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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT

Counsel For The State Bar

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Bar # 150359

Case Number(s):
14-O-01235-LMA
14-O-01251
14-O-03296

Submitted to: **Settlement Judge**

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

DISBARMENT

 PREVIOUS STIPULATION REJECTED

For Court use only
PUBLIC MATTER

FILED

APR 09 2015

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Counsel For Respondent

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444 West Ocean Blvd., Suite 800
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Bar # 44971

In the Matter of:
TIM CHIH TING LIN

Bar # 263885

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 **June 10, 2009**.
- (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 **(17)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- 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
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See Stipulation Attachment at page 14.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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 Stipulation Attachment at page 14.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.

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(13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

PreTrial Stipulation - See Stipulation Attachment at page 14.

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 _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ 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 _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**

7. On January 28, 2014, Attorney Thomas became suspicious that Respondent had not been properly handling cases he had assigned to Respondent, including Dong's case, when another client contacted Attorney Thomas with concerns about her case. Attorney Thomas confronted Respondent about Dong's case and other cases he had assigned to Respondent as is discussed more fully below. Attorney Thomas terminated Respondent's employment on January 28, 2014.

8. On January 30, 2014, after having been confronted by Attorney Thomas, Respondent prepared and signed a declaration under penalty of perjury in which he admitted to concealing from Dong and Attorney Thomas that the hearing on the summary judgment motion had been continued, when in fact the court had issued an order granting summary judgment in favor of the defendants and against Dong. Respondent also admitted that, between July 3, 2012 and January 2014, he contrived a false story to delay Attorney Thomas and Dong from learning that the unopposed motion for summary judgment had been granted. Respondent provided the declaration to Dong and to Attorney Thomas to be filed in the case. In the declaration, Respondent also stated:

I cannot explain any reasons for my actions. If there are problems with my mental health, I wish to seek treatment and address these problems. As a first step, I have reached out to the California State Bar Lawyer Assistance Program at (877) 527-4435 in the hopes that I may be rehabilitated and competently practice law in the future.

9. Attorney Thomas thereafter conducted an audit of all files he had assigned to Respondent to handle and compared his office client files to the actual court files. After having audited the client files, Attorney Thomas filed a State Bar complaint against Respondent notifying the State Bar of the Respondent's misconduct in Dong's case and in other cases as more fully discussed below. Respondent has in fact begun participating in the Lawyer Assistance Program and had sought the care of a psychiatrist in an effort to gain insight into the misconduct in this case and the other cases discussed more fully below.

CONCLUSIONS OF LAW:

10. By failing to file timely opposition to the defendant's motion for summary judgment on behalf of Dong in the case entitled *Zhu Ju Dong v. Bally Total Fitness et al.*, Los Angeles County Superior Court Case No. GC047731, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

11. By failing to inform Dong at any time between July 3, 2012 and January 30, 2014 that the court had granted the defendant's motion for summary judgment against Dong in the civil case entitled *Zhu Ju Dong v. Bally Total Fitness et al.*, Los Angeles County Superior Court Case No. GC047731, Respondent failed to keep his client Dong reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

12. By repeatedly and falsely representing to Dong and Attorney Thomas between July 3, 2012 and January 30, 2014 that the defendant's motion for summary judgment had been continued in the civil case entitled *Zhu Ju Dong v. Bally Total Fitness et al.*, Los Angeles County Superior Court Case No. GC047731, when Respondent knew the summary judgment motion had been granted, with the intention

of concealing from Attorney Thomas and Dong that the motion had been granted, Respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

Case No. 14-O-01251 (Complainant: Cathy and Victor Chu)

FACTS:

13. On November 18, 2011, a civil case entitled *Conejo Valley Plaza 2 LLC v. Victor Chu et al.*, Ventura County Superior Court Case No. 56-2011-00407232-CU-BC-SIM ("civil case") was filed against Cathy Chu and her husband Victor Chu ("the Chus"). The lawsuit concerned a breach of contract for not paying rent on commercial space that had been leased for a restaurant business that later failed.

