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| State Bar Court of California<br>Hearing Department<br>Los Angeles<br>ACTUAL SUSPENSION   |   |   |
|---|---|---|
| <b>Counsel For The State Bar</b><br><br>Kim Kasrellovich<br>Senior Trial Counsel<br>845 S. Figueroa Street<br>Los Angeles, CA 90017<br>(213) 765-1378<br><br>Bar # 261766 | <b>Case Number(s):</b><br>15-O-13476, 15-O-15546,<br>16-O-10600   | <b>For Court use only</b><br><br><b>PUBLIC MATTER</b><br><br><b>FILED</b><br><br><b>OCT 18 2016</b><br><br>STATE BAR COURT<br>CLERK'S OFFICE<br>LOS ANGELES |
| <b>In Pro Per Respondent</b><br><br>Art Hoomiratana<br>750 E Green St Ste 333<br>Pasadena, CA 91101<br>(888) 688-4770<br><br>Bar # 247253                                 | <b>Submitted to: Settlement Judge</b><br><br>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND<br>DISPOSITION AND ORDER APPROVING<br><br>ACTUAL SUSPENSION<br><br><input type="checkbox"/> PREVIOUS STIPULATION REJECTED |   |
| <b>In the Matter of:</b><br>ART HOOMIRATANA<br><br>Bar # 247253<br><br>A Member of the State Bar of California<br>(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 5, 2006.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective July 1, 2015)

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Actual Suspension

- (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 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(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **13-O-11222, 13-O-17377 and 14-O-01962**
  - (b) ☒ Date prior discipline effective **May 28, 2015**
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6106.3, and Rules of Professional Conduct, rules 4-100(B), 3-110(A), 3-700(D)(2).**
  - (d) ☒ Degree of prior discipline **One year stayed suspension, 60 days of actual suspension, and one year of disciplinary probation.**
  - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.

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- (7) ☐ **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.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. For a further discussion of Multiple Acts, see page 11.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☒ **Restitution:** Respondent failed to make restitution. For a further discussion of Restitution, see page 11.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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

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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:**

Prefiling Stipulation, page 12.

#### **D. Discipline:**

(1) ☒ **Stayed Suspension:**

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

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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 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 **90 days**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general 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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
  - ☒ No Ethics School recommended. Reason: **Respondent attended Ethics School on December 10, 2015, and passed the test given at the end. Pursuant to rule 5.135, of the Rules of Procedure of the State Bar Court, this requirement is waived.**

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- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |

**F. Other Conditions Negotiated by the Parties:**

- (1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☒ No MPRE recommended. Reason: **Respondent was previously ordered to provide proof of passage of the MPRE to the Office of Probation in Supreme Court matter S225246 (State Bar Court No. 13-O-11222 et al.) and remains under an obligation to do so. As such, it is not necessary to recommend that Respondent be again ordered to comply with this requirement.**
- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

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| In the Matter of:<br><b>ART HOOMIRATANA</b> | Case Number(s):<br><b>15-O-13476, 15-O-15546, 16-O-10600</b> |
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## Financial Conditions

### a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

| Payee             | Principal Amount | Interest Accrues From |
|-------------------|------------------|-----------------------|
| Michael Blaisdell | \$10,000         | August 2014           |
| Madeline Brigante | \$10,000         | August 2012           |
| Ramin Goudarzi    | \$25,500         | October 2012          |
|                   |                  |                       |

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

### b. Installment Restitution Payments

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

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

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

### c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☐ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



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

IN THE MATTER OF:                      ART HOOMIRATANA

CASE NUMBERS:                      15-O-13476, 15-O-15546, 16-O-10600

**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. 15-O-13476 (Complainant: Michael Blaisdell)

**FACTS:**

1. On November 20, 2012, Michael Blaisdell hired Respondent to sue his mortgage servicer and/or lender. Blaisdell had previously obtained a loan modification on his own but the lender had continued adding fees that Blaisdell felt were illegal and refused to remove his PMI based on inaccurate information. Blaisdell sought out Respondent's services, dba Real Estate Law Center, to correct these issues.
2. Blaisdell and his real property are located in Washington State. Respondent's office had a relationship with an attorney in Washington State who could handle local cases for them.
3. On November 28, 2012, Blaisdell paid Respondent \$10,000 in attorney fees.
4. On November 30, 2012, an attorney in Respondent's office sent a Qualified Written Request ("QWR") to Blaisdell's loan servicer at that that time, Green Tree Lending. The servicer responded that they were not the appropriate recipient of the QWR because the loan had been sold to a new servicer, PNC. Blaisdell regularly called Respondent's office for updates. Then, in May 2014, Blaisdell informed Respondent's office that the loan had been sold again, this time to Select Portfolio Servicing. Finally, in August 2014, Blaisdell terminated the attorney client relationship with Respondent because neither Respondent nor Respondent's office, ever filed a law suit on behalf of Blaisdell.
5. By failing to failed to file a lawsuit on behalf of Blaisedell or otherwise negotiate with his mortgage lender and/or servicer to have the private mortgage insurance and other fees removed, or perform any legal services for the client, Respondent earned none of the advanced fees paid to him. To date, Respondent has failed to refund these unearned fees.
6. In early 2015, Respondent turned his law practice over to attorney Daniel Rasmussen. Since 2012, Respondent has resided out of state off and on, and relied on staff attorneys for the day to day management of his office.
7. In response to State Bar inquiries, on October 26, 2015, Respondent provided the State Bar with an accounting. The accounting was prepared at the behest of the Respondent by the Law Offices of Daniel Rasmussen. A second accounting, also prepared by the Law Offices of Daniel Rasmussen, was

