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State Bar Court of California Hearing Department Los Angeles DISBARMENT		ORIGINAL
<b>Counsel For The State Bar</b>  <b>Agustin Hernandez</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa Street</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1713</b>  <b>Bar # 161625</b>	<b>Case Number(s):</b> <b>12-O-15028-DFM</b> <b>13-O-10276</b> <b>13-O-13796</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>MAY 14 2014</b>  <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Nicole Vongchanglor</b> <b>9469 Haven Avenue, Suite 210</b> <b>Rancho Cucamonga, CA 91730</b> <b>(909) 390-1515</b>  <b>Bar # 278523</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING; ORDER OF</b> <b>INVOLUNTARY INACTIVE ENROLLMENT</b>  <b>DISBARMENT</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>GREGORY ALLEN PAIVA</b>  <b>Bar # 207218</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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.**

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**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **June 5, 2000**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(11)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(Effective January 1, 2014)

Disbarment

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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Costs to be awarded to the State Bar.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **Case No. 06-O-14235, et al.**
  - (b) ☒ Date prior discipline effective **October 29, 2009.**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code, section 6106 [misrepresentations; two counts]; and rule 4-100(A), Rules of Professional Conduct [failure to maintain funds in trust].**
  - (d) ☒ Degree of prior discipline **Respondent was suspended for one year, stayed, placed on probation for two years, and was actually suspended for 60 days.**
  - (e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:

**(See Attachment, page 8.)**

- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, 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.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. (See Attachment, page 8.)
- (8) ☒ **Restitution:** Respondent failed to make restitution. (See Attachment, page 8.)
- (9) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.

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(13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**Pretrial Stipulation. See Attachment, pages 8 and 9.**

**D. Discipline: Disbarment.**

**E. Additional Requirements:**

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) ☒ **Restitution:** Respondent must make restitution to **Mitchell Schliebs** in the amount of \$ **\$2,680** plus 10 percent interest per year from **April 14, 2008**. If the Client Security Fund has reimbursed **Mitchell Schliebs** for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than **N/A** days from the effective date of the Supreme Court order in this case.
- (3) ☒ **Other: Further Restitution.**

**Respondent must make restitution to Dennis Sekermestrovich in the amount of \$2,500 plus 10 percent interest per year from January 11, 2010. If the Client Security Fund has reimbursed Dennis Sekermestrovich for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.**

**Respondent must make restitution to Timothy and Christine Loring in the amount of \$2,000 plus 10 percent interest per year from September 26, 2005. If the Client Security Fund has reimbursed Timothy and Christine Loring for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.**

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**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:

GREGORY ALLEN PAIVA

CASE NUMBERS:

12-O-15028, 13-O-10276 & 13-O-13796

**FACTS AND CONCLUSIONS OF LAW.**

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

Case No. 12-O-15028 (Complainant: Mitchell Schliebs)

**FACTS:**

1. On November 2, 2005, Mitchell Schliebs hired Respondent to represent him in a civil matter against Hehr International, Inc. on a 33 percent contingency fee basis.
2. On April 9, 2008, the matter settled at mediation for \$4,000.
3. On April 14, 2008, a settlement check from Hehr International, Inc. made payable to Respondent and Schliebs in the amount of \$4,000 was sent to Respondent. Thereafter, Respondent received the settlement check. Of this sum, Schliebs was entitled to \$2,680, and Respondent was entitled to \$1,320 as attorney fees.
4. Respondent negotiated the settlement check, but failed to deposit the \$4,000 settlement check into his client trust account.
5. At no time did Respondent remit to Schliebs any portion of the \$2,680 that Schliebs was entitled to as his portion of the settlement proceeds.
6. On February 23, 2009, Schliebs' bookkeeper mailed to Respondent a written request for an accounting on behalf of Schliebs. Respondent received the letter.
7. At no time did Respondent render an accounting to Schliebs.
8. Respondent dishonestly or grossly negligently misappropriated for Respondent's own purposes \$2,680 of Schliebs' funds.

**CONCLUSIONS OF LAW:**

9. By failing to deposit the \$4,000 settlement check into his client trust account, Respondent failed to deposit funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of Rules of Professional Conduct, rule 4-100(A).

10. By, failing to provide Schliebs with an accounting, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession, in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

11. By misappropriating \$2,680 of Schliebs' funds, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

Case No. 13-O-10276 (Complainant: Dennis Sekermestrovich)

FACTS:

12. On January 7, 2010, Dennis Sekermestrovich hired Respondent to negotiate a mortgage loan modification on behalf of Sekermestrovich.

13. On January 11, 2010, Sekermestrovich paid Respondent \$2,500 for the loan modification. Prior to Sekermestrovich paying Respondent \$2,500 for the loan modification, Respondent had not fully performed each and every service Respondent had contracted to perform or represented that he would perform.