14. On February 16, 2012, the Chus, while representing themselves, filed a cross-complaint against the plaintiff.

15. On September 11, 2012, the Chus employed Attorney Thomas to perform legal services, namely to represent them in the civil case as defendants and cross-complainants. Attorney Thomas assigned the case to Respondent, who was his associate, to handle and introduced Respondent to the Chus. Respondent agreed to perform the legal services for the Chus.

16. On May 30, 2013, Respondent filed a motion to reopen discovery so that the deposition of a percipient witness named Marissa Pittman could be done. The Chus wanted Respondent to take Pittman's deposition. Respondent repeatedly represented to Attorney Thomas and the Chus that he was making efforts to take the deposition when he knew he was not in fact doing so. Between June 21, 2013 and January 21, 2014, Cindy Chu received at least eleven telephone calls from Respondent falsely stating that the deposition of Pittman was cancelled and reset at least eleven times, and the trial repeatedly rescheduled. Respondent knew the statements were false.

17. On July 18, 2013, Respondent filed an ex parte application to continue the trial for 30 days, falsely stating that Attorney Thomas' mother had suffered a stroke and Thomas had to travel to Florida to attend to his mother. Attached to the motion was a declaration believed at the time to be signed by Stephen Thomas in support of the motion. In fact, Thomas had not signed the declaration and his mother did not have a stroke or live in Florida. Respondent knew that the facts in the declaration and the ex parte application were not true.

18. On July 19, 2013, Respondent appeared in court on his ex parte application to continue the trial for 30 days. The court did agree to continue the matter for a brief time so that counsel could provide documents that supported his claim of an ill family member.

19. On August 5, 2013, Respondent appeared in court and verbally requested a brief continuance falsely stating it was "due to personal issues with trial counsel, Mr. Thomas." Respondent knew that Mr. Thomas did not have any personal issues that affected the Chus' case and Respondent was the attorney assigned to handle the case. The court granted the request to continue the trial to August 21, 2013 and Respondent did not tell the Chus about the trial date.

20. On August 21, 2013, Respondent appeared in court and verbally requested another continuance. The Chus did not appear for trial on August 21, 2013 because Respondent had not told

them about the trial date. The Court denied the request for continuance, and trailed the case, directing Respondent to await a telephone call from the court clerk when a courtroom had become available for trial. Later that week, Respondent received a call that the trial would begin on August 27, 2013. Respondent did not tell the Chus about the August 27, 2013 trial date.

21. On August 27, 2013, Respondent appeared in court and told the court he would be filing a dismissal of the Chus' cross-complaint; Respondent did not inform nor obtain prior consent from the Chus for the dismissal. He then proceeded to conduct the trial without the knowledge or presence of the Chus. After the plaintiff presented witness testimony, Respondent cross-examined the plaintiff's witnesses, and then failed to call any witnesses or present any evidence on behalf of the Chus. After closing argument by the plaintiff's counsel and the Respondent, the court took the case under submission.

22. On September 11, 2013, the court issued its ruling in the case, finding in favor of the plaintiff and against the Chus. Respondent received notice of the decision, but did not inform the Chus of the judgment. He concealed all the notices of decision and all additional documents he received from the court and opposing counsel from Attorney Thomas and the Chus.

23. On October 21, 2013, the court entered a judgment against the Chus in the amount of \$123,528.00 principal and \$24,061.44 in pre-judgment interest, for a total of \$147,589.44. Respondent received the judgment but did not tell the Chus about it.

24. On October 30, 2013, the Chus received an Abstract of Judgment. Cathy Chu contacted Respondent, and Respondent falsely told her the Abstract of Judgment was issued in error by the opposing counsel, that it was not a court order, and that it would not harm the Chus. Respondent knew the Abstract of Judgment had been properly issued against the Chus at the time he made these statements to Cathy Chu.

