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**State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION**

Counsel For The State Bar Anand Kumar Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1714 Bar # 261592	Case Number(s): 12-O-16751-DFM, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, 13-O-13448, (13-O-15485), (13-O-17612)	For Court use only PUBLIC MATTER FILED  APR 22 2014 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Albert W. Arena Arena & Schnitzer, APLC 110 West "C" Street, Suite 1709 San Diego, CA 92101 (619) 231-3100 Bar # 132699	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: BRUCE HOWARD SOBEL Bar # 182547 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 7, 1996**.
- (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.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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(Effective January 1, 2014)

Actual Suspension

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three (3) billing cycles 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 [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
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was 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. **See stipulation, at page 20.**
- (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 stipulation, at pages 20-21.**
- (8) ☐ **Restitution:** Respondent failed to make restitution.
- (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. **See stipulation, at page 21.**

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- (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:

Lack of prior record of discipline; pre-trial stipulation, see stipulation, at page 21.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **three (3) 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 1.2(c)(1) 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 (3) 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 **three (3) 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 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☒ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), 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.

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- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without**

further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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In the Matter of: BRUCE HOWARD SOBEL	Case Number(s): 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, 13-O-13448, 13-O-15485, 13-O-17612
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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
Zurita Gray	\$2,170	December 8, 2011
Wilfredo and Consolacion Domingo	\$4,500	December 31, 2010
Ben and Sylvia Pantoja	\$2,500	May 5, 2011
List continued on page 24.		

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than . **This condition is not applicable. Respondent will remain suspended until he pays restitution in full pursuant to section D(3)(a)(ii).**

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

- ☐ 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:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

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

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

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

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

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

d. Client Trust Accounting School

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

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: BRUCE HOWARD SOBEL

CASE NUMBERS: 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128,
 13-O-11701, 13-O-12779, 13-O-13448, 13-O-15485,
 13-O-17612

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 Nos. 12-O-16751 (Complainant: Zurita Gray);
12-O-16762 (Complainants: Wilfredo and Consolacion Domingo);
12-O-17369 (Complainants: Ben and Sylvia Pantoja);
13-O-11128 (Complainants: Tim and Martha Duran);
13-O-11701 (Complainant: Rosalie De Marco);
13-O-12779 (Complainants: Richard Grant and David Hawkins);
13-O-13448 (Complainants: Robert and Patricia Calloway);
13-O-15485 (Complainant: Emely Lego);
13-O-17612 (Complainant: Ronald Beauman)

FACTS:

1. In January 2010, non-attorney Victoria Herrera ("Herrera") established the Asset Law Center ("ALC"), a California business owned individually by Herrera, which offered legal services to clients, including home mortgage loan modification services and other services to assist clients in preventing or avoiding home foreclosure.

2. In April 2010, Respondent began working for ALC and formed a partnership with Herrera to operate ALC. At all times relevant to the facts herein, Respondent was the only attorney partnered with Herrera or working for ALC. Pursuant to the partnership arrangement between Respondent and Herrera, Respondent was to provide home mortgage loan modification services and other home foreclosure-related services to clients of ALC. In return, Herrera would handle accounting and payroll, sign up clients, collect legal fees from clients, process fee agreements, and handle day-to-day contact with clients. Respondent and Herrera agreed to divide legal fees received from clients on a per-case basis wherein Respondent would receive a percentage of the total advanced legal fees collected and received by Herrera.

3. Between April 2010 and May 2013, while doing business as ALC, Respondent performed legal services in accordance with the partnership arrangement set forth in paragraph 2 as follows. Respondent agreed to perform and performed home mortgage loan modification services to a number of ALC clients, shared legal fees with Herrera and ALC, and received \$500 from Herrera for each ALC client matter he worked on for a total of at least \$5,000 in legal fees, which Respondent subsequently

states he used to further the operation of ALC, including to pay office expenses, services, rent and utilities for ALC.

4. In May 2011, Respondent formed a second partnership with Herrera, the Asset Bankruptcy Center ("ABC"), registered with the San Diego County Recorder's Office as a "corporation" and co-owned and established by Respondent and Herrera. At all relevant times, Respondent was the managing attorney for ABC and was the only attorney working for ABC. Pursuant to the partnership arrangement between Respondent and Herrera, Respondent was to provide bankruptcy services to clients of ABC. In return, Herrera would sign up clients, collect legal fees from clients, process fee agreements, and handle day-to-day contact with clients. Respondent and Herrera agreed to divide legal fees received from clients on a per-case basis wherein Respondent would receive a percentage of the total advanced legal fees collected and received by Herrera. Respondent and Herrera agreed to operate ABC out of the same office used to operate ALC. Respondent rented office space at 6727 Flanders Drive, suite 109, San Diego, California 92121 under his name to operate both ALC and ABC.