14. To date, Respondent has not refunded to Sekermestrovich any portion of the \$2,500 that Sekermestrovich paid for the loan modification.

CONCLUSIONS OF LAW:

15. By charging and collecting \$2,500 from Sekermestrovich to perform a mortgage loan modification prior to fully performing each and every service he had contracted to perform or represented that he would perform, Respondent violated of Section 2944.7(a)(1) of the Civil Code, in willful violation of Business and Professions Code section 6106.3(a).

Case No. 13-O-13796 (State Bar Investigation)

FACTS:

16. Pursuant to an order of the Supreme Court of California, effective on July 28, 2012, Respondent was required to comply with certain terms of disciplinary probation, including but not limited to, paying restitution to Timothy and Christine Loring in the amount of \$2,000, plus interest of 10 percent per annum, accruing from September 26, 2005, by July 10, 2012, and submitting to the State Bar Office of Probation proof of payment of restitution to Timothy and Christine Loring by July 10, 2012, as well as quarterly reports on each January 10, April 10, July 10, 2013, and October 10 during the four-year period of probation.

17. Respondent has failed to pay any portion of the restitution to Timothy and Christine Loring.

18. Respondent failed to submit proof of restitution to the Office of Probation by July 10, 2012. To date, Respondent has not submitted proof of restitution to the Office of Probation.

19. Respondent failed to timely submit to the Office of Probation two quarterly reports by their respective due dates of July 10, 2013, and October 10, 2013. On July 12, 2013, Respondent filed with

the Office of Probation the quarterly report that was due on July 10, 2013. On October 11, 2013, Respondent filed with the Office of Probation the quarterly report that was due on October 10, 2013.

#### CONCLUSIONS OF LAW:

20. By failing to pay restitution to Timothy and Christine Loring and to submit proof of restitution to the Office of Probation by July 10, 2012, and by failing to timely submit to the Office of Probation two quarterly reports by their respective due dates of July 10, 2013, and October 10, 2013, Respondent failed to comply with all conditions attached to any disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has been disciplined on three prior occasions. In Case No. 06-O-14235, *et al.*, effective October 29, 2009, Respondent was suspended for one year, stayed, placed on probation for two years, and was actually suspended for 60 days. Respondent committed misconduct in two client matters between March 2006, and January 2007. Respondent made misrepresentations to his clients and to the State Bar [two counts], and failed to maintain client funds in trust.

In Case No. 09-O-11877, *et al.*, effective August 7, 2011, Respondent was suspended for two years, stayed, actually suspended for one year, and placed on probation for three years. Respondent committed misconduct in seven client matters between May 2008, and August 2010. Respondent sought to mislead a judge, failed to respond to client inquiries [two counts], engaged in the unauthorized practice of law, practiced law in a jurisdiction where he was not entitled to practice [two counts], shared legal fees with a non-lawyer, failed to perform with competence [three counts], improperly withdrew from representation, failed to release file to client, failed to refund unearned fees [two counts], failed to render an accounting, and collected an illegal fee [three counts].

In Case No. 11-O-13356, effective July 28, 2012, Respondent was suspended for two years, stayed, actually suspended for 18 months, and placed on probation for four years. Respondent committed misconduct in one client matter between November 2005, and mid-2010. Respondent made misrepresentations to his client, failed to perform with competence, and failed to refund unearned fees.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed five acts of misconduct in three separate matters by failing to deposit client funds in trust, failing to provide an accounting for client funds, misappropriating client funds, charging and collecting an advance fee to perform a mortgage loan modification, and failing to comply with multiple terms of a disciplinary probation.

**Failure to Make Restitution (Std. 1.5(i)):** To date, Respondent has failed to make any restitution to Schliebs and Sekermestrovich. Nor has he made restitution to the Loring as the Supreme Court ordered him to do.

#### MITIGATING CIRCUMSTANCES.

**Pretrial Stipulation:** Respondent is entitled to mitigation for entering into a stipulation of facts prior to trial, thereby preserving State Bar Court time and resources. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts



and culpability].) The weight of this mitigation is tempered, however, as Respondent has agreed to enter into this stipulation only a few days before the scheduled trial.

### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 1.8(b) provides that disbarment is appropriate when a member has two or more prior impositions of discipline – unless the most compelling mitigating circumstances clearly predominate or the prior misconduct occurred during the same time as the current misconduct – where actual suspension was ordered in any of the prior disciplines; where the prior and current misconduct demonstrate a pattern of misconduct; or where the prior and current misconduct demonstrate an unwillingness or inability by the attorney to conform to ethical responsibilities.

Respondent has three prior impositions of discipline involving 10 separate client matters over a four-and-a-half year period between 2006 and 2010. There is no compelling mitigation that clearly predominates. The misconduct pertaining to the first two disciplinary matters did not occur at the same time as the current misconduct. The misconduct pertaining to the third disciplinary matter occurred at the same time as the misconduct in the first two disciplinary matters. With respect to the instant matter, some of the misconduct occurred at the same time as the misconduct pertaining to the prior disciplinary matters, but not all of the misconduct occurred contemporaneously. Respondent’s violations of the terms of his disciplinary probation in the instant matter all occurred after the misconduct in his prior disciplinary matters.