25. On November 5, 2013, Respondent sent Cathy Chu an email attaching a letter he claimed he was sending to opposing counsel Thomas Engel ("Attorney Engel"). The letter, dated November 6, 2013, stated that Attorney Engel had admitted the Abstract of Judgment had been done in error and would be removed. Respondent also fabricated a fax cover sheet, which he sent to Cathy Chu to show that the November 5, 2013 letter was being sent to Attorney Engel. Respondent did not send the fabricated letter or fax to Attorney Engel. Instead, Respondent falsely and intentionally made these misrepresentations to the Chus for the purpose of concealing the adverse judgment from them.

26. On November 12, 2013, Attorney Engel filed an Abstract of Judgment showing a total amount due of \$149,896.10. Attorney Engel served the Abstract of Judgment on Respondent and Respondent received it.

27. On November 14, 2013, Respondent sent Cathy Chu an email attaching a letter he claimed was sent to opposing counsel Attorney Engel. The letter falsely stated he had spoken with Attorney Engel earlier that day, and that Attorney Engel had indicated he would be substituting out of the case. In the letter, Respondent also falsely stated that the deposition had been rescheduled and that Attorney Engel was to provide a copy of the Notice of Release of Abstract of Judgment. At the time Respondent sent Cathy Chu a copy of the letter addressed to Attorney Engel, Respondent knew that his statements in the letter were false, and he knew that he had not sent the letter to Attorney Engel. Respondent made the false statements and created the phony letter which he provided to Cathy Chu with the intention of concealing his own misconduct from the Chus and from Attorney Thomas.

28. On November 20, 2013, Attorney Engel filed a Writ of Execution showing the total amount due as \$147,614.44. Attorney Engel served Respondent with the Writ of Execution and Respondent received it.

29. On November 25, 2013, Attorney Engel filed a motion for attorney fees. Attorney Engel served Respondent with a copy of the motion and Respondent had actual notice of the motion. The hearing was set for January 3, 2014. According to the court docket, Respondent did not file any opposition to the motion.

30. On December 1, 2013, Respondent went to the Chus' home and provided Cathy Chu with a copy of a Release of Abstract of Judgment. Thereafter, Cathy Chu went to the Ventura County Recorder's office to confirm the document was filed and she learned the document had not been filed. She was informed the recording date of May 12, 2013 was on a Sunday so no document could have been filed that day. In addition, the document showed it was signed and notarized on November 11, 2013, five months after it was supposedly recorded.

31. On December 6, 2013, Respondent filed a dismissal of the Chus' cross-complaint without their knowledge or consent.

32. On January 3, 2014, Attorney Engel's motion for attorney fees was granted in the amount of \$44,276.93.

33. On January 23, 2014, a Writ of Execution was issued against the Chus in the amount of \$194,197.93.

34. On January 28, 2014, Cathy Chu learned that her bank accounts had been levied. She sent an email to both Attorney Thomas and Respondent requesting an explanation. At this time, Attorney Thomas started checking on Respondent's handling of cases and learned that Respondent had not been telling him the truth about the status of the Chus' case and other cases.

35. On January 29, 2014, Cathy Chu met with Attorney Thomas and Respondent. Attorney Thomas provided Cathy Chu with a copy of the case docket. At that time, the Chus learned for the first time that the case had gone to trial in August 2013, that the cross complaint had been dismissed in December 2013, and a judgment had been entered against the Chus. Respondent initially attempted to claim opposing counsel procured the judgment by fraud. Attorney Thomas told the Chus that he had learned that Respondent had dismissed the cross complaint.