5. Between September 2011 and November 2013, while doing business in the name ABC, Respondent performed legal services in accordance with the partnership arrangement set forth in paragraph 4 as follows. Respondent shared an undetermined amount of legal fees from ABC clients with Herrera.

6. At all relevant times during the operation of ALC and ABC between April 2011 and November 2013, Respondent spent an average of less than 20 hours per month supervising and handling legal matters for ALC and ABC combined, which Respondent states comprised approximately 10% of the time Respondent devoted to his entire law practice, which primarily concerned practicing as a criminal defense attorney. During this period, Herrera and other non-attorneys worked in the ALC/ABC office handling the day-to-day correspondence on client matters for ALC and ABC, including signing up ALC and ABC clients on retainer agreements printed on Respondent's letterhead, corresponding with clients and representing to clients that Respondent was the managing attorney for ALC and ABC, and collecting advanced fees from ALC and ABC clients.

7. ALC clients paid ALC advanced attorney's fees as indicated below for home mortgage loan modification services:

Case No.	Complainant(s)	Date of Hire	Fees
12-O-16762	Wilfredo and Sylvia Domingo	April 21, 2010	\$4,500
13-O-11128	Tim and Martha Duran	October 3, 2012	\$4,500
13-O-11701	Rosalie De Marco	September 19, 2012	\$1,125
13-O-12779	Richard Grant and David Hawkins	July 26, 2012	\$4,500
13-O-13448	Robert and Patricia Calloway	February 22, 2013	\$1,295
13-O-17612	Ronald Beauman	May 2012	\$3,600

8. In each of the seven client matters identified above, Respondent failed to provide to the clients the following as a separate written statement, in not less than 14-point bold type:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies

approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

9. In case number 12-O-16762, the Domingos paid ALC the \$4,500 in legal fees in installments at the direction of Herrera and non-attorney Ronald Moore, and issued three checks payable to ALC in the amounts of \$2,250, \$1,840 and \$410 and post-dated the second and third checks. All three checks were negotiated between April 26, 2010 and December 31, 2010.

10. In case number 13-O-11701, ALC charged De Marco a total of \$4,500 in advanced legal fees for home mortgage loan modifications services. On December 11, 2012, De Marco terminated Respondent's services by requesting a refund. By that date, De Marco had only made a partial payment of \$1,125 to ALC.

11. In case number 13-O-13448, ALC charged the Calloways a total of \$7,500 in advanced legal fees for home mortgage loan modifications services. On April 1, 2013, the Calloways terminated Respondent's services and requested a refund. By that date, the Calloways had only made a partial payment of \$1,295 to ALC.

12. In case number 13-O-12779, Grant and Hawkins terminated Respondent's services in November 2012 and requested a refund. After Grant and Hawkins filed a complaint against Respondent with the State Bar in May 2013, Respondent sought an agreement from Grant and Hawkins to withdraw the State Bar complaint in exchange for a partial refund in July 2013. Respondent refunded or caused to be refunded a total of \$750 to Grant and Hawkins between July 2013 and August 2013, but to date, Respondent has failed to refund any portion of the remaining \$3,750 in illegal fees collected from Grant and Hawkins.

13. As explained in more detail in paragraphs 37 through 45, 54 through 61, and 66 through 77, ABC and ALC clients paid advanced attorney's fees and costs as indicated below for bankruptcy services. Respondent directly or indirectly shared an undetermined amount of these advanced legal fees and advanced costs with Herrera.

Case No.	Complainant(s)	Date of Hire	Legal Fees	Costs
12-O-16751	Zurita Gray	September 30, 2011	\$1,799	\$371
12-O-17369	Ben and Sylvia Pantoja	May 5, 2011	\$2,500	\$0
13-O-15485	Emely Lego	July 20, 2011	\$2,201	\$299

14. In case numbers 12-O-16751, 12-O-16762, 13-O-11128, 13-O-11701, 13-O-12779, and 13-O-13448, Respondent aided the unauthorized practice of law by the following:

- A. allowing Herrera and other non-attorneys to sign up Wilfredo and Consolacion Domingo as Respondent's clients, and set and receive advanced legal fees from the Domingos with no involvement or input from Respondent, allowing Herrera and non-attorneys Ronald Moore and Cathy Varvil to provide legal advice to the Domingos about their chances of obtaining a home mortgage loan modification and other strategies to prevent foreclosure, and failing to have any contact with the Domingos during the performance of their home mortgage loan modification services;

