



ORIGINAL

(Do not write above this line.)

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

Counsel For The State Bar Lara Bairamian Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1338 Bar # 253056	Case Number(s): 14-O-00858 [pre-filing] 14-O-01189 14-O-02350 14-O-03755 14-O-05866 14-O-06267	For Court use only <div style="text-align: center;"> FILED JAN 12 2015 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
Counsel For Respondent David Cameron Carr 525 B St Ste 1500 San Diego, CA 92101 (619) 696-0526 Bar # 124510	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: PETER ROBIN ESTES Bar # 168867 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 13, 1993**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **16** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

BS
12/19/14

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: **three (3) billing cycles following the effective date of the Supreme Court order.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

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

- (1) ☐ **Prior record of discipline**
- (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Attachment to Stipulation, at page 12.**
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(Do not write above this line.)

- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment to Stipulation, at page 12.**
- (8) ☒ **Restitution:** Respondent failed to make restitution. **See Attachment to Stipulation, at page 12.**
- (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:

No Prior Discipline - See Attachment to Stipulation, at page 12.

Prefiling Stipulation - See Attachment to Stipulation, at page 13.

Remedial Measures - See Attachment to Stipulation, at page 13.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **one (1) year**.

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 **ninety (90) days**.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

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

(2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

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

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

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

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input 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.**

(Do not write above this line.)

☐ 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:** As an additional condition of probation, Respondent agrees to comply with the resitution conditions set forth at page 15 of the attachment to stipulation re facts, conclusion of law and disposition.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PETER ROBIN ESTES

CASE NUMBERS: 14-O-00858, 14-O-01189, 14-O-02350, 14-O-03755,
 14-O-05866, 14-O-06267

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-O-00858 (Complainant: April Morrisette)

FACTS:

1. In March 2013, Respondent retained Bova Financial LLC ("Bova") to provide marketing and processing services for his law firm.

2. In June 2013, Colorado resident April Morrisette ("Morrisette") was facing the loss of her home through foreclosure. Morrisette received an advertisement from Bova attached to a letter sent by her lender, Wells Fargo. Morrisette contacted the number listed in the advertisement and spoke to Bova's non-attorney staff who offered to send Morrisette a copy of Respondent's fee agreement.

3. On July 2, 2013, Bova sent Morrisette an email attaching a copy of Respondent's fee agreement. Respondent failed to properly supervise the staff at Bova and as a result of Respondent's failure to supervise the staff, the email sent to Morrisette offered a money back guarantee that was not authorized by Respondent.

4. On July 2, 2013, Morrisette employed Respondent to perform legal services in connection with a home mortgage loan modification for Morrisette's Colorado property.

5. Between July 7, 2013 and September 7, 2014, Morrisette's brother Anthony Speranza ("Speranza"), with the knowledge and consent of Morrisette, paid Respondent \$3,750 in advanced attorney's fees.

6. Colorado law prohibits foreclosure consultants to claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform. Therefore, the \$3,750 in advanced attorney's fees collected by Respondent was illegal.

7. Between July 2013 and August 2013, Respondent's staff, acting as foreclosure consultants, contacted Wells Fargo in an attempt to stop the foreclosure sale of Morrisette's property and submitted a loan modification package on behalf of Morrisette.

8. On August 30, 2013, Morrisette received a letter from Wells Fargo stating that her request for a loan modification had been denied.

9. To date, Respondent has failed to refund any portion of the \$3,750 in fees paid by Speranza, on behalf of Morrisette.

CONCLUSIONS OF LAW:

10. By failing to properly supervise the staff at Bova, which resulted in an offer of a money back guarantee that was not authorized by Respondent, Respondent recklessly failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

11. By claiming, demanding, charging, collecting, or receiving legal fees from Speranza, on behalf of Morrisette, prior to performing each and every service he contracted to perform or represented he would perform, Respondent entered into an agreement for, charged, and collected an illegal fee from Speranza, on behalf of Morrisette, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 14-O-01189 (Complainant: Thomas and Jeanette Mulz)

FACTS:

12. In March 2013, Respondent retained Bova Financial LLC ("Bova") to provide marketing and processing services for his law firm

13. On June 17, 2013, South Carolina residents Thomas and Jeanette Mulz (the "Mulzes") received an email solicitation with a phone number for Bova. The email did not reference Respondent. The presentation and arrangement of the mailer tended to confuse or mislead the public because it implied a relationship between Bova and FannieMae/FreddieMac. The Mulzes contacted the number listed in the email and spoke to Bova's non-attorney staff who offered to send the Mulzes a copy of Respondent's fee agreement.

