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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

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<p>Counsel For Respondent</p> <p>Paul Virgo 9909 Topanga Boulevard, Suite #282 Chatsworth, CA 91311 (310) 666-9701</p> <p>Bar # 67900</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: SUNANDA KUNDR</p> <p>Bar # 187842</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

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A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **April 7, 1997**.
- (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 **16** 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)

Actual Suspension

ASD
3/26/14

- (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 billing cycles following the effective date of the Supreme Court Order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [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 Attachment to Stipulation, at page 12.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

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- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation, at page 12.**
- (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. **See Attachment to Stipulation at page 13.**
- (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 convincing proof of subsequent rehabilitation.

(13) No mitigating circumstances are involved.

Additional mitigating circumstances:

No Prior Discipline - See Attachment to Stipulation, at page 13.
Pretrial Stipulation - See Attachment to Stipulation at page 13.

D. Discipline:

(1) **Stayed Suspension:**

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

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(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 **two 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 **60 days**.

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.

(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.**

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

(Do not write above this line.)

In the Matter of: SUNANDA KUNDRA	Case Number(s): 13-O-10174,13-O-11422,13-O-13038,13-O-14780, 13-O-15358,14-O-599
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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
See Attachment page 14.		

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than - not applicable. Pursuant to the actual suspension provision of this stipulation at page 4, Respondent will remain suspended from practice until restitution is paid.

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:

SUNANDA KUNDRA

CASE NUMBERS:

13-O-10174; 13-O-11422; 13-O-13038; 13-O-14780;
13-O-15358;14-O-599

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 13-O-10174 (Complainant: Pearl Smith)

FACTS:

1. On May 8, 2012, Pearl Smith retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.
2. By July 24, 2012, Smith had paid Respondent \$3,985 in advanced attorney's fees related to the loan modification services.
3. At the time Respondent received the \$3,985 from Smith, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on behalf of Smith.
4. Respondent refunded \$1,990 to Smith before Smith submitted a complaint against Respondent with the State Bar.

CONCLUSIONS OF LAW:

5. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from Smith prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-11422 (Complainants: Henry and Elsie Johnson)

FACTS:

6. On May 8, 2012, Henry and Elsie Johnson retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.

7. By September 25, 2012, the Johnsons paid Respondent \$2,685 in advanced attorney's fees related to the loan modification services.

8. At the time Respondent received the \$2,695 from the Johnsons, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on behalf of the Johnsons.

9. On June 14, 2013, after the Johnsons complained to the State Bar, Respondent refunded the entire \$2,695 fee to the Johnsons.

CONCLUSIONS OF LAW:

10. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from the Johnsons prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-13038 (Complainant: Daniel Condon)

FACTS:

11. On February 25, 2013, Daniel Condon retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.

12. By February 28, 2013, Condon had paid Respondent \$3,500 in advanced attorney's fees related to the loan modification services.

13. At the time Respondent received the \$3,500 from Condon, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on behalf of Condon.

14. On May 17, 2013, Respondent returned the amount of \$2,500 to Condon before Condon submitted a complaint against Respondent with the State Bar.

15. On May 17, 2013, Respondent asked Condon to sign a release for any potential claim against Respondent, which Condon signed, without informing him in writing that he may consult with an independent lawyer and giving him an opportunity to seek that advice.

CONCLUSIONS OF LAW:

16. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from Condon prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

17. By settling a claim or potential claim by her client, Condon, without informing the client in writing that the client may seek the advice of an independent lawyer of the client's choice regarding the

settlement and giving the client a reasonable opportunity to seek that advice, Respondent willfully violated Rules of Professional Conduct, rule 3-400(B).

Case No. 13-O-14780 (Complainants: Alejandro and Mercedes Ramirez)

FACTS:

18. On April 25, 2012, Alejandro and Mercedes Ramirez retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.

19. By September 1, 2012, the Ramirezes had paid Respondent \$2,690 in advanced attorney's fees related to the loan modification services.

20. At the time Respondent received the \$2,690 from the Ramirezes, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on their behalf.

21. To date, Respondent has not refunded any part of the fee paid to her by the Ramirezes.

CONCLUSIONS OF LAW:

22. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from the Ramirez prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 13-O-15358 (Complainant: Jennie DeLacey Carreon)

FACTS:

23. On August 28, 2012, Jennie DeLacey Carreon retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.

24. By March 7, 2013, Carreon had paid Respondent \$5,970 in advanced attorney's fees related to the loan modification services.