- B. allowing Herrera and other non-attorneys to sign up Tim and Martha Duran as Respondent's clients, and set and receive advanced legal fees from the Durans with no involvement or input from Respondent, allowing Herrera and non-attorney Lyn Rawlins ("Rawlins") to provide legal advice to the Durans about their chances of obtaining a home mortgage loan modification and other strategies to prevent foreclosure, and failing to have any contact with the Durans during the performance of their home mortgage loan modification services;
- C. allowing non-attorney Mervin McKnight to sign up Rosalie De Marco as Respondent's client, and set and receive advanced legal fees from De Marco with no involvement or input from Respondent, allowing McKnight to provide legal advice to De Marco about her chances of obtaining a home mortgage loan modification and other options through the Home Affordable Refinance Program, allowing McKnight to hold himself out as an attorney to De Marco and failing to have any contact with De Marco during the performance of her home mortgage loan modification services;
- D. allowing Herrera and Rawlins to sign up Richard Grant and David Hawkins as Respondent's clients, and set and receive advanced legal fees from Grant and Hawkins with no involvement or input from Respondent, allowing Herrera and Rawlins to provide legal advice to Grant and Hawkins about their chances of obtaining a home mortgage loan modification, and allowing Rawlins to hold herself out as an attorney to Grant and Hawkins during the performance of their home mortgage loan modification services; and
- E. allowing Herrera to sign up Robert and Patricia Calloway as Respondent's clients, and set and receive advanced legal fees from the Calloways, and allowing Herrera to provide legal advice to the Calloways regarding the Calloways' chances of obtaining a loan modification.

15. Between April 2010 and February 2013, Respondent lent his name to be used as an attorney by Herrera and other non-attorneys at ALC who were not licensed to practice law by allowing the non-attorneys to sign up clients on Respondent's behalf without any input or advice from Respondent using retainer agreements prepared on Respondent's letterhead; allowing the non-attorneys to charge, collect and receive advance legal fees on Respondent's behalf; allowing the non-attorneys to correspond by email with Respondent's clients, namely Zurita Gray (12-O-16751), Wilfredo and Consolacion Domingo (12-O-16762), Ben and Sylvia Pantoja (12-O-17369), Tim and Martha Duran (13-O-11128), Rosalie De Marco (13-O-11701), Richard Grant and David Hawkins (13-O-12779), and Robert and Patricia Calloway (13-O-13448), in correspondence which stated that Respondent was the managing attorney of ALC; and renting office space under his name to operate ALC and ABC and failing to spend more than 10% of the time he devoted to his legal practice at this office working for clients of ALC and ABC combined.

16. During the State Bar investigation of case numbers 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, and 13-O-13448, Respondent submitted multiple written responses to the State Bar investigations between December 2012 and November 2013. On September 6, 2013, Respondent also testified at a deposition under oath and answered questions regarding the State Bar's investigations under penalty of perjury. Respondent knew or was grossly negligent in not knowing that some of his statements to the State Bar were false, including the following false statements:

- A. that Respondent did not own or manage ALC, that ALC was Herrera's company and that Respondent's role at ALC was as a contract attorney hired by Herrera;

- B. that Respondent did not receive more than \$1,500 total in payments from ALC;
- C. that all fees paid by Respondent's client, Zurita Gray, were placed into the ALC working account after work was already completed and therefore, no funds were placed into Respondent's client trust account on behalf of Gray;
- D. that on October 29, 2012, a successful negotiation of restructuring of the loan for Respondent's clients, Tim and Martha Duran, had taken place;
- E. that ALC performed all of the legal services for which it was hired by Respondent's client, Rosalie De Marco, prior to any payment De Marco made to ALC and that Respondent did not receive any money for any legal services rendered on behalf of De Marco;
- F. that on March 15, 2013, ALC refunded all of De Marco's \$1,125 advanced fees;
- G. that on November 20, 2012, ALC had provided legal services relating to a temporary restraining order for Respondent's clients Richard Grant and David Hawkins;
- H. that Respondent did not receive any legal fees from Respondent's clients, Robert and Patricia Calloway, and worked for free on their matter; and
- I. that ABC was only open for approximately six months after Respondent filed the fictitious business name statement with the San Diego County Recorder's Office in May 2011 and that Respondent closed ABC sometime in late 2012 by going to the San Diego County Recorder's office and paying the necessary fees to close down ABC.

17. Respondent filed a statement of abandonment for ABC with the San Diego County Recorder's Office on November 5, 2013. According to Respondent, he severed all business relationships with Herrera by November 2013 and no longer has any involvement with ALC or ABC.

CONCLUSIONS OF LAW AS TO VIOLATIONS GENERALLY APPLICABLE TO CASE NUMBERS 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, 13-O-13448, 13-O-15485, AND 13-O-17612:

18. By forming two partnerships, ALC and ABC, with Victoria Herrera, who is not licensed to practice law in California, where at least one of the activities of each of the respective partnerships consisted of the practice of law, namely providing loan modification services and bankruptcy services, Respondent willfully violated Rules of Professional Conduct, rule 1-310.