sent to Blaisdell directly on November 2, 2015 without Respondent's knowledge. The accountings varied widely from one another and both accountings contained charges for work by an attorney in Washington State which was never performed.

8. The variations in the accountings and the charges for work not performed were the results of Respondent's failure to supervise or monitor his staff. Respondent's lack of oversight during the pendency of the case caused irregular accountings and false entries to be made and distributed to the State Bar and the client.

#### CONCLUSIONS OF LAW:

9. By failing perform the work he was hired to do, namely to file a lawsuit on Blaisdell's behalf, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

10. By failing refund any of the unearned advanced fees paid to him, Respondent failed to refund promptly, upon Respondent's termination of employment, unearned fees in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

11. By failing to supervise his staff and thereby allowing inaccurate and false accountings to be submitted to the client and the State Bar, Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A)

#### Case No. 15-O-15546 (Complainant: Madeline Brigante )

#### FACTS:

12. On July 29, 2012, Madeline Brigante hired Respondent to file a lawsuit on her behalf in order to obtain a loan modification on her residential real property.

13. On August 6, 2012, Brigante paid Respondent \$10,000 for legal services related to obtaining a loan modification.

14. As of August 6, 2012, Respondent had not yet begun work on Brigante's loan modification and therefore Respondent collected fees for a loan modification prior to completing the work he was hired to do.

#### CONCLUSIONS OF LAW:

15. By collecting \$10,000 in attorney fees for loan modification services before Respondent had fully performed each and every service Respondent had been contracted to perform or represented to the client that Respondent would perform, Respondent violated of Civil Code, section 2944.7, and acted in willful violation of Business and Professions Code, section 6106.3

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FACTS:

16. Between January 2012 and February 2012, Ramin Goudarzi hired Respondent to assist him with loan modifications on four residential properties.

17. Between February 2012 and October 2012, Goudarzi made multiple payments to Respondent totaling \$25,500 in attorney fees.

18. Respondent collected advance fees for a loan modification prior to completing the work he was hired to do.

19. On August 31, 2012, Respondent filed a complaint against Vericrest regarding one of the properties. On January 3, 2013, the complaint was dismissed without prejudice at Goudarzi's request. No other work was undertaken by Respondent or his office on any of the properties.

CONCLUSIONS OF LAW:

20. By collecting \$25,500 in attorney fees for loan modification services before Respondent had fully performed each and every service Respondent had been contracted to perform or represented to the client that Respondent would perform, Respondent violated of Civil Code, section 2944.7, and acted in willful violation of Business and Professions Code, section 6106.3

AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** In Supreme Court case no. S224371 (State Bar case nos. 13-O-11222, 13-O-17377 and 14-O-01962), Respondent charged and collected \$15,000 advanced attorney fees for a loan modification, failed to timely account for \$9,000 in attorney fees and failed to perform by failing to file a client's lawsuit and thereafter, failed to refund unearned fees.

In aggravation, Respondent was indifferent, committed multiple acts of misconduct and failed to make restitution. There was no mitigation. Respondent was suspended for 60 days of actual suspension with one year of suspension stayed and one year of probation. The probation conditions included a requirement that Respondent initiate and participate in fee arbitration with the client to whom he failed to timely account for \$9,000 in fees and the requirement that he complete a full refund of the \$15,000 illegal loan modification fee.

The misconduct in this matter occurred between approximately December 2011 and June 2014. Respondent signed the stipulation on November 24, 2015, and the discipline became effective May 28, 2015.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent engaged in five acts of misconduct. Respondent's actions constitute multiple acts of wrongdoing.

**Failure to Make Restitution (Std. 1.5(m)):** To date, Respondent has failed to make restitution to Blaisdell, Brigante or Goudarzi and they are each owed a substantial sum of money. This is a

particularly aggravating factor in light of the fact that Respondent's prior discipline also included a failure to refund client fees.

## MITIGATING CIRCUMSTANCES.

**Prefiling Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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]; *In the Matter of Spaitth* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

## 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 five 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 2.18 which applies to respondent's violations of Business and Professions Code section 6106.3. Standard 2.18 provides that, "Disbarment or actual suspension is the presumed sanction for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards."

In the present case, Respondent charged two clients illegal fees for loan modification work and failed to perform, refund unearned fees, or properly supervise staff in a third matter. While the offenses committed may not rise to the level of some more egregious misconduct, the amount of restitution owed in this case is astounding. Respondent owes these three clients collectively \$45,000 and to date, has failed to refund any of it.