36. On January 30, 2014, Respondent prepared and signed a declaration to be used by the Chus stating that, in their lawsuit, he deliberately acted to mislead both Attorney Thomas and the Chus into believing the lawsuit was ongoing, and he purposely concealed from all of them that a judgment had been entered in favor of the opposing party. Respondent also admitted to filing a dismissal of the Chus' cross-complaint, and lying about the abstract of judgment being a simple mistake by the opposing counsel. Respondent admitted in the declaration that he had contrived a story to explain the delays in the trial and deposition, to the effect that opposing counsel Attorney Engel was ill and the trial had been continued to allow for Attorney Engel's recovery. Respondent also contrived a story that Attorney Engel would be substituting out of the case because of failing health issues. Respondent admits to fabricating these stories to "buy more time" and to keep the Chus and Attorney Thomas from discovering the true status of the case. Respondent gave his original declaration to Attorney Thomas.

37. On January 31, 2014, Attorney Thomas provided the Chus with a copy of the declaration written by Respondent admitting his wrongdoings, so that they could use it in an effort to set aside the judgment.

38. On February 21, 2014, the Chus hired new counsel to file a motion to set aside the judgment, claiming fraud and misrepresentations by Respondent. Attached to the motion were the two letters believed to have been sent to opposing counsel Attorney Engel about releasing the abstract. This was the first time Attorney Engel had seen the letters. Attorney Engel stated he had also become aware of the forged release as it was an exhibit to the motion to set aside the judgment. Engel denied ever stating he was withdrawing from the case, or that the abstract of judgment was a mistake.

39. The Chus later decided to borrow money from a relative and paid off the judgment in full, as well as the attorney fees, then dismissed the motion to set aside the judgment.

CONCLUSIONS OF LAW:

40. By failing to take the deposition of a material percipient witness, Marissa Pitman at any time, failing to advise the Chus of the August 21, 2013 and August 27, 2013 trial dates, agreeing to dismiss the Chus' cross-complaint on August 27, 2013 without their prior knowledge and consent, failing to call any witnesses in defense of the Chus at the August 27, 2013 trial, failing to present any evidence on behalf of the Chus at the August 27, 2013 trial; and filing a request for dismissal of the Chus' cross-complaint on December 6, 2013, without their prior knowledge and consent, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

41. By failing to inform the Chus that the trial in their case was set for August 27, 2013, that he had not taken the deposition of material percipient witness Marissa Pitman, that he had agreed to dismiss the Chus' cross-complaint at the August 27, 2013 trial, that he had not presented any witnesses or documentary evidence at the August 27, 2013 trial, that the court had issued a ruling against the Chus on September 11, 2013, that the court had entered a judgment against the Chus on October 21, 2013 in the amount of \$147,589.44; and that he had filed a request for dismissal of the Chus' cross-complaint on December 6, 2013, Respondent failed to keep the Chus reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

42. By filing an Ex Parte Application to Continue Trial on behalf of the Chus in the case *entitled Conejo Valley Plaza 2 LLC v. Victor Chu et al., Ventura County Superior Court Case No. 56-2011-00407232-CU-BC-SIM*, falsely stating that Attorney Thomas's mother had suffered a stroke and that Attorney Thomas would not be available for trial, when he knew that attorney Thomas's mother had not had a stroke and that Thomas was available, Respondent employed, for the purposes of maintaining the causes confided in him, means which were inconsistent with the truth, in willful violation of Business and Professions Code section 6068(d).

43. By repeatedly and falsely representing to the Chus and Attorney Thomas that the deposition of Marissa Pitman had been canceled and reset when Respondent knew that no action had been taken to schedule Pitman's deposition; that the trial had been continued when Respondent knew the trial was scheduled to take place and had taken place on August 27, 2013; that the abstract of judgment had been issued in error by opposing counsel when Respondent knew the abstract of judgment had been properly

issued; that the abstract of judgment had been released when Respondent knew it had not been released, Respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

Case No. 14-O-03296 (Complainant: Helen Jao)

FACTS:

44. On August 2, 2010, Helen Jao ("Jao") employed Attorney Thomas to perform legal services, namely to file and represent her in a civil case entitled *Helen Jao v. WRHC USA, Inc. et al.*, Los Angeles County Superior Court Case No. GC046034. The case involved a dispute over an investment in a dental school.

