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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Anand Kumar</b> <b>Deputy Trial Counsel</b> <b>845 South Figueroa Street</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1714</b>  <b>Bar # 261592</b>	<b>Case Number(s):</b> <b>13-O-11268-DFM</b> <b>13-O-13785</b>	<b>For Court use only</b>  <b>FILED</b>  <b>MAR 27, 2014</b> <i>He</i>  <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Edward O. Lear</b> <b>Century Law Group LLP</b> <b>5200 West Century Blvd., Suite 345</b> <b>Los Angeles, CA 90045</b> <b>(310) 642-6900</b>  <b>Bar # 132699</b>	<b>PUBLIC MATTER</b>	
<b>In the Matter of:</b> <b>YELENA ANELEY GUREVICH</b>  <b>Bar # 269487</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		
<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **May 18, 2010**.
- (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 **15** 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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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two (2) billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are entirely waived.

**B. Aggravating Circumstances [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 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. **See stipulation, at page 12.**
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See 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.
- (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:**

**Pre-filing stipulation and good character, see stipulation, at page 12.**

**D. Discipline:**

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of **two (2) 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 (2) 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) months**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(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: <b>YELENA ANELEY GUREVICH</b>	Case Number(s): <b>13-O-11268-DFM, 13-O-13785</b>
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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

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

### b. Installment Restitution Payments

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

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

- ☐ 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: YELENA ANELEY GUREVICH

CASE NUMBERS: 13-O-11268-DFM, 13-O-13785

**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-11268-DFM (Complainant: Susana Sanchez)

**FACTS:**

1. On June 9, 2011, Susana Sanchez ("Sanchez") hired Respondent's firm, Consumer Action Law Group ("CALG") for home mortgage loan modification services. The retainer agreement contemplated four phases of legal services to be provided; the first phase outlined loan modification services and the second phase contemplated potential litigation against Sanchez's lender.
2. In her retainer agreement with Sanchez, Respondent charged Sanchez an initial retainer fee of \$4,700 as advanced fees for performance of the home mortgage loan modification services and an additional \$399 per month for performance of home mortgage loan modification services starting in August 2011.
3. At no time did Respondent provide to Sanchez 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](http://www.hud.gov).
4. Sanchez paid Respondent a total of \$5,099 in advanced legal fees for home mortgage loan modification services, including \$4,700 on June 14, 2011 and \$399 on August 15, 2011.
5. At the time Sanchez hired Respondent, Sanchez had already obtained a trial loan modification solely through the efforts of another entity that Sanchez had previously hired.
6. In the course of her representation of Sanchez, Respondent prepared a draft complaint on behalf of Sanchez, which became moot, because on September 10, 2011, Sanchez was offered a permanent modification solely through the efforts of the entity Sanchez had previously hired.

Accordingly, Respondent did not earn any portion of the \$5,099 advanced fees she collected from Sanchez.

7. In August 2011, Sanchez had an in-person meeting at Respondent's office to discuss the status of her loan modification with Respondent. During the meeting, Respondent informed Sanchez that Respondent would not be able to help Sanchez lower her principal. Sanchez terminated Respondent's services and thereafter Respondent failed to refund any portion of the unearned fees to Sanchez.

8. Sanchez accepted the permanent modification on September 17, 2011.

9. On February 27, 2013, Sanchez filed a State Bar complaint against Respondent.

10. On November 27, 2013, Respondent issued a full refund to Sanchez of the \$5,099 advanced fees she collected from Sanchez.

#### CONCLUSIONS OF LAW:

11. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by Sanchez, and demanding, charging, collecting and receiving at least \$5,099 from Sanchez prior to fully performing each and every service she contracted to perform or represented that she 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).

12. By arranging and offering to perform a home mortgage loan modification for a fee paid by Sanchez in advance of any service and thereafter entering into a fee agreement with Sanchez 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).

13. By failing to refund to Sanchez any portion of the \$5,099 in unearned advanced fees until November 27, 2013, 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).

#### Case No. 13-O-13785-DFM (Complainant: Blanca Gonzalez)

#### FACTS:

14. On July 26, 2012, client Blanca Gonzalez ("Gonzalez"), who only spoke Spanish, met with Respondent's client relations manager and translator, Jose Sotomayor ("Sotomayor"), and Respondent's law partner, Lauren Rode ("Rode"), to discuss how Gonzalez could save the home where Gonzalez was living from a pending trustee sale. At the initial meeting, Gonzalez informed Sotomayor and Rode that she was not on the title of the home and that Gonzalez' daughter-in-law, Marina Rodriguez ("Rodriguez"), was on the title of the home.

15. On July 26, 2012, Respondent's firm convinced Gonzalez that filing a Chapter 13 bankruptcy was the appropriate course of action for Gonzalez to pursue to save the home, so Gonzalez hired Respondent to file a Chapter 13 bankruptcy on her behalf with the assumption that Gonzalez' son and Rodriguez were similarly interested in pursuing a bankruptcy or transferring title to Gonzalez.