With respect to other factors for consideration in Standard 1.8(b), all three of the three prior disciplinary matters included actual suspension. The prior disciplinary matters and the current matter do not

demonstrate a pattern of misconduct. However, Respondent's prior and current misconduct demonstrate Respondent's unwillingness or inability to conform to ethical responsibilities and obligations. They involve a total of 29 violations in 13 separate matters spanning from March 2006 through October 2013.

The primary purposes of attorney discipline would not be served by any sanction short of disbarment.

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 10, 2014, the prosecution costs in this matter are \$8,954. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of:  
GREGORY ALLEN PAIVA

Case number(s):  
12-O-15028-DFM  
13-O-10276  
13-O-13796

**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.

4/11/14

Date

Respondent's Signature

Gregory Allen Paiva

Print Name

4/11/14

Date

Respondent's Counsel Signature

Nicole Vongchanglor

Print Name

April 14, 2014

Date

Deputy Trial Counsel's Signature

Agustin Hernandez

Print Name

(Do not write above this line.)

In the Matter of: GREGORY ALLEN PAIVA	Case Number(s): 12-O-15028-DFM 13-O-10276 13-O-13796
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### DISBARMENT ORDER

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

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

See attached Modifications to Stipulation.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Respondent Gregory Allen Paiva is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

5/13/14

  
RICHARD A. HONN  
Judge of the State Bar Court

In the Matter of :  
GREGORY ALLEN PAIVA  
SBN 207218

Case Number(s):  
12-O-15028-DFM, 13-O-10276,  
13-O-13796

### MODIFICATIONS TO STIPULATION

1. On page 7 of the stipulation, paragraph number 10 is DELETED in its entirety. The stipulated facts do not support a rule 4 100(B)(3) violation. Whether the bookkeeper's February 23, 2009, letter to respondent is deemed to be a request for an accounting (rule 4 100(B)(3)) or a request for payment (rule 4 100(B)(4)), respondent's failures to account for and to pay to the clients their 67 percent of the settlement proceeds are clearly encompassed within or lesser included offenses of the found section 6106 misappropriation of the clients' 67 percent of the proceeds. Respondent's failure to account is evidence of his willful misappropriation. (Cf. Brody v. State Bar (1974) 11 Cal.3d 347, 350; Jackson v. State Bar (1979) 23 Cal.3d 509, 513.)
2. On page 8 of the stipulation, in paragraph number 20, the text "and to submit proof of restitution to the Office of Probation by July 20, 2012" is DELETED. The stipulated facts do not support a section 6068, subdivision (k) violation based on respondent's failure to provide proof of restitution. Respondent could not have provided proof of restitution because he did not make restitution. Because respondent could not provide proof of restitution, no ethical violation may be found for his not providing such proof. (Cf. In the Matter of Potack (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 537-538, citing Bearden v. Georgia (1983) 461 U.S. 660, 672-673.)
3. On page 8 of the stipulation, under the heading "Aggravating Circumstances," the fourth paragraph, which is titled "Multiple Acts of Misconduct," is DELETED and in its place, the following is INSERTED:

Respondent is culpable of three counts of misconduct in two separate client matters (respondent failed to deposit settlement proceeds in a trust account, misappropriate client funds, and collected an advance fee in home-mortgage-loan-modification case). In addition, in three instances, respondent failed to comply with two of the conditions of his disciplinary probation (respondent failed to pay \$2,000 in restitution; filed one probation report one-day late; and filed another probation report two-days late).
4. On page 8 of the stipulation, under the heading "Aggravating Circumstances," in the fifth paragraph, which is titled "Failure to Make Restitution," the last sentence, which reads: "Nor has he made restitution to the Lorings as the Supreme Court ordered him to do" is DELETED. The parties properly stipulated that respondent's failure to make restitution to the Lorings was a willful violation of respondent's statutory duty comply with the conditions of his disciplinary probation. Thus, it is improper to rely on that failure to establish an aggravating circumstance for failing to make restitution. In the Matter of Chesnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 176; In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61, 68; In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767, 777.)

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 14, 2014, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

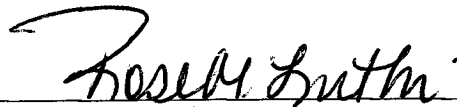
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

NICOLE VONGCHANGLOR  
GATEWAY LEGAL GROUP, P.C.  
9469 HAVEN AVE STE 210  
RANCHO CUCAMONGA, CA 91730

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

AGUSTIN HERNANDEZ, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 14, 2014.



Rose M. Luthi  
Case Administrator  
State Bar Court