25. At the time Respondent received the \$5,970 from Carreon, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on behalf of Carreon.

26. To date, Respondent has not refunded any part of the fee paid to her by Carreon.

CONCLUSIONS OF LAW:

27. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from Carreon prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

Case No. 14-O-599 (Complainant: Bertha Oropeza)

FACTS:

28. On November 5, 2012, Bertha Oropeza retained Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification.

29. By November 29, 2012, Oropeza had paid Respondent \$3,495 in advanced attorney's fees related to the loan modification services.

30. At the time Respondent received the \$3,495 from Oropeza, Respondent had not completed all of the home mortgage loan modification services she agreed to perform on behalf of Oropeza.

31. To date, Respondent has not refunded any part of the fee paid to her by Oropeza.

CONCLUSIONS OF LAW:

32. By negotiating, arranging or offering to perform a home mortgage loan modification or mortgage loan forbearance for a fee paid by a borrower, and demanding, charging, collecting and receiving fees from Oropeza prior to fully performing each and every service she contracted to perform or represented she would perform, in violation of Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): In these matters, Respondent collected illegal fees from six clients who were financially distressed, due to mortgage payments they were either struggling to pay or were unable to pay. Respondent collected fees from each client and most of the clients have been without their funds for almost two years. This caused significant harm to Respondent's clients.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's current misconduct involves seven counts of misconduct in six client matters.

MITIGATING CIRCUMSTANCES.

Emotional Difficulties: At the time of the stipulated acts of professional misconduct Respondent suffered from extreme emotional difficulties stemming from severe personal and financial hardships between 2009 and 2013. Her father-in-law had a series of strokes during this time period which necessitated her husband's presence in India for a period of over a year starting in 2010. Her father-in-law passed away in June 2012, which again necessitated her husband's absence for a substantial period of time. Respondent's home went into foreclosure in 2010 and she was required to seek public assistance in order to support her daughters. Her financial difficulties continued during the period of misconduct exacerbating her emotional difficulties. Mitigating weight may be given even where no expert evidence is given to establish an emotional difficulty or physical disability was "directly responsible" for the misconduct, where there are facts supporting that the condition impaired the respondent's judgment and affected her ability to deal appropriately with the stress created. (*In re Brown* (1995) 12 Cal.4th 205, 222.)

No Prior Discipline: Respondent was admitted to practice in April 1997, over 15 years before the onset of the misconduct. Even where the underlying misconduct is deemed serious, over 15 years of discipline-free practice should be afforded mitigating weight. (See *In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93) [mitigating credit given for over 12 years of discipline-free practice despite seriousness of misconduct].)

Pretrial Stipulation: Respondent has now acknowledged her misconduct and stipulated to facts, conclusions of law, and disposition in order to resolve his disciplinary proceedings as efficiently as possible, thereby avoiding the necessity of a trial and saving State Bar 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].)

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).)

Respondent has committed several violations of Business and Professions Code section 6106.3 by accepting advanced fees for loan modification services. By attempting to limit her liability to her client Condon, Respondent violated Rule of Professional Conduct, rule 3-400(B). The appropriate standard to assess Respondent's misconduct is standard 2.14, which applies to any violation of a provision of Article 6 of the Business and Professions Code not otherwise specified in the standards. Standard 2.14 calls for a range of discipline from actual suspension to disbarment.

Aggravating factors include that Respondent's misconduct evidences multiple acts of misconduct and caused harm to her clients. In mitigation, Respondent had practiced law for over 15 years prior to the misconduct. Respondent's misconduct also occurred during time of significant stress in Respondent's personal life which interfered with her ability to practice. Respondent is also entitled to mitigation for acknowledging wrongdoing by entering into a pretrial stipulation. Respondent also made a partial refund to her clients Smith and Condon prior to their mailing State Bar complaints and provided a full refund to the Johnsons, albeit after they had complained to the State Bar. Although restitution paid after the initiation of a State Bar complaint is not mitigating, Respondent's refund to the Johnsons is relevant to the assessment of harm. Accordingly, based on standard 2.14 and the totality of circumstances, the imposition of a 60-day actual suspension will be sufficient to protect the public, the courts, and the legal profession under standard 1.1, and falls squarely within the standard for discipline in these matters.

