


 **ORIGINAL**

<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>Erin McKeown Joyce</b> <b>Senior Trial Counsel</b> <b>845 South Figueroa Street</b> <b>Los Angeles, California 90017</b> <b>(213) 765-1356</b>  <b>Bar # 149946</b>	<b>Case Number(s):</b> <b>13-O-14452-YDR</b> <b>13-O-16285</b> <b>14-O-01803</b>	<b>For Court use only</b>  <b>FILED</b>  <b>APR 08 2015</b>   <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Arthur Margolis</b> <b>Margolis &amp; Margolis</b> <b>2000 Riverside Drive</b> <b>Los Angeles, California 90039</b> <b>(323) 953-8996</b>  <b>Bar # 57703</b>	<b>PUBLIC MATTER</b>	
<b>In the Matter of:</b> <b>ARMEN JANIAN</b>  <b>Bar # 102747</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 **June 10, 1982**.
- (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 **14** 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."



(Do not write above this line.)

- (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 **State Bar Case No. 10-O-11007, et al. See Page 8 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of the facts and circumstances of Respondent's first prior imposition of discipline.**
- (b) ☒ Date prior discipline effective **June 21, 2012**
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Four counts of violating Business and Professions Code section 6106.3 (collecting advanced fees for loan modification services).**
- (d) ☒ Degree of prior discipline **One year stayed suspension.**
- (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.

State Bar Case No. 12-O-10262, et al. See Pages 8 and 9 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of the facts and circumstances of Respondent's second imposition of discipline.

Date prior discipline effective: December 13, 2013

Rules of Professional Conduct/State Bar Act Violations: Fifteen counts of violating Business and Professions Code section 6106.3 (collecting advanced fees for loan modification services).

Degree of prior discipline: Six month actual suspension with two years probation, and until full restitution provided to clients.

(Do not write above this line.)

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- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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 Page 9 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this aggravating circumstance.**
- (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. **See Page 10 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this mitigating circumstance.**
- (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.

(Do not write above this line.)

- (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 Page 9 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this mitigating circumstance.**
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct. **See Page 9 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this mitigating circumstance.**
- (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-trial Stipulation.** See Page 10 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this mitigating circumstance.

#### **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 **three 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 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.
- (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: **Respondent was ordered to complete Ethics School in connection with Case No.12-O-10262, et al. effective December 13, 2013 (See rule 5.135(A), Rules of Proc. of State Bar.) Respondent completed Ethics School on June 13, 2013.**
- (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 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: **Respondent was ordered to complete MPRE in connection with Case No. 12-O-10262, et al., effective December 13, 2013. The protection of the public and the interests of Respondent therefore do not require passage of the MPRE in this case. (See In the Matter of Respondent G. (Review Dept. 1982) 2 Cal. State Bar Ct. Rptr. 181).**
- (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:**

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

IN THE MATTER OF:

ARMEN JANIAN

CASE NUMBERS:

13-O-14452, 13-O-16285, 14-O-01803

**FACTS AND CONCLUSIONS OF LAW**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statute.

Case No. 13-O-14452 (Complainant: Marzieh Kharazi)

**FACTS**

1. On October 15, 2009, Marzieh Kharazi hired Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification on behalf of Kharazi.
2. On November 15, 2009, Kharazi paid Respondent \$3,900 in advanced attorney's fees for residential loan modification services.
3. At the time Respondent received the \$3,900 from Kharazi, Respondent had not completed all of the home mortgage loan modification services that he agreed to perform on behalf of Kharazi.

**CONCLUSIONS OF LAW**

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

Case No. 13-O-16285 (Complainant: Michael Chan)

**FACTS**

5. On May 15, 2009, Michael Chan hired Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification on behalf of Chan.
6. Chan made a series of payments to Respondent for the loan modification services prior to October 2009, prior to the effective date of Civil Code section 2944.7, which prohibits attorneys from collecting advanced fees for residential mortgage loan modification services.

7. On October 19, 2009, Chan made the final payment to Respondent of advanced fees for residential loan modification services in the amount of \$495.

8. At the time Respondent received the \$495 fees from Chan, Respondent had not completed all of the home mortgage loan modification services that he agreed to perform on behalf of Chan.

#### CONCLUSIONS OF LAW

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

#### Case No. 14-O-01803 (Complainant: Samantha Ray)

#### FACTS

10. On July 21, 2010, Samantha Ray hired Respondent and entered into a fee agreement with Respondent for legal services in connection with obtaining a home mortgage loan modification on behalf of Ray.