19. By directly or indirectly sharing legal fees with a person who is not a lawyer, namely, with Victoria Herrera, in relation to the chapter 7 bankruptcy matters of Zurita Gray, and Ben and Sylvia Pantoja, and Emely Lego as well as home mortgage loan modification services for Wilfredo and Consolacion Domingo, Tim and Martha Duran, Rosalie De Marco, Richard Grant and David Hawkins, Robert and Patricia Calloway, and Robert Beauman, Respondent willfully violated Rules of Professional Conduct, rule 1-320(A).

20. By aiding Victoria Herrera and other non-attorneys at ALC and ABC, who are not licensed to practice law in California, in the unauthorized practice of law, Respondent willfully violated Rules of Professional Conduct, rule 1-300(A).

21. By lending his name to be used as an attorney by another person who was not an attorney, including Victoria Herrera and other non-attorneys at ALC and ABC, who are not licensed to practice law in California, Respondent willfully violated Business and Professions Code section 6105.

22. By knowingly or grossly negligently making false statements to the State Bar in his written responses to the State Bar's investigations and in his September 6, 2013 deposition under penalty of perjury, Respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

CONCLUSIONS OF LAW AS TO CASE NUMBER 12-O-16762:

23. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Wilfredo and Consolacion Domingo, and demanding, charging, collecting and receiving at least \$4,500 from the Domingos prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

24. By arranging and offering to perform a home mortgage loan modification for a fee paid by Wilfredo and Consolacion Domingo in advance of any service and thereafter entering into a fee agreement with the Domingos without providing them, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-11128:

25. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Tim and Martha Duran, and demanding, charging, collecting and receiving at least \$4,500 from the Durans prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

26. By arranging and offering to perform a home mortgage loan modification for a fee paid by Tim and Martha Duran in advance of any service and thereafter entering into a fee agreement with the Durans without providing them, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-11701:

27. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Rosalie De Marco, and demanding and charging at least \$4,500 from De Marco, and collecting and receiving at least \$1,125 from her prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

28. By arranging and offering to perform a home mortgage loan modification for a fee paid by De Marco in advance of any service and thereafter entering into a fee agreement with De Marco without providing her, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-12779:

29. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Richard Grant and David Hawkins, and demanding, charging, collecting and receiving at least \$4,500 from Grant and Hawkins prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

30. By arranging and offering to perform a home mortgage loan modification for a fee paid by Grant and Hawkins in advance of any service and thereafter entering into a fee agreement with Grant and Hawkins without providing them, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

31. By seeking an agreement from Grant and Hawkins to withdraw the disciplinary complaint they submitted to the State Bar while acting as a party, Respondent willfully violated Business and Professions Code section 6090.5(a)(2).

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-13448:

32. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Robert and Patricia Calloway, and demanding and charging at least \$7,500 from the Calloways, and collecting and receiving at least \$1,295 from them prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

33. By arranging and offering to perform a home mortgage loan modification for a fee paid by Robert and Patricia Calloway in advance of any service and thereafter entering into a fee agreement with the Calloways without providing them, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-17612:

34. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Richard Beauman, and demanding, charging, collecting and receiving at least \$3,600 from Beauman prior to fully performing each and every service he contracted to perform or represented that he would perform, in violation of subsection (a)(1) of section 2944.7 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

35. By arranging and offering to perform a home mortgage loan modification for a fee paid by Beauman in advance of any service and thereafter entering into a fee agreement with Beauman without

providing him, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required by section 2944.6(a) of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3(a).

Case No. 12-O-16751 (Complainant: Zurita Gray)

36. The stipulated facts set forth in paragraphs 1 through 6 are incorporated by reference herein.

37. On September 30, 2011, Zurita Gray hired ABC to file a chapter 7 bankruptcy on her behalf after Herrera signed up Gray on Respondent's behalf.

38. At Herrera's direction, Gray paid advanced legal fees to Respondent in the amount of \$1,799 between October 3 and December 8, 2011, and advanced filing fees and courier costs in the amount of \$371 on December 8, 2011 by depositing the advanced fees and filing fees and costs in a non-client trust account at Wells Fargo Bank (the "non-trust bank account") maintained by Herrera and her son, Anthony Walker.

39. The balance in the non-trust bank account dipped to a negative balance by December 28, 2011, prior to any filing of a bankruptcy on Gray's behalf. By arranging for the funds to be placed in the non-trust bank account, which were subsequently used for purposes other than for filing a chapter 7 bankruptcy on Gray's behalf, Respondent dishonestly or grossly negligently caused to be misappropriated Gray's advanced filing fees and costs.

40. On February 15, 2012, Gray sent Respondent an email specifically requesting a status update on her bankruptcy matter. Respondent received the email but failed to respond. At no point in his representation did Respondent communicate with Gray or provide any legal advice to Gray, including advice regarding filing a chapter 7 bankruptcy, the sole reason for which she hired ABC. Instead, Gray's only contact was with Herrera.

