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**State Bar Court of California
Hearing Department**

ORIGINAL

DISBARMENT

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| Counsel For The State Bar Sue Hong Deputy Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1161 Bar # 285852 | Case Number(s): 13-O-13507 13-N-16305 | For Court use only FILED FEB 20 2014 <i>He</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES |
| In Pro Per Respondent ROSEMARIE T. HOLLANDER PO Box 20080 Fountain Valley, CA 92728 (714) 444-1895 Bar # 114175 | PUBLIC MATTER | |
| In the Matter of: ROSEMARIE T. HOLLANDER Bar # 114175 A Member of the State Bar of California (Respondent) | Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED | |

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 **August 6, 1984**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (10) 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)



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

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

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **12-O-11086 et al.**
- (b) ☒ Date prior discipline effective **July 24, 2013**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **7 counts of B&P Code section 6106.3(a): Charging and Collecting a Fee Prior to Fully Performing Load Modification; 5 counts of RPC 4-100(B)(3): Failure to Render Appropriate Accounts to Client; 2 counts of B&P Code section 6068(m): Failure to Communicate; 2 counts of B&P Code section 3-700(D)(2): Failure to Refund Unearned Fees; 1 count RPC of 3-100(A): Failure to Perform Competently; and 1 count of B&P Code section 6068(i): Failure to Cooperate and Participate in Disciplinary Investigations.**
- (d) ☒ Degree of prior discipline **6 months of actual suspension, 3 years of probation, and 2 years of stayed suspension.**
- (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.

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- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Attachment at page 9.**
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment at page 9.**
- (8) ☒ **Restitution:** Respondent failed to make restitution. **See Attachment at page 9.**
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

See Attachment at page 9.

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.

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- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Attachment at page 9.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) ☒ **Restitution:** Respondent must make restitution to **Paul Arancio** in the amount of \$ **1,747.50** plus 10 percent interest per year from **September 1, 2010**. If the Client Security Fund has reimbursed **Paul Arancio** for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than **N/A** days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ROSEMARIE T. HOLLANDER

CASE NUMBERS: 13-O-13507; 13-N-16305

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-13507 (Complainant: Paul Arancio)

FACTS:

1. From August 26, 2010 through April of 2011, Respondent held herself out as entitled to practice law in Connecticut by agreeing to represent Paul Arancio in modifying his home mortgage loan. At the time Mr. Arancio believed Respondent to be an attorney entitled to practice law in Connecticut.
2. Respondent has never been licensed as an attorney in Connecticut at any time relevant hereto.
3. On August 26, 2010, Respondent entered into an agreement with Paul Arancio to provide legal services in connection with a loan modification in Connecticut, and charged and collected from Paul Arancio a fee of \$3,495 to perform legal services.
4. Respondent sent a loan modification package to Bank of America on behalf of Mr. Arancio. The loan modification was subsequently denied.
5. On April 5, 2011, Mr. Arancio hired an attorney, Bradley Kilmer, to make a demand on Respondent to refund the \$3,495 that Mr. Arancio paid to Respondent.
6. On April 29, 2011, Respondent paid Mr. Kilmer \$1,747.50 as a partial refund to Mr. Arancio. Mr. Arancio received a total of \$1,747.50 from Mr. Kilmer as a partial refund from Respondent.
7. On June 11, 2013, Mr. Arancio filed a complaint with the State Bar and an investigation was opened into the allegations of professional misconduct.
8. On September 5, 2013, August 22, 2013, and July 30, 2013, a State Bar investigator mailed letters to Respondent at her membership record address.
9. The August 22, 2013 letter was returned as undeliverable. However, Respondent received the September 5, 2013, and July 30, 2013 letters.
10. Respondent did not respond to any of the State Bar investigator's letters.

CONCLUSIONS OF LAW:

11. By holding herself out as entitled to practice law in Connecticut by agreeing to represent Mr. Arancio in modifying his home mortgage loan, Respondent was in violation of the regulations of the profession in Connecticut, namely, Connecticut Rules of Professional Conduct, rule 5.5, in willful violation of the and the Rules of Professional Conduct, rule 1-300(B) [Unauthorized Practice of Law in Other Jurisdiction].
12. By charging a collecting a fee from Mr. Arancio for legal services when she was not licensed to practice law in Connecticut, Respondent charged and collected an illegal fee because Respondent was not admitted to practice law in Connecticut, in willful violation of the Rules of Professional Conduct, rule 4-200(A) [Charging and Collecting an Illegal Fee].
13. By failing to provide a substantive response to the State Bar's letters dated September 5, 2013, and July 30, 2013, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 13-O-13507, Respondent is in willful violation of Business and Professions Code, section 6068(i) [Failure to Cooperate in State Bar Investigation].