11. On July 21, 2010, Ray paid Respondent \$1,500 in advanced attorney's fees for residential loan modification services.

12. At the time Respondent received the \$1,500 fees from Ray, Respondent had not completed all of the home mortgage loan modification services that he agreed to perform on behalf of Ray.

#### CONCLUSIONS OF LAW

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

#### AGGRAVATING CIRCUMSTANCES

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has two prior impositions of discipline. The first discipline was effective June 21, 2012, wherein Respondent was suspended from the practice of law for one year, which was stayed, stemming from four violations of Business and Professions Code section 6106.3, for collecting advanced fees in four loan modification cases in the time period from the end of 2009 through March 2010.

In the second imposition of discipline, Respondent was actually suspended for six months, and placed on a two years' probation for 15 instances of collecting advanced fees from loan modification clients in violation of Business and Professions Code section 6106.3 during the time period October 2009 until August 2010. The second imposition of discipline required Respondent to remain on actual suspension



until he provides full restitution to his loan modification clients totaling \$44,130 plus interest. He has been on actual suspension since December 12, 2013.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's conduct in the current matters and his conduct in the 19 client matters which were the basis of the two prior disciplines, and occurred during the same time period as most of the present misconduct, evidence multiple acts of misconduct.

## **MITIGATING CIRCUMSTANCES**

**Emotional/Physical Difficulties (Std. 1.6(d)):** At the time of the misconduct in the three current loan modification matters and the misconduct in the two prior disciplines, Respondent suffered extreme emotional difficulties stemming from his diagnosis of prostate cancer in February 2009. Respondent underwent multiple invasive medical tests from February 2009 until September 2009, to diagnose his condition, which initially was diagnosed as prostate cancer. Later, in September 2009, Respondent underwent a surgical procedure to correct what was finally determined to be a right inguinal hernia. He was later cleared of having prostate cancer, and correctly diagnosed with a bacterial infection which responded to a month long course of strong antibiotics.

Respondent's emotional difficulties stemming from his incorrect cancer diagnosis distracted him from his practice and contributed to his failure to comply with California Civil Code section 2944.7 when it was initially implemented in October 2009. Respondent modified his attorney client agreements in response to the new law in late 2009 to provide for payment of advanced fees in phases, which he now acknowledges did not comply with the law. By August 2010, the full implication of Civil Code section 2944.7 were clear to Respondent, and he ceased his loan modification operation in its entirety, but continued to service his then-existing clients for no additional fees to help them obtain loan modifications.

Respondent's successful treatment for his medical conditions once properly diagnosed, and the passage of time have restored him to the practice of law without further adverse impact from this stress. 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 his ability to deal appropriately with the stress created. (*In re Brown* (1995) 12 Cal.4th 205, 222.)

**Good Character (Std. 1.6(f)):** As set forth in the second disciplinary stipulation with Respondent, during his career of over 33 years, Respondent received multiple awards from a variety of government agencies and civic organizations which have recognized Respondent for his dedicated service to the community, including the County of Los Angeles, the City of Glendale, the California State Legislature, Congressman Adam B. Schiff, the YMCA, the California Assembly, the Armenian Chamber of Commerce, the Russian Academy of Natural Sciences, the City of Los Angeles, the Armenian American Chamber of Commerce, the Armenian Bone Marrow Donor Registry Charitable Trust and Glendale Adventist Hospital.

Over the past three decades, Respondent has spent hundreds of hours volunteering for different agencies and community organizations both in the legal field and in the wider community. He served on the Community – Police Partnership Advisory Committee of the City of Glendale, the board of the Glendale Memorial Hospital Foundation, the City of Glendale Community Development Block Grant Committee, the board of the Glendale Chamber of Commerce, the Armenian American Political Action Committee,

the board of the Armenian Relief Center and the board of the Armenian American Chamber of Commerce.

Respondent's good character has also been attested by a wide range of distinguished members of the legal and general communities who are fully aware of Respondent's misconduct in connection with his loan modification operation. (See *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171.) Respondent has established that he is entitled to mitigating credit for an extraordinary demonstration of good character.