16. On July 26, 2012, Gonzalez paid Respondent \$2,500 in advanced legal fees and an additional \$281 for advanced filing fees, which Respondent failed to deposit in her client trust account. Instead, Respondent deposited and maintained the \$281 advanced filing fee in the CALG general operating account.

17. Between July 26, 2012 and July 31, 2012, Respondent's firm performed some legal services relating to Gonzalez, none of which was of any value to Gonzalez. The services included obtaining a copy of Gonzalez' credit report and preparing bankruptcy forms in Gonzalez' name for potential filing. Each of these services was performed after and despite the fact that CALG had been informed by Gonzalez that she was not on the title of the home.

18. Within approximately two weeks of hiring Respondent's firm, in August 2012, Gonzalez met with Respondent, Rode and Sotomayor. Gonzalez also brought her son and Rodriguez to the meeting. Gonzalez' son and Rodriguez informed Respondent that they were not interested in transferring title to Gonzalez or pursuing a bankruptcy.

19. As a result of the August 2012 meeting, Respondent's legal services were constructively terminated, because there were no legal services to be provided by Respondent for Gonzalez. Respondent failed to earn any portion of the \$2,500 advanced fees she received.

20. Between November 2012 and April 2013, Gonzalez made several telephonic requests for a refund of the advanced attorney fees and filing fees. Each of the refund requests was made to Sotomayor.

21. On April 19, 2013, in response to Gonzalez's request for a refund, Respondent's firm prepared an accounting, which indicated that Gonzalez was owed a balance of \$281 for the unused filing fees. However, Respondent failed to return the filing fees to Gonzalez until August 26, 2013 only after State Bar proceedings had been initiated.

22. On November 27, 2013, Respondent belatedly refunded the unearned fees in the amount of \$2,500 to Gonzalez.

#### CONCLUSIONS OF LAW:

23. By failing to refund to Gonzalez any portion of the unearned advanced fees in the amount of \$2,500 until November 27, 2013, 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).

24. By failing to deposit the advanced costs in the amount of \$281 received for Gonzalez's benefit in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, Respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

25. By failing to return the unused advanced costs in the amount of \$281 to Gonzalez for nearly fourteen months after Respondent's legal services had been terminated, Respondent failed to pay promptly, as requested by Gonzalez, funds in Respondent's possession that Gonzalez was entitled to receive, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

## AGGRAVATING CIRCUMSTANCES.

**Harm (Std. 1.5(f)) / Failure to Make Restitution (Std. 1.5(i)):** Respondent's misconduct has caused significant harm to her clients by depriving Sanchez of \$5,099 for nearly twenty-six months after Respondent was terminated in August 2011 in her matter and by depriving Gonzalez of \$2,781 for nearly fourteen months after Respondent was terminated in August 2012.

**Lack of Candor to State Bar (Std. 1.5(h)):** On August 29, 2013, Respondent responded in writing to the State Bar's investigation regarding Respondent's failure to promptly refund unearned fees to Gonzalez. In her response, and in an effort to justify her retention of the fees paid by Gonzalez, Respondent wrote that she discovered Gonzalez was not on the loan for the home that Gonzalez was seeking to save from foreclosure while reviewing a credit report and preparing a bankruptcy petition for Gonzalez on July 31, 2012 and that in a telephone conversation with Gonzalez later that same day, respondent learned from Gonzalez that her son and daughter-in-law were on the loan and on the title to the property. However, this was false as Gonzalez had already informed CALG about the fact that she was not on the title at the initial July 26, 2012 meeting, as captured in the CALG activity log Respondent reviewed prior to her response. Respondent's written response to the State Bar was misleading about a material fact, and Respondent should have known that her representations, upon which she intended the State Bar to rely, were false. Respondent's lack of candor constitutes a factor in aggravation. (See *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 910; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 282; *Franklin v. State Bar* (1986) 41 Cal.3d 700, 712.)

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's misconduct evidences at least seven different acts of misconduct over a period of 28 months, including failing to refund unearned fees, collecting illegal fees and trust account violations. Multiple acts of misconduct can be considered serious aggravation. (See e.g., *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555.)

## MITIGATING CIRCUMSTANCES.

**Pre-filing Stipulation:** While some of the facts in this matter are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter at an early stage in the proceedings prior to the filing of disciplinary charges and 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].)

**Good character:** While not attested to by a wide range of references in the legal and general communities, Respondent submitted four character letters from former colleagues attesting to her good character as an attorney, which is entitled to some mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 State Bar Ct. Rptr. 41, 50 [attorney who offered testimony from four character witnesses in mitigation did not provide sufficient character evidence to support a finding of good character from a wide range of references, which "diminished" its weight in mitigation].)

