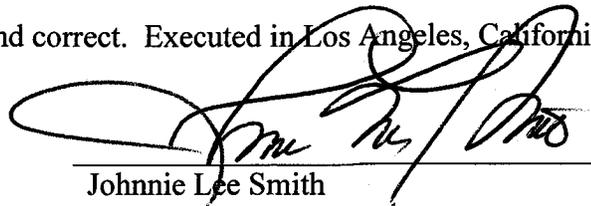
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JASON A. SMITH
26400 LA ALAMEDA STE 106
MISSION VIEJO, CA 92691

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

Erin M. Joyce, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 13, 2013.



Johnnie Lee Smith
Case Administrator
State Bar Court