**Remorse (Std. 1.6(g)):** Respondent took "prompt objective steps, demonstrating remorse and recognition of wrongdoing and timely atonement" under Standard 1.6(g), since Respondent stopped taking on new loan modification clients in August 2010, ten months after the effective date of Civil Code section 2944.7. Respondent also continued to service his then-existing loan modification clients without receiving additional attorney fees.

**Pretrial Stipulation:** By entering into this pretrial stipulation, Respondent has saved the State Bar significant resources and time. Respondent's stipulation to the facts, his culpability, and discipline is properly considered a mitigating circumstance. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521; *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating 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.)

Generally, the Standards are applied to only the misconduct in the current matters to determine the appropriate level of discipline; however, in certain situations, the misconduct from the prior discipline and the misconduct in the current matters should be considered together in determining discipline.

The reasoning for considering the prior discipline and the current misconduct together to determine the appropriate level of discipline is set forth in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In *Sklar*, the attorney had prior discipline and was involved in a second disciplinary proceeding involving misconduct which occurred during the same time period as the misconduct that led

to his prior discipline. The court acknowledged that "... part of the rationale for considering a prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms [citation]. It is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case." (*In the Matter of Sklar*, *supra*, 2 Cal. State Bar Ct. Rptr. at 619.) The Review Department in *Sklar* concluded that it was appropriate to consider the totality of the misconduct in the attorney's prior discipline and the pending matters to determine what discipline was appropriate had all the misconduct been brought together rather than separately.

A similar rationale and application is appropriate here. Respondent's misconduct in the three loan modification matters which are the subject of this stipulation occurred at the same time as the misconduct in his two prior disciplines. In fact the misconduct in two of the new matters occurred within days or weeks of the effective date of Civil Code section 2944.7. Therefore, rather than considering a strict application of the standards to the current misconduct as if it was subsequent and further misconduct committed by an attorney displaying an inability to conform his conduct to ethical norms, it is appropriate to consider the current misconduct together with his prior misconduct which occurred during the same time period.

Under Standard 1.7(a), "[i]f a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed." Here, the gravamen of Respondent's misconduct is his repeated violation of Business and Professions Code section 6106.3 – collecting advanced fees for loan modification services in violation of Civil Code section 2944.7.

The appropriate Standard to employ to assess Respondent's misconduct is Standard 2.14. Under Standard 2.14, which provides the level of discipline range for offenses involving a violation of other Article 6 statutes not specifically set forth elsewhere in the Standards, "[d]isbarment or actual suspension is appropriate for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards."

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).)

On balance, the significant mitigating factors outweigh the aggravating factors in these matters. In aggravation are Respondent's multiple acts and his prior discipline. Prior discipline should be considered in aggravation "[w]henver discipline is imposed." (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715.) However, for the reasons previously set forth, the weight of the prior discipline is diminished in these matters.

In mitigation, Respondent's misconduct began at the time of significant stress in Respondent's personal life, since he had been wrongly diagnosed as having prostate cancer and was undergoing treatment from February 2009 through September 2009. Respondent has also demonstrated extraordinary service to his community and good character, which is recognized mitigation under Standard 1.6(f). Moreover, Respondent cooperated with the State Bar to resolve the prior matters by stipulation, and Respondent cooperated to resolve the three matters in this disciplinary stipulation. Further, even though the

misconduct here is serious, before all the misconduct considered here began, Respondent had no record of discipline in over twenty six years of practice.

When Respondent's significant mitigating circumstances are considered, in addition to the 22 loan modification matters where Respondent improperly accepted advanced fees for services, a cumulative period of nine month actual suspension is warranted. Respondent is entitled to mitigation for emotional and physical difficulties (Standard 1.6(d)) and good character (Standard 1.6(f)). He is also entitled to mitigation for taking "prompt objective steps, demonstrating remorse and recognition of wrongdoing and timely atonement" under Standard 1.6(g), since Respondent stopped taking on new loan modification clients in August 2010, 10 months after the effective date of Civil Code section 2944.7, and continued to service his existing loan modification clients.

The type and extent of misconduct involved is also considered. Respondent's collection of advanced fees for loan modification legal services occurred in the limited time span of late 2009 through August 2010, when he ceased his loan modification operation in its entirety. After that time period, Respondent collected no additional fees from his loan modification clients, but continued to work on their cases to obtain loan modifications for his clients. Two of the cases in this stipulation involve taking advanced fees within days or weeks of the effective date of Civil Code section 2944.7.