14. On June 26, 2013, Bova sent the Mulzes an email attaching a copy of Respondent's fee agreement. Respondent failed to properly supervise the staff at Bova and as a result of Respondent's failure to supervise the staff, the email sent to the Mulzes offered a money back guarantee that was not authorized by Respondent.

15. On July 11, 2013, the Mulzes employed Respondent to perform legal services in connection with a home mortgage loan modification for the Mulzes' South Carolina property.

16. Between August 8, 2013, and August 15, 2013, the Mulzes paid Respondent \$3,000 in advanced attorney's fees.

17. South Carolina law prohibits the practice of law in South Carolina by persons not admitted to practice law in South Carolina, other than with exceptions for circumstances not relevant to this matter. The services for which the Mulzes retained Respondent amounted to the practice of law.

18. Respondent is not now, nor ever has been, admitted to practice law in the state of South Carolina.

19. To date, Respondent has failed to refund any portion of the \$3,000 in fees paid by the Mulzes.

CONCLUSIONS OF LAW:

20. By delivering or causing to be delivered a mailer seeking professional employment, which contained matter which was false, deceptive, or which tended to confuse, deceive or mislead the public, Respondent improperly solicited prospective clients, in willful violation of Rules of Professional Conduct, rule 1-400(D).

21. By failing to properly supervise the staff at Bova, which resulted in an offer of a money back guarantee that was not authorized by Respondent, Respondent recklessly failed to perform legal services with competence in violation of California Rules of Professional Conduct, rule 3-110(A).

22. By accepting employment with the Mulzes in order to perform legal services in connection with a home mortgage loan modification for the Mulzes' South Carolina property, Respondent practiced law in the state of South Carolina and thereby wilfully violated the regulations of the profession in the state of South Carolina, in willful violation of Rules of Professional Conduct, rule 1-300(B).

23. By entering into an agreement for, charging, and collecting fees from the Mulzes, when he was not licensed to practice law in South Carolina, Respondent entered into an agreement for, charged, and collected an illegal fee from the Mulzes, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 14-O-02350 (Complainant: Jose Castro)

FACTS:

24. On August 8, 2013, New York resident Jose Castro ("Castro") employed Respondent to perform legal services in connection with a home mortgage loan modification for Castro's New York property.

25. Between August 27, 2013, and September 15, 2013, Castro paid Respondent \$5,000 in advanced attorney's fees.

26. New York law prohibits the practice of law in New York by persons not admitted to practice law in New York, other than with exceptions for circumstances not relevant to this matter. The services for which Castro retained Respondent amounted to the practice of law.

27. Respondent is not now, nor ever has been, admitted to practice law in the state of New York.

28. To date, Respondent has failed to refund any portion of the \$5,000 in fees paid by Castro.

CONCLUSIONS OF LAW:

29. By accepting employment with Castro in order to perform legal services in connection with a home mortgage loan modification for Castro's New York property, Respondent practiced law in the state of New York and thereby wilfully violated the regulations of the profession in the state of New York, in willful violation of Rules of Professional Conduct, rule 1-300(B).

30. By entering into an agreement for, charging, and collecting fees from Castro, when he was not licensed to practice law in New York, Respondent entered into an agreement for, charged, and collected an illegal fee from Castro, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 14-O-03755 (Complainant: Thomas and Laura Baker)

FACTS:

31. On March 10, 2014, Maryland residents Thomas and Laura Baker (the "Bakers") employed Respondent to perform legal services in connection with a home mortgage loan modification for the Bakers' Maryland property.

32. On March 10, 2014, the Bakers paid Respondent \$1,000 in advanced attorney's fees.

33. Maryland law prohibits the practice of law in Maryland by persons not admitted to practice law in Maryland, other than with exceptions for circumstances not relevant to this matter. The services for which the Bakers retained Respondent amounted to the practice of law.