41. At no point did Respondent or anyone else at ABC file a chapter 7 bankruptcy petition on Gray's behalf. Respondent did not earn any portion of the advanced fees paid by Gray.

42. During the course of her representation by Respondent, Gray received emails from Herrera and nearly every email from Herrera was from Herrera's email address at ALC and stated that Respondent was the managing attorney for ALC.

43. During the course of the representation, Respondent failed to supervise Herrera by allowing Herrera to provide legal advice regarding the bankruptcy and Gray's options, including home mortgage loan modification.

44. On September 10, 2012, Gray terminated Respondent's services and requested a refund.

45. To date, Respondent has not provided Gray with an accounting, refunded to Gray any portion of the \$1,799 advanced fees paid by Gray, nor returned to Gray any portion of the \$371 advanced filing fees and courier costs.

CONCLUSIONS OF LAW AS TO CASE NUMBER 12-O-16751:

46. By failing to have any contact with Gray, provide any legal advice to Gray, file a chapter 7 bankruptcy petition on Gray's behalf and supervise a non-attorney, Victoria Herrera, and allowing Herrera to provide legal advice to Gray, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

47. By failing to deposit the \$371 advanced filing fees and courier costs received for the benefit of Gray in a bank account labelled "Trust Account," "Client's Funds Account" or words of similar import, Respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

48. By dishonestly or grossly negligently causing the misappropriation of \$371 of Gray's funds, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

49. By failing to refund any part of the \$1,799 unearned advanced fees to Gray upon Respondent's termination of employment on September 10, 2012, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

50. By failing to pay promptly, as requested by Gray on September 10, 2012, any portion of the \$371 to which Gray is entitled, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4).

51. By failing to render an appropriate accounting to Gray regarding the \$2,170 advanced legal fees and filing fees and costs, upon the termination of Respondent's employment on September 10, 2012, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

52. By failing to have any contact with Gray during the course of her representation and failing to respond promptly to her February 15, 2012 email to Respondent inquiring about the status of her bankruptcy matter, Respondent failed to respond to a client's reasonable status inquiry in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

Case No. 12-O-17369 (Complainants: Ben and Sylvia Pantoja)

53. The stipulated facts set forth in paragraphs 1 through 6 are incorporated by reference herein.

54. On May 5, 2011, Ben and Sylvia Pantoja (collectively, the "Pantojas") hired ABC to complete and file a Chapter 7 bankruptcy petition on their behalf.

55. On May 6, 2011, at the direction of Herrera, the Pantojas paid Respondent \$2,500 as advanced legal fees for bankruptcy services to be completed by Respondent.

56. Between May 6, 2011 and October 31, 2011, Respondent failed to complete and file a Chapter 7 bankruptcy petition on the Pantojas' behalf.

57. On October 31, 2011, the Pantojas sent an email to Herrera requesting a refund of the \$2,500

in advanced fees paid for bankruptcy. Herrera received the email and on November 7, 2011, Herrera responded by email denying the Pantojas' request for a refund and suggesting that the Pantojas allow Respondent to complete and file the bankruptcy petition on their behalf. The Pantojas agreed.

58. During the course of their representation by Respondent, the Pantojas received emails from Herrera and nearly every email from Herrera was from Herrera's email address at ALC and stated that Respondent was the managing attorney for ALC.

59. Between November 7, 2011 and March 2, 2012, Respondent failed to provide any legal advice to the Pantojas, complete or file the bankruptcy petition on the Pantojas' behalf, or earn any portion of the \$2,500 advanced fees that they paid.

60. On March 16, 2012, the Pantojas terminated Respondent's services and sent Respondent two emails requesting a refund due to concerns about the lack of communication between Respondent and the Pantojas. Respondent received the emails but failed to respond.

61. To date, Respondent has failed to refund to the Pantojas any portion of the \$2,500 unearned advanced fees; nor has Respondent provided them with an accounting.

CONCLUSIONS OF LAW AS TO CASE NUMBER 12-O-17369:

62. By failing to failing to provide any legal advice to the Pantojas and failing to file a Chapter 7 bankruptcy petition on behalf of the Pantojas, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

63. By failing to refund any part of the \$2,500 unearned advanced fees to the Pantojas upon Respondent's termination of employment on March 16, 2012, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

64. By failing to render an appropriate accounting to the Pantojas regarding the \$2,500 advanced legal fees, upon the termination of Respondent's employment on March 16, 2012, Respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 13-O-15485 (Complainant: Emely Lego)

65. The stipulated facts set forth in paragraphs 1 through 6 are incorporated by reference herein.

66. On July 20, 2011, Emely Lego hired ALC to file a Chapter 7 bankruptcy on her behalf to help Lego prevent her home from being foreclosed upon by Lego's lender.

67. Between July 20 and July 30, 2011, Lego paid ALC a total sum of \$2,500, which included \$2,201 advanced legal fees and \$299 advanced filing fees.