Respondent's misconduct is serious. Respondent has repeatedly violated Business and Professions Code section 6106.3 by accepting advanced fees for loan modification legal services in violation of Civil Code section 2944.7. Respondent paid restitution to the four clients involved in the first discipline, who all hired Respondent after the effective date of Civil Code section 2944.7 – October 11, 2009. He has belatedly provided refunds to the three loan modification clients in the current matters.

In considering the degree of harm to the clients, in the first discipline all clients received full refunds, so the harm to those clients was significantly mitigated. Fourteen of the clients in the second discipline are awaiting refunds. The three clients in the disciplinary stipulation have already received full refunds. The harm resulting from improperly collecting advanced fees from the three clients whose matters are the subject of this stipulation is serious, but mitigated since the clients received full refunds. The extent of the misconduct was limited to a discrete time period, but the harm to the clients is significant.

In a recent Review Department case, *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, the attorney was found culpable of violating Civil Code section 2944.7 and collecting illegal and unconscionable fees in eight client matters, and was suspended for six months. In *Taylor*, the attorney had not paid full refunds to any of the clients. He was found to have engaged in multiple acts of misconduct, causing significant harm to his clients and displaying indifference toward rectification or atonement for his misconduct. By contrast, Respondent spontaneously closed down his loan modification practice in August 2010, when the full implication of Civil Code section 2944.7 was clear to him. He continued to work on his existing clients' matters without additional payment of fees. He provided refunds to many of his clients. Respondent's misconduct was limited to the time period from the end of October 2009 to August 2010. His misconduct is less serious than the misconduct of the attorney in *In the Matter of Taylor*.

Under Standard 1.2(c):

“Suspension” can include a period of actual suspension, stayed suspension, or both:

- (1) “Actual suspension” is a disqualification from the practice of law and from holding oneself out as entitled to practice law, subject to conditions. Actual suspension is **generally** for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, or three years. (emphasis added)
- 

While actual suspension is **generally** in increments delineated in Standard 1.2(c)(1), there is nothing foreclosing imposition of an actual suspension of nine months. In these matters, the first 19 loan modifications warranted imposition of a six month actual suspension with an “and, until” restitution is paid provision. The addition of the three additional loan modification matters in this stipulation results in a net nine month actual suspension.

Following Standard 2.14, considering the primary purposes of discipline, and considering the totality of the misconduct in the prior and current matters, particularly in light of the extent of the misconduct and degree of harm to the clients, and considering the aggravating and mitigating circumstances, imposition of a total period of actual suspension of nine months is appropriate for all of Respondent’s misconduct. Imposition of an additional three month actual suspension in this case will be sufficient to protect the public, the courts and the legal profession under Standard 1.1, and falls squarely within the Standards for discipline in these matters.

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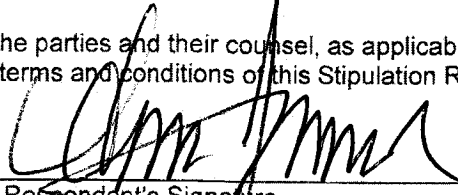
In the Matter of:  
ARMEN JANIAN

Case number(s):  
13-O-14452-YDR  
13-O-16285  
14-O-01803

### 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.

3/20/15  
Date

  
Respondent's Signature

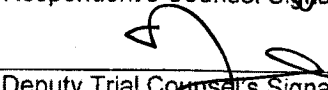
Armen Janian  
Print Name

3/20/15  
Date

  
Respondent's Counsel Signature

Arthur Margolis  
Print Name

3-23-15  
Date

  
Deputy Trial Counsel's Signature

Erin McKeown Joyce  
Print Name

(Do not write above this line.)

In the Matter of: ARMEN JANIAN	Case Number(s): 13-O-14452 et. al.
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### ACTUAL SUSPENSION ORDER


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

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

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

Date

4-7-15

  
GEORGE E. SCOTT, JUDGE PRO TEM  
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 April 8, 2015, 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 Los Angeles, California, addressed as follows:

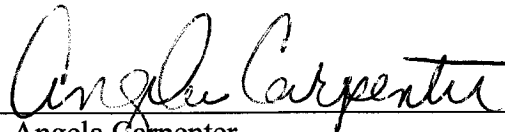
ARTHUR LEWIS MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039

ARMEN JANIAN  
1156 N BRAND BLVD  
GLENDALE, CA 91202

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

ERIN JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 8, 2015.



Angela Carpenter  
Case Administrator  
State Bar Court