

FILED

AUG 24 2018

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case Nos. 16-O-11119-YDR
)	(16-O-11304; 16-O-11783; 16-O-11774;
LOREN NICHOLAS KLEIER,)	16-O-11880; 16-O-12644; 16-O-13148;
)	16-O-12371)
A Member of the State Bar, No. 149591.)	
)	DECISION; ORDER SEALING
)	DOCUMENTS; AND ORDER OF
)	INVOLUNTARY INACTIVE
)	ENROLLMENT

Introduction¹

In this original disciplinary proceeding, respondent Loren Nicholas Kleier (Respondent) was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). As the court has now terminated Respondent from the ADP, the court will recommend to the Supreme Court that Respondent be disbarred from the practice of law.

Pertinent Procedural History

The Office of Chief Trial Counsel of the State Bar of California (OCTC) filed a Notice of Disciplinary Charges (NDC) against Respondent on November 22, 2016. On January 18, 2017, this matter was referred to the State Bar Court's ADP. Respondent submitted a declaration to the court on January 18, 2017, which established a nexus between Respondent's mental health issue

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

and his misconduct in this matter. In furtherance of his participation in the ADP, Respondent signed a long-term Participation Plan with the Lawyer Assistance Program (LAP) on May 23, 2017.

The parties entered into a Stipulation Re Facts and Conclusions of Law on May 8, 2017. The stipulation set forth the factual findings, legal conclusions, and mitigating and aggravating circumstances. The stipulation was filed on September 18, 2017.

Thereafter, the court advised the parties of (1) the discipline which would be recommended to the Supreme Court if Respondent successfully completed the ADP and (2) the discipline which would be recommended if Respondent failed to successfully complete, or was terminated from, the ADP. After agreeing to those alternative possible dispositions, Respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP (contract), and the court executed a Confidential Statement of Alternative Dispositions and Orders (confidential statement) formally advising the parties in writing of the alternative discipline recommendations in this matter; the court accepted Respondent for participation in the ADP; and Respondent's period of participation in the ADP began on September 18, 2017.

Respondent thereafter participated in both the LAP and the State Bar Court's ADP. However, on July 18, 2018, the court issued an Order to Show Cause (OSC) as to why Respondent should not be terminated from the ADP as a result of his failure to comply with the terms of his contract in the ADP, his failure to participate in the Lawyers Assistance Program, and his failure to comply with orders of this court regarding his participation in the ADP. Respondent did not file a response. On August 7, 2018, the court determined that Respondent was not in compliance with the ADP and terminated him from the program.

The court now issues this decision recommending the high level of discipline set forth in the confidential statement.

Findings of Fact and Conclusions of Law

The parties' stipulation, including the court's order approving the stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. Respondent stipulated to willfully violating 54 counts of misconduct in eight matters: (1) failing to perform legal services with competence (rule 3-110(A) [eight counts]); (2) failing to obey a court order (§ 6103 [six counts]); (3) failing to notify the State Bar about the imposition of judicial sanctions (§ 6068, subd. (o)(3) [three counts]); (4) failing to cooperate in disciplinary proceedings (§ 6068, subd. (i) [eight counts]); (5) improper withdrawal from employment (rule 3-700(A)(2) [seven counts]); (6) failing to promptly return his client's file (rule 3-700(D)(1) [four counts]); (7) failing to promptly refund unearned fees (rule 3-700(D)(2) [five counts]); (8) failing to promptly pay client funds (rule 4-100(B)(3) [six counts]); (9) failing to promptly respond to his client's reasonable status inquires (§ 6068, subd. (m) [six counts]); and (10) failing to deposit client funds in a client trust account (rule 4-100(A) [one count]).

Respondent's misconduct was aggravated by significant harm to his clients, multiple acts of misconduct, and failing to pay restitution to multiple clients. Respondent's misconduct was mitigated by entering into a pretrial stipulation, family and emotional problems, and 25 years of discipline-free practice.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if Respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the

ADP, the court considered certain standards and case law. In particular, the court considered standards 1.1, 1.2, 1.3, 1.5, 1.6, 1.7(c), 2.7(b), 2.12(a); *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498.

Because Respondent has now been terminated from the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the higher level of discipline as set forth below.