34. Respondent is not now, nor ever has been, admitted to practice law in the state of Maryland.

35. In June 2014, the Bakers terminated Respondent's services and requested a refund of the advanced attorney's fees. In response, Respondent sent the Bakers an email offering to provide the Bakers with a refund pending their signature on a Refund Authorization Form, which he attached to the email, releasing Respondent from liability for professional malpractice without advising the Bakers, in writing, that they may seek the advice of independent counsel of their choice regarding the settlement terms.

36. To date, Respondent has failed to refund any portion of the \$1,000 in fees paid by the Bakers.

CONCLUSIONS OF LAW:

37. By accepting employment with the Bakers in order to perform legal services in connection with a home mortgage loan modification for the Baker's Maryland property, Respondent practiced law in the state of Maryland and thereby wilfully violated the regulations of the profession in the state of Maryland, in willful violation of Rules of Professional Conduct, rule 1-300(B).

38. By entering into an agreement for, charging, and collecting fees from the Bakers, when he was not licensed to practice law in Maryland, Respondent entered into an agreement for, charged, and collected an illegal fee from the Bakers, in willful violation of Rules of Professional Conduct, rule 4-200(A).

39. By sending the Bakers a Refund Authorization Form without advising the Bakers, in writing, that they may seek the advice of independent counsel of their choice regarding the settlement terms, Respondent offered to settle a claim or potential claim for Respondent's liability to the Bakers for Respondent's professional malpractice, without informing the Bakers in writing that the Bakers may seek the advice of an independent lawyer of the Bakers' choice regarding the settlement, in willful violation of Rules of Professional Conduct, rule 3-400(B).

Case No. 14-O-05866 (Complainant: Brenda Hudson)

FACTS:

40. On January 28, 2014, Maryland resident Brenda Hudson ("Hudson") employed Respondent to perform legal services in connection with a home mortgage loan modification for Hudson's Maryland property.

41. Between January 31, 2014, and April 1, 2014, Hudson paid Respondent \$3,000 in advanced attorney's fees.

42. Maryland law prohibits the practice of law in Maryland by persons not admitted to practice law in Maryland, other than with exceptions for circumstances not relevant to this matter. The services for which Hudson retained Respondent amounted to the practice of law.

43. Respondent is not now, nor ever has been, admitted to practice law in the state of Maryland.

44. To date, Respondent has failed to refund any portion of the \$3,000 in fees paid by Hudson.

CONCLUSIONS OF LAW:

45. By accepting employment with Hudson in order to perform legal services in connection with a home mortgage loan modification for Hudson's Maryland property, Respondent practiced law in the state of Maryland and thereby wilfully violated the regulations of the profession in the state of Maryland, in willful violation of Rules of Professional Conduct, rule 1-300(B).

46. By entering into an agreement for, charging, and collecting fees from Hudson, when he was not licensed to practice law in Maryland, Respondent entered into an agreement for, charged, and collected an illegal fee from Hudson, in willful violation of Rules of Professional Conduct, rule 4-200(A).

Case No. 14-O-06267 (Complainant: Patricia Porrazzo)

FACTS:

47. On March 17, 2014, Massachusetts resident Patricia Porrazzo ("Porrazzo") employed Respondent to perform legal services in connection with a home mortgage loan modification for Porrazzo's Massachusetts property.

48. Between April 3, 2014, and September 17, 2014, Porrazzo paid Respondent \$3,000 in advanced attorney's fees.

49. Massachusetts law prohibits the practice of law in Massachusetts by persons not admitted to practice law in Massachusetts, other than with exceptions for circumstances not relevant to this matter. The services for which Porrazzo retained Respondent amounted to the practice of law.

50. Respondent is not now, nor ever has been, admitted to practice law in the state of Massachusetts.

51. To date, Respondent has failed to refund any portion of the \$3,000 in fees paid by Porrazzo.

CONCLUSIONS OF LAW:

52. By accepting employment with Porrazzo in order to perform legal services in connection with a home mortgage loan modification for Porrazzo's Massachusetts property, Respondent practiced law in the state of Massachusetts and thereby wilfully violated the regulations of the profession in the state of Massachusetts, in willful violation of Rules of Professional Conduct, rule 1-300(B).

53. By entering into an agreement for, charging, and collecting fees from Porrazzo, when he was not licensed to practice law in Massachusetts, Respondent entered into an agreement for, charged, and collected an illegal fee from Porrazzo, in willful violation of Rules of Professional Conduct, rule 4-200(A).