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## 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 Silverton* (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 several 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 sanctions applicable to Respondent’s misconduct are found in Standard 2.2(a), which applies to Respondent’s failure to promptly pay entrusted funds to Gonzalez in violation of Rules of Professional Conduct, rule 4-100(B)(4) and Standard 2.14 which applies to Respondent’s charging of upfront fees for loan modification services and her failure to provide the required notice in violation of Civil Code, section 2944.6 and 2944.7, thereby violating Business and Professions Code, section 6106.3.

Standard 2.2(a) provides that actual suspension of three months is appropriate for a failure to promptly pay out entrusted funds. Standard 2.14 provides that disbarment or actual suspension is appropriate for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in the Standards, including Business and Professions Code, section 6106.3. Here, in addition to failing to deposit the \$281 advanced filing fees in her client trust account, Respondent compounded the misconduct by failing to return the filing fees for nearly ten months after the client initially requested the funds. Additionally, Respondent’s charging and collecting illegal upfront fees and failure to provide the required notice to her client is significant because Respondent’s misconduct shows a disregard for the law or a failure to appreciate its consequences as demonstrated by the risk posed to the public and future clients by charging and collecting illegal fees from a client, including \$5,099 received from Sanchez. Moreover, the presence of aggravating circumstances here, which include Respondent’s lack of candor to the State Bar during its investigation, her multiple acts of

wrongdoing, and significant harm to both Sanchez and Gonzalez, further justifies the imposition of a period of actual suspension. Pursuant to Standards 2.2(a) and 2.14, the misconduct and both the aggravating and mitigating circumstances, a two (2) year stayed suspension and a two (2) year probation with conditions including a three (3) month actual suspension and compliance with rule 9.20 of the California Rules of Court, is appropriate discipline to protect the public, the courts and the legal profession; to maintain high professional standards by attorneys and to preserve public confidence in the legal profession.

Case law also supports the recommended discipline. In *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, the Review Department determined that a six-month actual suspension was appropriate for an attorney who collected illegal fees from two clients, engaged in the unauthorized practice of law, failed to refund unearned fees, failed to deposit entrusted funds into her client trust account, and made misrepresentations to the California State Bar and the South Carolina Solicitor's Office in their respective investigations. In aggravation, attorney Wells also had one prior record of discipline involving client trust account violations, by failing to make any restitution she caused significant harm to the clients, and the matter involved multiple acts of wrongdoing. In mitigation, the Court determined Wells was suffering from extreme emotional distress at the time of the misconduct and was found to have good character. By comparison, Respondent's misconduct is not as extensive or as egregious as the misconduct described in *Wells*, but is nonetheless serious and therefore warrants actual suspension.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 28, 2014, the prosecution costs in this matter are approximately \$4,502. 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**

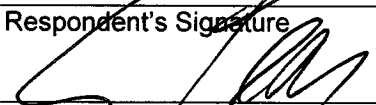

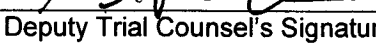
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: YELENA ANELEY GUREVICH	Case number(s): 13-O-11268-DFM, 13-O-13785
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### SIGNATURE OF THE PARTIES

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


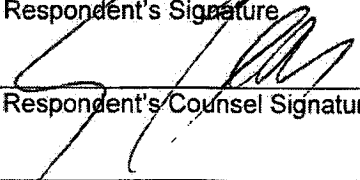
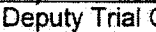
Date		Yelena Aneley Gurevich
3/6/14	Respondent's Signature	Print Name
Date		Edward O. Lear
3.6.2014	Respondent's Counsel Signature	Print Name
Date		Anand Kumar
	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: YELENA ANELEY GUREVICH	Case number(s): 13-O-11268-DFM, 13-O-13785
---	---

### SIGNATURE OF THE PARTIES

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3/5/14		Yelena Aneley Gurevich
Date	Respondent's Signature	Print Name
3/6/14		Edward O. Lear
Date	Respondent's Counsel Signature	Print Name
		Anand Kumar
Date	Deputy Trial Counsel's Signature	Print Name



(Do not write above this line.)

In the Matter of:  
YELENA ANELEY GUREVICH

Case Number(s):  
13-O-11268-DFM, 13-O-13785

### 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

3/21/14

  
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 Los Angeles, on March 27, 2014, I deposited a true copy of the following document(s):

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

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

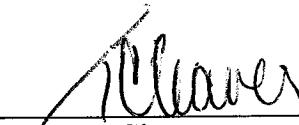
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**EDWARD O. LEAR  
CENTURY LAW GROUP LLP  
5200 W CENTURY BLVD #345  
LOS ANGELES, CA 90045**

- ☒ 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 Los Angeles, California, on March 27, 2014.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court