45. Attorney Thomas assigned Respondent to handle the case and introduced him to Jao.

46. On August 6, 2010, Jao met with Respondent and they discussed her case.

47. On September 2, 2010, Respondent emailed Jao a draft copy of the complaint he intended to file on her behalf, asking her to review it and make sure everything was accurate.

48. On September 14, 2010, Jao spoke with Respondent, who stated he would file the complaint within 30 days.

49. On September 23, 2010, Respondent filed the complaint in the civil case. The Case Management Conference ("CMC") was scheduled for February 22, 2011.

50. On February 22, 2011, Respondent attended the CMC, and the CMC was continued to April 25, 2011.

51. On April 2, 2011, Jao met with Respondent at the law office and Respondent gave Jao a document to sign entitled Declaration of Helen Jao in Support of Request for Default Judgment. This document was never filed with the court and Respondent did not inform Jao that it was never filed.

52. On April 25, 2011, the CMC was held and continued to June 15, 2011.

53. On June 15, 2011, the CMC was held and continued to August 11, 2011. The court authorized service on the defendants by way of publication.

54. On August 11, 2011, the CMC was held and continued to October 24, 2011. The court noted that the "Plaintiff is attempting service on defendant."

55. On September 14, 2011, Jao called the law office and left a voice message requesting a status update. When she did not hear back from Respondent, on September 19, 2011, she called again and spoke with Respondent. Respondent told her a writ had been executed to collect on the judgment, when no such writ existed. Respondent knew the writ did not exist.

56. On October 7, 2011, Jao spoke with Respondent, who told her that it would take a few days before she would receive the money. Jao requested proof of the court decision. Respondent did not provide her with proof of the court decision at that time.

57. Between October 14, 2011 and November 23, 2011, the CMC was continued three times.

58. On December 19, 2011, the CMC was held. Respondent dismissed the lawsuit without prejudice without Jao's knowledge or consent stating that the defendant could not be served.

59. On January 4, 2012, Respondent provided Jao with a copy of a document entitled, Judgment by Default stating that Jao had obtained a judgment in the amount of \$120,414 against WRHC USA, Inc. Respondent had falsified the document, which bore a false file stamp dated January 4, 2012 indicating it had been filed with the court and signed by a judicial officer, when Respondent knew that he had not obtained a default judgment for Jao, and when Respondent knew he had dismissed Jao's case.

60. Between January 4, 2012 and January 2014, Respondent repeatedly continued to represent to Attorney Thomas and to Jao that her case was pending, that he had received a judgment on Jao's behalf, and that he was pursuing collection of the judgment, when Respondent knew he had previously dismissed Jao's case without receiving a judgment.

61. On March 20, 2012, Respondent sent Jao an email falsely representing that there was a delay in collecting the judgment due to having to pursue a Writ of Execution, and due to delays by the court, when Respondent knew he was not pursuing a Writ of Execution on behalf of Jao.

62. On July 27, 2012, Respondent sent Jao an email falsely representing that he had spoken with a court employee who handles the writs and that he was told the delay was caused by courts closing, when Respondent knew there were no writ proceedings pending since Respondent had not obtained a judgment on behalf of Jao and Respondent had dismissed Jao's case.

63. On July 27, 2012, Respondent caused an invoice to be sent to Jao falsely representing that he had spent 1.50 hours traveling to the courthouse and speaking with the court employee who handled the writs, when Respondent knew he had not traveled to the courthouse or spoken with a court employee about Jao's case.

64. In early 2013, a friend introduced Jao to attorney Michael Lee Gilmore, as Jao was concerned about the lack of contact with Respondent and the lack of progress on collecting on her judgment. Jao learned through Attorney Gilmore that no judgment had been entered and her lawsuit had been dismissed.