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent's misconduct caused significant financial harm to all six out-of-state clients in these matters. Respondent's clients were facing the loss of their home and were in financial distress. All six out-of-state clients hired Respondent because they needed representation for a loan modification. The deprivation and loss of the use of the funds that each of the six out-of-state clients paid to Respondent caused significant financial harm.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's misconduct herein involves misconduct in six client matters involving multiple violations of rules 1-300(B) and 4-200(A). (*In the Matter of Elkins* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 160, 168 [multiple acts of misconduct are an aggravating factor].)

Failure to Make Restitution (Std. 1.5(i)): As of the present date, Respondent has failed to pay any restitution to any of six out-of-state clients even though he is not entitled to keep any amount of an illegal fee. (*In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 417 [failure to make restitution to a client is an aggravating factor]).)

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to the practice of law on December 13, 1993 and has no prior record of discipline. Even though the misconduct is serious, Respondent is entitled to mitigation for his 20 years of practice without discipline prior to commencing the misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney's practice of law for more than 17 years was considered to be a significant mitigating circumstance even though the misconduct at issue was serious].)

Prefiling Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to the filing of disciplinary charges, thereby avoiding the necessity of a trial and 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].)

Remedial Measures: In April 2014, after receiving notification of Morrisette's complaint to the State Bar, but prior to receiving the complaints by the Mulzes, Castro, the Bakers, Hudson, and Porrazzo, Respondent ceased accepting clients for loan modification services and shut down his law practice in order to come into compliance with his legal and ethical obligations. Respondent exhibited voluntary ameliorative behavior, which disciplinary standards are designed to encourage. (*In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1, 12.) The remedial measures taken by Respondent in order to come into compliance with ethical duties may be deemed mitigating. (See *In the Matter of Sullivan* (1997) 3 Cal. State Bar Ct. Rptr. 608, 613.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent admits to committing 15 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 is standard 2.3(b). Standard 2.3(b) provides that "[s]uspension or reproof is appropriate for any other violation of Rule 4-100."

As discussed above, between June 2013 and March 2014, Respondent held himself out as entitled to practice law to out-of-state clients residing in different states by offering to perform and performing loan modification legal services in those states. In four of the five states involved, Respondent violated each state's unauthorized practice of law statute. In Colorado, Respondent collected advanced attorney's fees prior to performing each and every service he agreed to perform in violation of the state's foreclosure protection act. By entering into an agreement for, charging and collecting fees from each of these clients, Respondent violated rule 4-200(A) in all six client matters.

Respondent's conduct is aggravated by three circumstances, namely, multiple acts, significant client harm, and failure to make restitution. On the other hand, Respondent had been in practice with no prior record of discipline for 20 years when the first misconduct in this matter occurred, shut down his law practice after the initiation of the State Bar's disciplinary matter based on his clients' complaints, and entered into a stipulation with the State Bar to resolve all six matters prior to the filing of disciplinary charges.

In weighing the aggravating and mitigating circumstances and guided by standard 2.3(b), a period of actual suspension is necessary to allow Respondent the opportunity to gain insight into his misconduct, while at the same time protecting the public and the courts and maintaining the integrity of the legal profession. Therefore, the appropriate discipline to impose in this matter would be one year suspension, stayed, two years' probation on standard terms and conditions, including 90 days actual suspension.

This level of discipline is also consistent with case law. *In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, is the only published decision regarding collection of illegal fees in violation of Civil Code, section 2944.7(a) (i.e., Senate Bill 94). In *Taylor*, the Review Department imposed a two year stayed suspension and a two year probation with conditions including a six month actual suspension and until payment of remaining restitution of approximately \$14,350 of the \$30,100 illegally collected from eight clients as upfront fees for home mortgage loan modification services. 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's misconduct is less egregious than *Taylor*. Taylor engaged in more acts of misconduct and continued to express a lack of remorse throughout disciplinary proceedings. There is stronger mitigation present in Respondent's case because, unlike *Taylor*, Respondent has accepted responsibility for his actions and has cooperated with the State Bar in entering into this stipulation to fully resolve the matter prior to trial and practiced law for 20 years without the imposition of discipline. Thus, although actual suspension is warranted, six months actual suspension is not.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of December 19, 2014, the prosecution costs in this matter are \$7,767. 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.)