Case No. 13-N-16305
California Rules of Court, rule 9.20
[Failure to Obey Rule 9.20]

FACTS:

14. On December 26, 2012, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition ("Stipulation") with the State Bar of California in Case Nos. 12-O-11086, 12-O-12019, 12-O-12223, 12-O-12502, 12-O-12826, 12-O-14168, 12-O-18039. These cases were consolidated for discipline.
15. On January 24, 2013, the Hearing Department of the State Bar Court issued a decision and recommendation of discipline ("the Hearing Department recommendation") in Case Nos. 12-O-11086, et al.
16. On January 25, 2013, a case administrator of the State Bar Court properly served a copy of the Hearing Department recommendation by mail on respondent. Respondent received the Hearing Department recommendation.
17. On June 24, 2013, the California Supreme Court filed its order in case no. S210006 ("Disciplinary Order") imposing the recommended discipline and suspending respondent from the practice of law for two years, execution stayed, and placing Respondent on probation for three years subject to conditions, including six months of actual suspension. The Supreme Court ordered that respondent comply with the conditions of probation recommended by the Hearing Department in the Hearing Department recommendation.
18. On June 24, 2013, the Clerk of the Supreme Court properly served the order by mail on Respondent. Respondent received the order.

19. Pursuant to the Disciplinary Order, Respondent was ordered to comply with California Rules of Court, rule 9.20 by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the Disciplinary Order.
20. The Disciplinary Order became final and effective on July 24, 2013.
21. Respondent was ordered to comply with subdivision (a) of rule 9.20 of the California Rules of Court no later than August 24, 2013, and was ordered to comply with subdivision (c) of rule 9.20 no later than September 2, 2013.
22. Respondent failed to file with the clerk of the State Bar Court an affidavit in compliance with rule 9.20, California Rules of Court, as required by rule 9.20(c) by September 2, 2013. To date, Respondent has not filed any such affidavit.

CONCLUSIONS OF LAW:

23. By failing to file an affidavit of compliance with California Rules of Court, rule 9.20 in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by September 2, 2013, as required by Supreme Court order no. S210006, Respondent willfully violated California Rules of Court, rule 9.20.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline (Std. 1.5(a)): Respondent has one prior disciplinary action in Case. Nos. 12-O-11086 et al., involving 18 acts of professional misconduct, including violations of Business & Professions Code Section 6106.3 [Charging and Collecting Fee Prior to Fully Performing Loan Modification].

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent engaged in the unauthorized practice of law, charging and collecting an illegal fee, failure to cooperate and participate in a disciplinary investigation, and the failure to comply with California Rules of Court 9.20. Therefore, Respondent engaged in multiple acts of misconduct.

Significant Harm (Std. 1.5(f)): Respondent's client, Paul Arancio, was significantly harmed because he was deprived of his money for over three years and has not received his money to date.

Failure to Make Restitution (Std. 1.5(i)): Respondent has only refunded Mr. Arancio half of the fees in the amount of \$1,747.50. Respondent has failed to refund the remaining \$1,747.50 to Mr. Arancio.

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES

Pre-trial Stipulation: Respondent has entered into a Stipulation with the State Bar prior to the commencement of trial, thereby saving the State Bar Court time and 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].)

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 this matter, Respondent admits to committing four acts of professional misconduct. Standard 1.7(a) requires that where a Respondent “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 California Rules of Court 9.20, which applies to Respondent’s violation of 9.20 of the California Rules of Court. Rule 9.20(d) of the California Rules of Court provides that a suspended member’s willful failure to comply with the provisions of rule 9.20 of the California Rules of Court is cause for disbarment or suspension or for revocation of any pending probation.

In the present case, Respondent failed to comply with rule 9.20, which shows that she is not a suitable candidate for probation. In addition, Respondent has engaged in the unauthorized practice of law, charging and collecting an illegal fee, and failing to cooperate and participate in a disciplinary investigation pending against Respondent. Previously, Respondent received an actual suspension of 6 months after committing 18 acts of professional misconduct. The prior record of discipline is not remote in time and both the prior and current offenses involve serious misconduct. Under the Standards and rule 9.20, disbarment is the appropriate level of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.


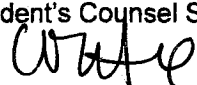

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of February 7, 2014, the prosecution costs in this matter are \$5,851. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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| In the Matter of ROSEMARIE T. HOLLANDER | Case number(s): 13-O-13507; 13-N-16305 |
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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.

| | | |
|------------------------|---|---|
| <u>2/11/14</u> Date |  Respondent's Signature | <u>ROSEMARIE T. HOLLANDER</u> Print Name |
| <u>2/12/14</u> Date |  Respondent's Counsel Signature | <u>Print Name</u> |
| |  Deputy Trial Counsel's Signature | <u>SUE HONG</u> Print Name |

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| In the Matter of: ROSEMARIE T. HOLLANDER | Case Number(s): 13-O-13507; 13-N-16305 |
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DISBARMENT ORDER

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

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

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

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

Date

2/20/14


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 February 20, 2014, I deposited a true copy of the following document(s):

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

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


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

**ROSEMARIE T. HOLLANDER
LAW OFC ROSE MARIE HOLLANDER
PO BOX 20080
FOUNTAIN VALLEY, CA 92728**

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

SUE HONG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 20, 2014.



Tammy Cleaver
Case Administrator
State Bar Court