RECOMMENDATIONS

Discipline - Disbarment

It is recommended that Respondent Loren Nicholas Kleier, State Bar Number 149591, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent make restitution to the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court:

- a. Respondent must make restitution to Thomas Phillips in the amount of \$2,000 plus 10 percent interest per year from August 21, 2015;
- b. Respondent must make restitution to Jose Serrano in the amount of \$2,500 plus 10 percent interest per year from August 7, 2015;
- c. Respondent must make restitution to Vincent Foster in the amount of \$1,500 plus 10 percent interest per year from June 18, 2014;
- d. Respondent must make restitution to Richard Ricards in the amount of \$2,500 plus 10 percent interest per year from January 16, 2015;
- e. Respondent must make restitution to David Hayes in the amount of \$5,000 plus 10 percent interest per year from December 22, 2014; and
- f. Respondent must make restitution to Darren O'Neil in the amount of \$3,500 plus 10 percent interest per year from October 5, 2014.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

Sanctions

It is further recommended that Respondent be ordered to pay sanctions to the following:

- a. Kern County Superior Court in the amount of \$1,000 as ordered on March 22, 2016, in case No. S1501FL605743, plus 10 percent interest per year from March 22, 2014;
- b. Kern County Superior Court in the amount of \$1,000 as ordered on May 6, 2016 in case No. S151FL631216, plus 10 percent interest per year from May 6, 2016; and²
- c. Kern County Superior Court in the amount of \$1,000 as ordered on June 23, 2016 in case No. BFL-15-001787, plus 10 percent interest per year from June 23, 2016.

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.³

² The stipulation and confidential statement contain a typographical error. The date of the interest accrues from May 6, 2016, not April 22, 2016.

³ For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

Costs

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three 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 State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Order Sealing Documents

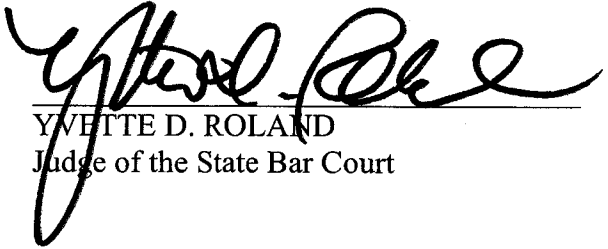
The court directs a court specialist to file this Decision, Order of Involuntary Inactive Enrollment and Order Sealing Documents. Thereafter, pursuant to rule 5.388(C) of the Rules of Procedure of the State Bar of California, all other documents not previously filed in this matter are ordered sealed under rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosures. All persons to whom

protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: August 24, 2018




YVETTE D. ROLAND
Judge of the State Bar Court

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ORIGINAL

**State Bar Court of California
Hearing Department
Los Angeles
ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017-2515 (213) 765-1206</p> <p>Bar # 94251</p>	<p>Case Number (s)</p> <p>16-O-11119 16-O-11304 16-O-11783 16-O-11774 16-O-11880 16-O-12644 16-O-13148 16-O-12371 DFM</p>	<p>(for Court's use)</p> <p>FILED</p> <p>SEP 18 2017 </p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Loren Nicholas Kleier PO Box 60177 Bakersfield, California 93386-0177 (661) 332-2003</p> <p>Bar # 149591</p>	<p>Submitted to: Program Judge</p>	
<p>In the Matter Of: LOREN NICHOLAS KLEIER</p> <p>Bar # 149591</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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, 1990**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **22** pages, excluding 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."

(Do not write above this line.)

- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [see 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
 - (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) **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.
- (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. See page 21 of the attachment.
- (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. See page 20 of the attachment.

(Do not write above this line.)

- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution. See page 21 of the attachment.
- (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 investigation 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 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.

(Do not write above this line.)

Additional mitigating circumstances:
Pre-trial stipulation
Family Problems/Emotional Difficulties
No Prior Record of Discipline

(Do not write above this line.)

In the Matter of: LOREN NICHOLAS KLEIER	Case Number(s): 16-O-11119, 16-O-11304, 16-O-11774, 16-O-11783, 16-O-11880, 16-O-12644, 16-O-13148, and 16-O-12371
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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
Thomas Phillips	\$2,000	August 21, 2015
Jose Serrano	\$2,500	August 7, 2015
Vincent Foster	\$1,500	June 18, 2014
Richard Ricards	\$2,500	January 16, 2015
David Hayes	\$5,000	December 22, 2014
Darren O'Neil	\$3,500	October 5, 2014
Kern County Superior Court	\$1,000	March 22, 2016
Kern County Superior Court	\$1,000	April 22, 2016
Kern County Superior Court	\$1,000	June 23, 2016

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than **one year from the date respondent signs the ADP contract herein.**

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:

(Do not write above this line.)