68. At Herrera's direction, Lego's son issued a \$600 check made payable to Herrera as partial payment of the advanced legal fees, which Herrera subsequently negotiated; the remaining legal fees were remitted to ALC by July 30, 2011.

69. On August 12, 2011, Respondent filed a chapter 7 bankruptcy petition ("petition") on Lego's behalf in the United States Bankruptcy Court for the Southern District of California. Along with the petition, Respondent filed a misleading disclosure of attorney compensation form, in which Respondent certified to the court that he had agreed to accept \$800 as legal fees for the bankruptcy services and that prior to the filing of the disclosure statements that he had not received any legal fees. This statement was false and Respondent knew or was grossly negligent in not knowing that the statement was false at the time.

70. Despite the fact that Lego had previously paid Respondent the entire sum of \$299 necessary to pay for the filing fees, on August 12, 2011, Respondent made a partial payment of \$149.50 to the court for filing fees and filed an application with the court to pay the filing fees in two installments of \$149.50 ("application"). Lego did not sign the application, which contained a signature purporting to be Lego's signature. At no time did Respondent inform Lego that he filed an application with the court to pay the filing fees in installments.

71. The court granted the application and ordered the second installment to be paid by no later than September 12, 2012. The order stated that if the filing fees were not paid, Lego's case would be dismissed without further notice. Respondent received notice of the court order.

72. Respondent failed to timely pay the second installment of \$149.50 for the filing fees.

73. On September 19, 2011, the court filed an order dismissing Lego's case without prejudice for failure to pay the second installment of filing fees. The order was served on Lego, and she received it September 30, 2011, when she learned for the first time that Respondent filed an application to pay the filing fees in installments and that her case was dismissed without prejudice due to Respondent's failure to timely pay the second installment.

74. Respondent belatedly paid the second installment on Lego's behalf on September 28, 2011.

75. Between September 19, 2011 and January 2012, Respondent failed to file a motion to reopen Lego's case or re-file for bankruptcy on Lego's behalf. Respondent took no further action on behalf of Lego.

76. In January 2012, Lego terminated Respondent's services and hired subsequent counsel to move to reopen her bankruptcy case, which was successful, but not before Lego's home was sold at a trustee sale. At no time did Respondent perform any legal services of value on behalf of Lego or earn any portion of the \$2,201 advanced fees paid by Lego. Between January 2012 and June 2012, Lego repeatedly requested a refund from Respondent, which he denied.

77. In September 2012, Lego filed a malpractice lawsuit against Respondent in San Diego County, in which the court ultimately found in favor of Lego in the amount of \$2,201 after a two-day trial in November 2013. Despite the court's findings, to date, Respondent has failed to refund to Lego any portion of the \$2,201 unearned advanced fees.

CONCLUSIONS OF LAW AS TO CASE NUMBER 13-O-15485:

78. By failing to inform Lego that he intended to file an application to pay filing fees in installments, that he did file the application, that the application was granted, that he failed to timely pay the second filing fee installment or that the court dismissed Lego's case because of his failure to timely

pay the second installment, Respondent failed to keep a client reasonably informed of significant developments in a matter in which he agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

79. By filing a disclosure of compensation statement with the court which contained misleading statements, Respondent sought to mislead a judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code section 6068(d).

80. By failing to timely pay the second filing fee installment resulting in the dismissal of Lego's bankruptcy case, file a motion to reopen the bankruptcy, re-file the bankruptcy on behalf of Lego, or take any other action on behalf of Lego, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

81. By failing to refund any part of the \$2,201 unearned advanced fees to Lego upon Respondent's termination of employment in January 2012, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)) / Failure to Make Restitution (Std. 1.5(i)): Respondent's misconduct harmed significantly a client, the public or the administration of justice in that Respondent's misconduct has caused significant harm to each of the clients due to the outstanding restitution owed, including at least \$25,641. That amount is derived by Respondent's failure to pay restitution and repay advanced costs to Gray (\$2,170 [\$1,799 advanced fees + \$371 advanced costs]), unearned fees to Pantoja (\$2,500) and Lego (\$2,201), and illegal fees to the Domingos (\$4,500), the Durans (\$4,500), DeMarco (\$1,125), Grant and Hawkins (\$3,750), the Calloways (\$1,295), Lego (\$2,201) and Beauman (\$3,600). Each of the clients were also particularly vulnerable to the misconduct in light of their respective financial situations at the time they hired Respondent, which makes Respondent's misconduct that much more serious. Moreover, in the Lego matter, she was forced to hire new counsel to assist her with her bankruptcy. (See *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126 [client was significantly harmed where she had to hire new counsel and expend significant amount of attorney's fees in an attempt to reclaim her property].)