RESTITUTION PAYMENTS

As an additional condition of probation, Respondent agrees to the following restitution schedule, and agrees to provide proof of completion to the Office of Probation as set forth herein.

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
Anthony Speranza	\$3,750	July 7, 2013
Thomas and Jeanette Mulz	\$3,000	August 8, 2013
Jose Castro	\$5,000	August 27, 2013
Thomas and Laura Baker	\$1,000	March 10, 2014
Brenda Hudson	\$3,000	January 31, 2014
Patricia Porrazzo	\$3,000	April 3, 2014

b. Installment Restitution Payments

Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide proof of payment satisfactory 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, Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

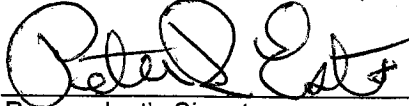
Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Anthony Speranza	\$468.75	Per Quarter
Thomas and Jeanette Mulz	\$375	Per Quarter
Jose Castro	\$625	Per Quarter
Thomas and Laura Baker	\$125	Per Quarter
Brenda Hudson	\$375	Per Quarter
Patricia Porrazzo	\$375	Per Quarter

(Do not write above this line.)

In the Matter of: PETER ROBIN ESTES	Case number(s): 14-O-00858, 14-O-01189, 14-O-02350, 14-O-03755, 14-O-05866, 14-O-06267
--	--

SIGNATURE OF THE PARTIES

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

<u>12/19/2014</u> Date	<u></u> Respondent's Signature	<u>Peter Robin Estes</u> Print Name
<u> </u> Date	<u> </u> Respondent's Counsel Signature	<u>David Cameron Carr</u> Print Name
<u> </u> Date	<u> </u> Deputy Trial Counsel's Signature	<u>Lara Bairamian</u> Print Name

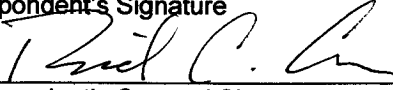
(Do not write above this line.)

In the Matter of:
PETER ROBIN ESTES

Case number(s):
14-O-00858, 14-O-01189, 14-O-02350, 14-O-03755,
14-O-05866, 14-O-06267

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	Respondent's Signature	Peter Robin Estes
12/19/14		Print Name
Date	Respondent's Counsel Signature	David Cameron Carr
		Print Name
Date	Deputy Trial Counsel's Signature	Lara Bairamian
		Print Name

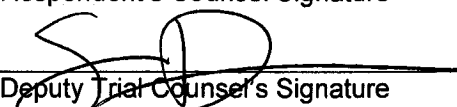
(Do not write above this line.)

In the Matter of:
PETER ROBIN ESTES

Case number(s):
14-O-00858, 14-O-01189, 14-O-02350, 14-O-03755,
14-O-05866, 14-O-06267

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	_____ Respondent's Signature	Peter Robin Estes _____ Print Name
_____ Date	_____ Respondent's Counsel Signature	David Cameron Carr _____ Print Name
12/19/14 Date	 Deputy Trial Counsel's Signature	Lara Bairamian _____ Print Name

(Do not write above this line.)

In the Matter of: PETER ROBIN ESTES	Case Number(s): 14-O-00858 et se.
---	---

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.

1. In the first paragraph on page 14 of the stipulation, "found in is standard" is deleted, and in its place is inserted "found in standard".
2. In the first paragraph on page 14 of the stipulation, "Standard 2.3(b) provides that '[s]uspension or reproof is appropriate for any other violation of Rule 4-100'" is deleted, and in its place is inserted "Standard 2.3(b) provides that '[s]uspension or reproof is appropriate for entering into an agreement for, charging, or collecting an illegal fee for legal services.'"

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

1-12-15


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 January 12, 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:

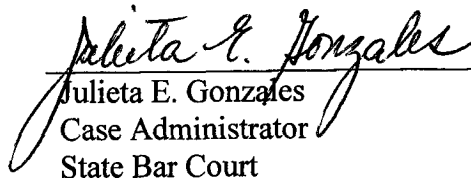
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID C. CARR
LAW OFFICE OF DAVID CAMERON CARR PLC
525 B ST STE 1500
SAN DIEGO, CA 92101

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

Lara Bairamian, Enforcement, Los Angeles
Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 12, 2015.



Julieta E. Gonzales
Case Administrator
State Bar Court