- a. 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

ADP STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:

LOREN NICHOLAS KLEIER

CASE NUMBERS:

16-O-11119, 16-O-11304, 16-O-11774, 16-O-11783
16-O-11880, 16-O-12371, 16-O-12644 and 16-O-13148

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. 16-O-11119 (Complainant: SBI)

FACTS:

Putnam Matter

1. Shayna Fischer retained respondent on May 13, 2008, to represent her within a dissolution matter in the case of *Putnam v. Fischer*, Case No. S1501FL605743, filed in the Kern County Superior Court.
2. Respondent failed to appear at a modification hearing conducted January 27, 2016. As a result, the court continued the matter to March 9, 2016, at which time respondent again failed to appear.
3. The court issued an OSC directed to respondent on March 9, 2016, re contempt setting the hearing on the OSC for March 22, 2016. Respondent was ordered to file a response to the OSC explain his failure to appear.
4. Respondent failed to file a response to the OSC and failed to appear on March 22, 2016, at which time the court found respondent in contempt and assessed a sanction of \$1,000.
5. At the OSC hearing the court determined that respondent had abandoned his client and on this basis, relieved respondent as attorney of record.
6. To date, respondent has not paid the \$1000 sanction. Respondent failed to timely report the sanction to the State Bar.

CONCLUSIONS OF LAW:

7. By failing to appear at a modification hearing in the case of *Putnam v. Fischer*, Case No. S1501FL605743, set for January 27, 2016, failing to appear at the continued modification hearing set for March 9, 2016, and failing to appear at the hearing re contempt directed against respondent by OSC at the OSC hearing conducted March 22, 2016, respondent intentionally,

recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

8. By failing to comply with the March 9, 2016, order to show cause re contempt directed against respondent, by failing to file any response to the OSC and by failing to appear at the OSC hearing in *Putnam v. Fisher*, Case No. S1501FL605743, filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear in willful violation of Business and Professions Code, section 6103.
9. By failing to pay sanctions imposed in the March 22, 2016, order which found respondent in contempt and fining him \$1,000 for failing to file a response to the OSC and for failing to appear at the OSC hearing in *Putnam v. Fisher*, Case No. S1501FL605743, filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear willful violation of Business and Professions Code, section 6103.
10. By failing to report to the State Bar the \$1,000 in sanctions the court imposed on respondent on or about March 22, 2016, in connection with *Putnam v. Fisher*, Case No. S1501FL605743, filed in the Kern County Superior Court, respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of judicial sanctions against respondent in willful violation of Business and Professions Code section, 6068(o)(3).

FACTS:

Kelloway Matter

11. Patrick Kelloway retained respondent in 2014 to represent him within a dissolution matter in the case of *Kelloway v. Kelloway*, Case No. S1501FL631216 filed in the Kern County Superior Court.
12. On May 6, 2016, a hearing was conducted in *Kelloway v. Kelloway*, Case No. S1501FL631216. On April 22, 2016, an OSC re contempt issues directed to respondent as a result of replacement counsel's inability to secure an executed substitution from respondent and respondent's failure to appear for a scheduled hearing on April 22, 2016.
13. At the OSC hearing the Court determined respondent had abandoned his client, relieved him as attorney of record, and replaced him with substitute counsel.
14. The Court additionally held respondent in contempt, sanctioning him \$1,000. Respondent failed to appear at the OSC hearing and failed to file any responsive pleading to the OSC.
15. To date, the sanction has not been satisfied. Respondent failed to timely report the sanction to the State Bar.

16. The State Bar wrote to respondent on March 9, March 28, April 4, April 21, May 13 and May 25, 2016, concerning the Kelloway matter requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

17. By failing to comply with the April 22, 2016, order to show cause re contempt directed against respondent, by failing to file any response to the OSC and by failing to appear at the OSC hearing in the case of *Kelloway v. Kelloway*, Case No. S1501FL631216 filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear in willful violation of Business and Professions Code, section 6103.
18. By failing to pay sanctions imposed in the May 6, 2016, order which found respondent in contempt and fining him \$1,000 for failing to file any response to the OSC and for failing to appear at the OSC hearing in *Kelloway v. Kelloway*, Case No. S1501FL631216 filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear willful violation of Business and Professions Code, section 6103.
19. By failing to report to the State Bar the \$1,000 in sanctions the court imposed on respondent on or about May 6, 2016, in connection with *Kelloway v. Kelloway*, Case No. S1501FL631216 filed in the Kern County Superior Court, respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of judicial sanctions against respondent in willful violation of Business and Professions Code section, 6068(o)(3).
20. By failing to provide a substantive response to the State Bar's letters of March 9, March 28, April 4, April 21, May 13 and May 25, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 16-O-11119, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code, section 6068(i).