Pattern of Misconduct (Std. 1.5(c)): Respondent's misconduct demonstrates a pattern of habitual disregard and abdication of responsibility for his client's interests by repeatedly failing to have any substantial contact with his clients and failing to offer legal advice to the clients and instead relying on Herrera and other non-attorneys to maintain all client contact and thus empowering them to offer legal advice in his name or under the guise of his supervision. Typically a pattern of misconduct requires serious misconduct over a sufficient period of time to demonstrate the pattern and may require a common thread between the instances of the misconduct. (See *Young v. State Bar* (1990) 50 Cal.3d 1204, 1216-1217; *In the Matter of Wyrick* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83, 93.) A pattern of misconduct is "egregious aggravation" and generally warrants disbarment. (See, e.g., *Twohy v. State Bar* (1989) 48 Cal.3d 502, 512-513 [An attorney's record that "evidences a serious pattern of misconduct involving recurring types of wrongdoing" "clearly warrants disbarment in the absence of the most compelling mitigating circumstances"], internal citations omitted.)

Respondent's misconduct began in April 2010 when he formed a partnership with Herrera and began knowingly allowing her to misuse his name in offering legal services to clients for ALC. His misconduct continued through at least November 2013 during which time Respondent routinely allowed clients to hire ALC or ABC without any input from him and delegated nearly all client contact to non-attorneys, shared legal fees with the non-attorneys, aided the unauthorized practice of law, and collected illegal fees in violation of SB94, which culminated in intentional or grossly negligent misrepresentations to the State Bar regarding his role at and business relationships with ALC and ABC. Notwithstanding the existence of a pattern of misconduct here, there are mitigating circumstances present as explained more fully below.

MITIGATING CIRCUMSTANCES.

Lack of Prior Record of Discipline over Many Years of Practice: Respondent has no prior record of discipline since being admitted in June 1996, but the current misconduct is serious. Accordingly, while he is not entitled to mitigation under standard 1.6(a), Respondent's approximately fourteen-year discipline-free record prior to the instant misconduct is entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than 10 years of discipline-free practice entitled to "significant" mitigation]; *Friedman v. State Bar* (1990) 51 Cal.3d 235, 245 [20 years of discipline-free practice deemed to be "highly significant"].)

Respondent's instant misconduct should be analyzed in context with Respondent's complete record of legal practice. Respondent practiced law for fourteen years without any discipline as a criminal defense attorney prior to the instant misconduct wherein he was solicited by Herrera in 2010 to provide legal services for ALC clients and ultimately formed partnerships with Herrera to operate both ALC and ABC. While Respondent's misconduct evidences a pattern of misconduct, the common thread in that pattern involves Herrera—every act of misconduct described herein stems from Respondent's relationship with Herrera, and his lack of supervision of non-attorneys employed by Herrera. Accordingly, Respondent's misconduct should be viewed in light of the nature of the misconduct in context with his complete record of law practice.

Pre-trial Stipulation: While some of the facts in this matter are easily provable and notwithstanding Respondent's misrepresentations in the State Bar's investigation, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter without the necessity of a trial, thereby saving State Bar resources. (*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].) Moreover, by entering into this stipulation Respondent has acknowledged his misconduct and demonstrated accountability for his actions.

Good Character (Std. 1.6(f)): Respondent has submitted twelve character letters from people representing a widespread sample of the legal and general communities, including eleven of which who are aware of the full extent of his misconduct, attesting to Respondent's extraordinary good character.

Respondent has also contributed to and participated in various civic activities showing his involvement in the community such as serving as a criminal defense attorney on felony cases for the panel of the Office of Assigned Counsel in San Diego County since 2009. Respondent also served in the United States Army and was honorably discharged prior to his law career. (See *In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [performance of civic service and charitable work is entitled to mitigation as evidence of good character under former standard 1.2(e)(vi)]; see also *Porter v. State Bar* (1990) 52 Cal.3d 518, 529.)

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).)

In this matter, Respondent admits to committing multiple acts of professional misconduct. Standard 1.7(a) requires that where an attorney “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.” The most severe sanction applicable to Respondent’s misconduct is found in standard 2.7, which applies to his attempt to mislead the State Bar, an act of moral turpitude in violation of Business and Professions Code section 6106. (See *Borré v. State Bar* (1991) 52 Cal.3d 1047, 1053; *Chang v. State Bar* (1989) 49 Cal.3d 114, 128; *In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 103.)

Standard 2.7 provides that disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member’s practice of law. Here, the magnitude of the misconduct is great in light of the fact that Respondent’s misrepresentations were made in the context of a State Bar investigation and made on significant issues and material facts in the cases as discussed above. Moreover, the misrepresentations dealt with Respondent’s performance for clients and his overall practice of law in the context of the State Bar’s investigation of his legal practice and therefore directly relate to his practice of law.