A similar recent case also dealt with loan modification matters and outstanding restitution obligations. In *In the Matter of Swazi Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, Taylor was suspended from the practice of law for six months and until he pays restitution of over \$14,000 to various clients as ordered by the Supreme Court. The Review Department found Respondent culpable of eight violations of section 6106.3 (Civil Code section 2944.7) for charging pre-performance fees in a loan modification and one violation of section 6106.3 (Civil Code section 2944.6) for failing to provide a separate statement disclosing that a third party representative was unnecessary for loan modification. In mitigation, the court determined that Taylor had demonstrated good character. In aggravation, the court found that Taylor engaged in multiple acts of misconduct, caused significant harm to his clients, and demonstrated a lack of remorse for his actions.

Like the present case, *Taylor* demonstrates that significant actual suspension is appropriate where an attorney engages in multiple loan modifications and the illegal fees have yet to be returned.

However, Respondent also has a prior record of discipline which must be considered not only in aggravation, but analyzed under *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. The misconduct in Respondent's prior discipline stems from clients he accepted from late 2011 through late 2012. Thereafter, Respondent's misconduct in those cases continued into 2014 and the Notice of Disciplinary Charges was filed July 28, 2014. In the present cases, the misconduct spans from January 2012 through the end of 2013.

In *In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at page 619, the court noted "...part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms (see *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646)..." Accordingly, the Review Department considered the "totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." (*Id.*)

The reasoning in *Sklar* is applicable here because of the clear overlap in time which occurred in Respondent's prior and present discipline. In this case, the present misconduct concluded prior to the filing of the Notice of Disciplinary Charges in the previous case and therefore Respondent did not have an opportunity to learn from the prior matter. As such, the weight of Respondent's prior discipline is lessened and the cases should be considered as a whole.

If Respondent's misconduct was considered in aggregate, discipline in the range of three to six months would probably be appropriate given that there are six client matters and a *significant* amount of outstanding restitution in the two cases. In the prior discipline, Respondent received 60 days actual suspension and in light of the unpaid restitution (totaling \$60,000 between the two cases), an additional 90 days is appropriate here with the condition that Respondent remain suspended until he completes restitution. This is in keeping with Standard 2.18 and will serve the purposes of attorney discipline.

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

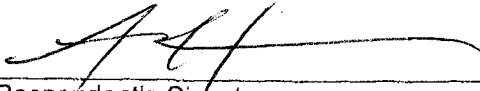
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of August 29, 2016, the prosecution costs in this matter are \$5,141. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

|   |  |
|---|--|
| In the Matter of:<br><b>ART HOOMIRATANA</b> | Case number(s):<br><b>15-O-13476, 15-O-15546, 16-O-10600</b> |
|---|--|

### 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>9/23/2016</u><br>Date | <br>Respondent's Signature | <u>Art Hoomiratana</u><br>Print Name  |
| <u>9/29/2016</u><br>Date | <u>Anthony Barcia</u><br>Respondent's Counsel Signature   | <u>Kim Kasrellovich</u><br>Print Name |
|                          | <u>for</u><br>Deputy Trial Counsel's Signature  | <u>Kim Kasrellovich</u><br>Print Name |

(Do not write above this line.)

In the Matter of:  
ART HOOMIRATANA

Case Number(s):  
15-O-13476, 15-O-15546, 16-O-10600

### 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.

**Page 6, paragraph F(1):**

Delete "S225246" and insert in its place "S224371," which is the correct number of the Supreme Court order issued on April 28, 2015, regarding Respondent's prior State Bar Court case Nos. 13-O-11222 et al.

**Page 7, Financial Conditions, paragraph a:**

No specific day of the month is indicated under "Financial Conditions" regarding when interest will begin to accrue. Based on the information in the balance of the stipulated factual statement, the court modifies paragraph "a" to provide the following dates for the commencement of the interest obligation:

As to Michael Blaisdell, it is stated in the Stipulation that Blaisdell terminated Respondent in August 2014. Since no day was provided as to when that termination occurred in August, the last day of August 2014, i.e. **August 31, 2014**, is the date on which interest will begin to accrue.


As to Madeline Brigante, because it is stipulated that Brigante paid Respondent \$10,000 on August 6, 2012, for loan modification services, **August 6, 2012**, is the date on which interest will begin to accrue.

As to client Ramin Goudarzi, because it is only stipulated that the Briganti made payments totaling \$25,500 to Respondent "between February and October 2012," the date by which all fees had been collected by Respondent, i.e., **October 1, 2012**, will be the date from which interest will begin to accrue.

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

10/18/16

  
**DONALD F. MILES**

Judge of the State Bar Court

(Effective July 1, 2015)



## 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 October 18, 2016, 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:

ART HOOMIRATANA  
LAW OFFICES OF ART HOOMIRATANA  
750 E GREEN ST STE 333  
PASADENA, CA 91101

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

KIMBERLY KASRELIOVICH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 18, 2016.



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Rose M. Luthi  
Case Administrator  
State Bar Court