Case No. 16-O-11304 (Complainant: Thomas Phillips)

FACTS:

21. Thomas Phillips retained respondent on August 21, 2015. At that time, Phillips gave respondent \$2,000 in cash and secured a receipt.
22. The objective of the retention was to vacate a misdemeanor domestic violence conviction from Phillip's record so as to facilitate a career opportunity in corrections. Phillips had been advised that while the conviction had been earlier expunged, it continued to be of record within the federal system, and precluded his career objective which required a weapons permit.

23. Respondent represented to Phillips that the motion would take 10-15 days to prepare and file. Respondent did not file a motion or perform any services.
24. Phillips called respondent for status updates. Respondent received the calls but did not respond. Disgruntled with respondent's lack of responsiveness, Phillips sent a letter by certified mail return receipt requested on October 16, 2015, demanding a refund.
25. Respondent failed to sign for the letter which was returned to Phillips. To date, respondent has failed to offer a refund, make the client's file materials available or respond to him in any way.
26. Thomas Phillips filed a complaint with the State Bar. The State Bar wrote to respondent on March 21, April 28 and May 26, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

27. By failing to vacate the misdemeanor domestic violence conviction for the client or perform any other legal services for Thomas Phillips, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
28. By failing to take action on the client's behalf after having been retained, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Thomas Phillips, by constructively terminating respondent's employment on or about October 16, 2015, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
29. By failing to release promptly, after termination of respondent's employment on October 16, 2015, to respondent's client, Thomas Phillips, all of the client's papers and property following the client's request for the client's file on October 16, 2015, respondent willfully violated the Rules of Professional Conduct, rule 3-700(D)(1).
30. By failing to refund promptly, upon respondent's termination of employment on or about October 16, 2015, any part of the \$2,000 fee to the client, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).
31. By receiving on August 21, 2015, advanced fees of \$2,000 from a client, Thomas Phillips, to vacate the misdemeanor domestic violence conviction and thereafter failing to render an appropriate accounting to the client regarding those funds following upon the termination of Respondent's employment on or about October 16, 2015, respondent willfully violated the Rules of Professional Conduct, rule 4-100(B)(3).
32. By failing to respond promptly to multiple telephonic reasonable status inquiries made by respondent's client, Thomas Phillips, between September and October 2015, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).

33. By failing to provide a substantive response to the State Bar's letters of March 21, April 28 and May 26, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 16-O-11304, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code, section 6068(i).

Case No. 16-O-11774 (Complainant: Jose Serrano)

FACTS:

34. Jose Serrano retained respondent on August 7, 2015, to represent him in a marital dissolution matter. No retainer was executed by the parties.
35. Serrano paid respondent \$2,500 on August 7, 2015.
36. On February 23, 2016, respondent failed to appear at a spousal support hearing in *Serrano v. Serrano* Case No. BFL-15-001787 filed in the Kern County Superior Court.
37. As a result of respondent's failure to appear, the court continued the matter to May 2, 2016. In the interim, Serrano explored retaining the services of a prospective replacement counsel, who sent respondent a letter dated March 14, 2016, enclosing a substitution for his signature to facilitate his entry into the matter. He also requested a copy of the client file. The prospective replacement counsel received no response from respondent.
38. On May 2, 2016, respondent again failed to appear at which time the court set an OSC re contempt directed to respondent set for May 24, 2016. Respondent was ordered to appear and file a response.
39. Respondent failed to appear at the OSC hearing and as a result, the court removed him as attorney of record and allowed substitute counsel to appear and represent Serrano.
40. Between December 14, 2015 and June 23, 2016, Serrano made multiple calls to respondent. Respondent received the calls but did not respond.
41. On June 23, 2016, the court filed an order finding respondent in contempt and sanctioned him \$1,000. To date, respondent has failed to refund to Serrano, make the client's file materials available after it was requested, report the sanctions to the State Bar, respond to Serrano in any way, pay the sanctions or provide an accounting.
42. Mr. Serrano filed a complaint with the State Bar. The State Bar wrote to respondent on April 6, April 28 and May 25, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