Notwithstanding his misrepresentations to the State Bar, the gravamen of Respondent’s misconduct concerns his habitual disregard and abdication of responsibility for his client’s interests by repeatedly allowing clients to hire ALC or ABC and delegating nearly all client contact to non-attorneys,

sharing legal fees with a non-attorney, aiding the unauthorized practice of law, charging and collecting illegal fees, allowing his name to be misused and operating a partnership with a non-attorney. As stated above, a pattern of misconduct is "egregious aggravation" and generally warrants disbarment in the absence of compelling mitigating circumstances. As explained above, Respondent's misconduct, while very serious, also involves compelling mitigating circumstances.

The instant misconduct began after fourteen years of discipline-free practice and after Respondent became professionally involved with Herrera in an area of law that was a clear departure from his prior criminal defense practice. His discipline-free record is entitled to significant mitigation. Additionally, Respondent severed his ties with Herrera, ALC and ABC as of November 2013, reducing the risk of future recurring similar misconduct. Moreover, Respondent has demonstrated good character through character letters and his involvement in the community. The mitigating circumstances surrounding Respondent's misconduct are therefore entitled to significant weight and must be weighed against the aggravating circumstances in fashioning the appropriate level of discipline. (See std. 1.7(c) ["If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard."].) When the mitigating circumstances are balanced with the aggravating circumstances present, there is significant mitigation to warrant imposition of discipline less than disbarment for the misconduct described herein.

Accordingly, discipline consisting of a three (3) year stayed suspension with a three (3) year probation with conditions including a three (3) year actual suspension and until Respondent complies with standard 1.2(c)(i) and until he makes full restitution is appropriate for Respondent's misconduct described herein to protect the public, the courts and the legal profession, to maintain high professional standards by attorneys and preserve public confidence in the legal profession.

Case law also supports the recommended discipline. In *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074, 1079-1081, the Supreme Court reversed a disbarment recommendation from the Review Department and Hearing Department after attorney Bledsoe's default had been entered at trial. Instead the Supreme Court determined that a five-year stayed suspension with a five-year probation with conditions including a two-year actual suspension was appropriate for an attorney who had no record of prior discipline but was found to have engaged in a pattern of misconduct in four client matters over a 17-year period of practice. The Court reasoned that Bledsoe's misconduct, which involved failing to perform legal services for clients, refund unearned fees and communicate with clients, did not involve an "extended" pattern of misconduct when considered against the backdrop of the his 17-year record of discipline-free practice. The Court considered no other mitigation in *Bledsoe* in fashioning its discipline. By comparison, Respondent's misconduct involves more compelling mitigation than in *Bledsoe* but is also more extensive and more egregious as it involves more clients and more serious misconduct and therefore Respondent's misconduct warrants more severe discipline.

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FINANCIAL CONDITIONS (cont.):

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

Payee	Principal Amount	Interest Accrues From
Tim and Martha Duran	\$4,500	October 3, 2012
Rosalie De Marco	\$1,125	September 19, 2012
Richard Grant and David Hawkins	\$4,500	July 31, 2012
Robert and Patricia Calloway	\$1,295	March 4, 2013
Emely Lego	\$2,201	January 31, 2013
Ronald Beaman	\$3,600	May 31, 2012

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 4, 2014, the prosecution costs in this matter are approximately \$12,765.69. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT



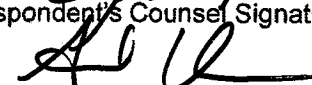
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: BRUCE HOWARD SOBEL	Case number(s): 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, 13-O-13448, 13-O-15485, 13-O-17612
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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.

<u>4/8/2014</u> Date	<u></u> Respondent's Signature	<u>Bruce Howard Sobel</u> Print Name
<u>April 8, 2014</u> Date	<u></u> Respondent's Counsel Signature	<u>Albert W. Arena</u> Print Name
<u>4.9.2014</u> Date	<u></u> Deputy Trial Counsel's Signature	<u>Anand Kumar</u> Print Name

(Do not write above this line.)

In the Matter of: BRUCE HOWARD SOBEL	Case Number(s): 12-O-16751, 12-O-16762, 12-O-17369, 13-O-11128, 13-O-11701, 13-O-12779, 13-O-13448, 13-O-15485, 13-O-17612
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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.

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

Date 4/21/14


DONALD F. MILES
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 San Francisco, on April 22, 2014, 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:

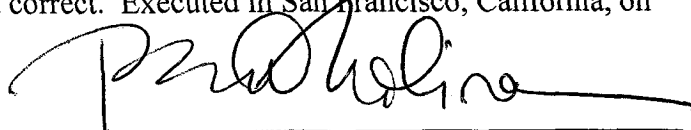
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ALBERT WILLIAM ARENA
ARENA & SCHNITZER, APLC
110 W "C" ST STE 1709
SAN DIEGO, CA 92101

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 22, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court