65. On August 9, 2013, Attorney Gilmore filed a legal malpractice on behalf of Jao against Attorney Thomas in Los Angeles Superior Court, case number KC066240G. Respondent was later added as a co-defendant and Attorney Thomas has cross-complained against Respondent. That action is still pending.

66. On January 31, 2014, Respondent signed and submitted a declaration in the legal malpractice case in which he admitted that from November 2011 to the present, he deliberately misled and lied to both Jao and Attorney Thomas about the events in the underlying lawsuit. This included falsely stating a default judgment had been entered against the defendants but due to budget cuts there was a significant delay in issuing a writ of execution by the court, and falsely claiming he was in contact with the court about the delay when he actually was not.

CONCLUSIONS OF LAW:

67. By failing to perform any services of value in the case entitled *Helen Jao v. WRHC USA, Inc. et al.*, Los Angeles County Superior Court Case No. GC046034 and by dismissing the case on December 19, 2011, without Jao's knowledge or consent, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

68. By failing to inform Jao that he had dismissed her case with prejudice on December 19, 2011, Respondent failed to keep Jao reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code section 6068(m).

69. By repeatedly and falsely representing to Jao and to Attorney Thomas that he had obtained a default judgment on Jao's behalf when Respondent knew he had not obtained a default judgment; that he was pursuing collection of a judgment on behalf of Jao when he knew the proceedings had been dismissed; and that there was a delay in pursuing a Writ of Execution caused by the court when Respondent knew he was not pursuing a Writ of Execution, Respondent committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Each of the clients has been significantly harmed by loss of their cases. The Chus were also significantly harmed as a result of having a \$194,197.93 judgment entered against them without having the opportunity to appear at trial and defend themselves, and by having to pay the judgment. Attorney Thomas has also been significantly harmed as he is currently being sued for malpractice by Jao. The significant harm to three clients and his attorney employer is entitled to significant weight in aggravation.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent has committed ten acts of professional misconduct in three client matters over an approximate 18-month period. The conduct does involve multiple acts of the same types of serious misconduct. Therefore, this is a very serious aggravating factor and should be given significant weight. In each of the three matters, Respondent not only failed to perform competently and failed to communicate, but he also went to great lengths to contrive false stories and to falsify documents to conceal the misconduct from the clients and his employer Attorney Thomas.

MITIGATING CIRCUMSTANCES.

PreTrial Stipulation: Respondent admitted prior to the trial in this matter that he had committed all of the misconduct set forth in this stipulation and he has entered into this stipulation as to facts and culpability prior to the filing of disciplinary charges, which has saved the State Bar's 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 Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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

In this matter, Respondent admits to committing ten 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 Standard 2.7, which applies to Respondent’s violations of Business and Professions Code section 6106.

Standard 2.7 applies to the moral turpitude allegations. Standard 2.7 states:

Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member’s practice of law.

In this instance, disbarment is warranted because the magnitude of the dishonesty was great, and involved Respondent’s contriving of detailed false stories to three clients, the court and his employer Attorney Thomas, as well as the fabrications of letters and court documents. The clients and Attorney Thomas were substantially misled about the status of each of the cases, and the clients all lost their cases, one of which resulted in a substantial judgment against the Chus. Attorney Thomas was also harmed as he is currently being sued, along with Respondent for malpractice.

There are two aggravating factors, harm and multiple acts of misconduct, which are both entitled to significant weight. There is one mitigating factor for entering into a pretrial stipulation. Respondent has also begun treatment with the Lawyer Assistance Program and has sought treatment from a psychiatrist in an effort to determine the causes of the misconduct, but is not entitled to mitigation for this treatment at this point in time, since it is unclear whether there was a nexus between Respondent's misconduct and a medical or psychiatric diagnosis, and since Respondent is not currently rehabilitated from a condition that caused the misconduct, if in fact a medical condition or psychiatric condition did cause the misconduct.