The requested level of discipline is also consistent with case law. In *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, Taylor was found culpable of collecting illegal advance fees from eight clients in loan modification matters in violation of Business and Professions Code section 6106.3. Taylor received a six-month actual suspension following trial and an appeal. Taylor was found to have engaged in multiple acts of misconduct, caused significant harm, and displayed indifference toward rectification or atonement for his misconduct. The facts and circumstances surrounding the misconduct in *Taylor* warranted a longer period of actual suspension than is warranted in the present matter, due to the fact that Taylor engaged in more acts of misconduct, had not paid restitution to the majority of his clients, and continued to express indifference and a lack of remorse throughout disciplinary proceedings. In addition, Taylor had less mitigation as he had only been an attorney for four years prior to the misconduct.

FINANCIAL CONDITIONS

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 in section a. of the Financial Conditions, page 7, to the following payees:

1. Pearl Smith, \$1,895 principal, with interest accruing from May 8, 2012.
2. Daniel Condon, \$1,000 principal, with interest accruing from February 25, 2013.
3. Alejandro and Mercedes Ramirez, \$2,690 in principal, with interest accruing from September 1, 2012.
4. Jennie DeLacey Carreon, \$5,970 in principal, with interest accruing from March 7, 2013.

5. Bertha Oropeza, \$3,495 in principal, with interest accruing from November 29, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 25, 2014, the prosecution costs in this matter are approximately \$10,083. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

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

(Do not write above this line.)

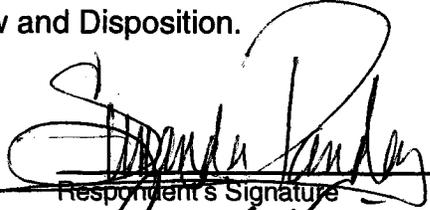
In the Matter of SUNANDA KUNDRA	Case number(s): 13-O-10174; 13-O-11422; 13-O-13038; 13-O-14780(Inv.);13-O-15358(Inv.); 14-O-599(Inv.)
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SIGNATURE OF THE PARTIES

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

4/07/2014

Date



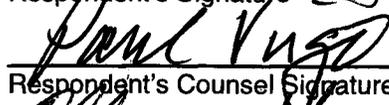
Respondent's Signature

SUNANDA KUNDRA

Print Name

4/6/2014

Date



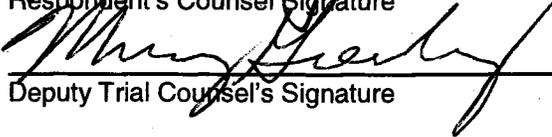
Respondent's Counsel Signature

PAUL VIRGO

Print Name

4/9/2014

Date



Deputy Trial Counsel's Signature

MURRAY GREENBERG

Print Name

(Do not write above this line.)

In the Matter of: SUNANDRA KUNDRA	Case Number(s): 13-O-10174-LMA; 13-O-11422; 13-O-13038; 13-O-14780 (Inv.); 13-O-15358(Inv.); 14-O-00599(Inv.)
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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.

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.)**

Date

4/21/14


RICHARD A. HONN
Judge of the State Bar Court

SUNANDA KUNDRA

Case Nos. 13-O-10174-LMA; 13-O-11422; 13-O-13038; 13-O-14780 (Inv.); 13-O-15358(Inv.);
14-O-00599(Inv.)

MODIFICATIONS TO STIPULATION

1. On page 4 of the stipulation, an "X" is INSERTED in box E(1) so that a conditional standard 1.2(c)(1) requirement is included in the stipulated discipline.
2. On page 6 of the stipulation, an "X" is INSERTED in box F(3) so that a conditional rule 9.20 requirement is included in the stipulated discipline.
3. On page 13 of the stipulation, after the citation to "*In the Matter of Conner*" at end of the second paragraph, the following citation is INSERTED:

In the Matter of Stamper (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13 [noting that the Supreme Court has repeatedly given mitigation for many years of misconduct free practice in cases involving serious misconduct].)

4. On page 14 of the stipulation, near the bottom of the page, the "\$1,895" following the name "Pearl Smith" is changed to "\$1,995."

-X-X-X-

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:

PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311

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

MURRAY B. GREENBERG, 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