Case law also supports disbarment. In *In Re Glass* (2014) 58 Cal.4th 500, a moral character case, the Supreme Court recently concluded that an applicant to the State Bar who had been a dishonest journalist failed to establish rehabilitation and fitness to practice law in California. While Respondent in this case did not commit as many acts of dishonesty, he did, like Glass, contrive false and sometimes elaborate stories to disguise his other misconduct. He falsified documents claiming they had been filed in court when they had not. In *Glass*, the Court noted that, "A lawyer's good moral character is essential for the protection of clients and for the proper functioning of the judicial system itself." *Id.* at 520. The Court noted, "At both bar admission and disciplinary proceedings, '[t]he common issue is whether the applicant for admission or the attorney sought to be disciplined 'is a fit and proper person to be permitted to practice law, and that usually turns upon whether he has committed or is likely to continue to commit acts of moral turpitude' [citation omitted] particularly misconduct that bears upon the applicant's fitness to practice law. [citations omitted]" *Id.* at 521. The Court also noted that, "Honesty is absolutely fundamental in the practice of law; without it, 'the profession is worse than valueless in the place it holds in the administration of justice.' [Citation omitted]." *Id.* at 524. "[M]anifest dishonesty ... provide[s] a reasonable basis for the conclusion that a bar applicant or attorney cannot be relied upon to fulfill the moral obligations incumbent upon members of the legal profession." *Id.*

The falsifications were elaborate, went on for months and were designed to conceal his underlying misconduct. Only after Attorney Thomas had discovered that Respondent had been misrepresenting the status of the client cases, did Respondent prepare and sign the declarations in January 2014, for the clients to use to attempt to resolve the problems caused by Respondent. Therefore, disbarment is necessary and appropriate for public protection, the maintenance of high professional standards and the preservation of public confidence in the legal profession.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 17, 2015, the prosecution costs in this matter are approximately \$5,407. 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

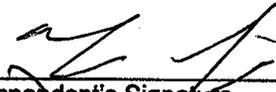
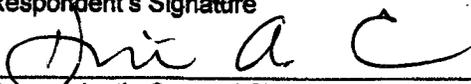
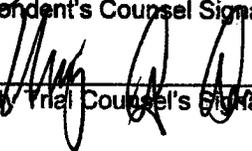
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: TIM CHIH TING LIN	Case number(s): 14-O-01235, 14-O-01251 and 14-O-03296
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SIGNATURE OF THE PARTIES

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

<u>3/26/15</u> Date	 Respondent's Signature	<u>Tim Lin</u> Print Name
<u>3/27/15</u> Date	 Respondent's Counsel Signature	<u>DAVID A. CLARE</u> Print Name
<u>3/30/15</u> Date	 Deputy Trial Counsel's Signature	<u>KIMBERLY G. ANDERSON</u> Print Name

(Do not write above this line.)

In the Matter of:
TIM CHIH TING LIN

Case Number(s):
14-O-01235 et. al.

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.

1. On page 12 of the Stipulation, numbered paragraph 56, "a few days before the she" is deleted, and in its place is inserted, "a few days before she"; and
2. On page 16 of the Stipulation, the final section entitled "Exclusion from MCLE Credit" is deleted in its entirety.

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 TIM CHIH TING LIN 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

4-8-15


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 San Francisco, on April 9, 2015, 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:

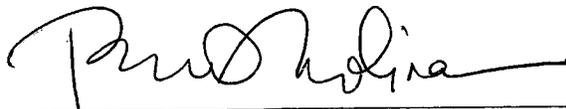
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DAVID ALAN CLARE
DAVID A CLARE, ATTORNEY AT LAW
444 W OCEAN BLVD STE 800
LONG BEACH, CA 90802

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 9, 2015.



Bernadette C.O. Molina
Case Administrator
State Bar Court