43. By failing to appear at a spousal support hearing set for February 23, 2016, failing to appear at the continued spousal support hearing set for May 2, 2016, and failing to appear at the hearing re contempt directed against respondent by OSC at the OSC hearing conducted June 23, 2016,

respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

44. By constructively terminating respondent's employment on February 23, 2016, by failing to appear at a spousal modification hearing, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Jose Serrano, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
45. By failing to release promptly, after termination of respondent's employment on or about February 23, 2016, to respondent's client, Jose Serrano, all of the client's papers and property following the client's request for the client's file on March 14, 2016, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).
46. By failing to respond promptly to multiple telephonic reasonable status inquiries made by respondent's client, Jose Serrano, between December 14, 2015, and June 23, 2016, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).
47. By failing to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of judicial sanctions against respondent by failing to report to the State Bar the \$1,000 in sanctions the court imposed on respondent on or about June 23, 2016, in connection with *Serrano v. Serrano* Case No. BFL-15-001787, filed in the Kern County Superior Court, respondent willfully violated Business and Professions Code section, 6068(o)(3).
48. By failing to comply with the May 2, 2016, order to show cause re contempt directed against respondent, by failing to file any response to the OSC and by failing to appear at the OSC hearing in *Serrano v. Serrano* Case No. BFL-15-001787, filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear in willful violation of Business and Professions Code, section 6103.
49. By failing to comply with the May 24, 2016, order finding respondent in contempt and fining him \$1,000 for failing to file any response to the OSC and for failing to appear at the OSC hearing re contempt directed against respondent, in *Serrano v. Serrano* Case No. BFL-15-001787, filed in the Kern County Superior Court, respondent disobeyed or violated an order of the court requiring respondent to do or forbear an act connected with or in the course of respondent's profession which respondent ought in good faith to do or forbear in willful violation of Business and Professions Code, section 6103.
50. By failing to provide a substantive response to the State Bar's letters of April 6, April 28 and May 25, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 16-O-11774, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code, section 6068(i).
51. By receiving on August 7, 2015, from respondent's client, Jose Serrano, the sum of \$2,500 as advanced fees for legal services to be performed and thereafter failing to render an appropriate accounting to the client regarding those funds following upon the termination of respondent's employment on or about February 23, 2016, respondent willfully violated the Rules of Professional Conduct, rule 4-100(B)(3).

Case No. 16-O-11783: (Complainant: Vincent Foster)

FACTS

52. Vincent Foster retained respondent on June 18, 2014, to correct alleged mistakes within Department of Justice records which precluded Foster from clearing a firearms background check needed for a gunsmith license.
53. Foster paid respondent \$1,500 and received a receipt. Respondent agreed to place the advanced fees in his client trust account. Respondent failed to deposit the funds in his client trust account at any time.
54. Foster heard nothing from respondent with respect to the retained objective throughout 2015. Throughout the year, Foster called respondent on a monthly basis leaving messages for respondent that were never returned with the exception of one phone call from respondent on November 16, 2015, wherein respondent left a voice message.
55. Between October 23, 2015, and January 25, 2016, Foster sent multiple e-mails to respondent. Respondent received the e-mails and failed to respond.
56. To date, respondent has failed to offer a refund, make the client's file materials available, respond to him in any way, or provide an accounting.
57. Foster filed a complaint with the State Bar. The State Bar wrote to respondent on March 29, April 14 and May 26, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

58. By failing to correct mistakes within the Department of Justice records for the client or perform any other legal services for the client for which purpose Vincent Foster employed respondent on June 18, 2014, respondent intentionally, recklessly, or repeatedly failed to perform with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
59. By constructively terminating respondent's employment on November 16, 2015, by failing to take any action on the client's behalf after having been retained, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Vincent Foster, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
60. By failing to refund promptly, upon respondent's termination of employment on or about November 16, 2015, any part of the \$1,500 fee to the client, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).
61. By receiving from respondent's client, Vincent Foster, the sum of \$1,500 as advanced fees on June 18, 2014, for legal services to be performed, and thereafter failing to render an appropriate accounting to the client regarding those funds following upon the termination of respondent's employment on November 16, 2015, respondent willfully violated the Rules of Professional Conduct, rule 4-100(B)(3).
62. By failing to respond promptly to monthly telephonic reasonable status inquiries throughout 2015 and multiple e-mails sent between October 23, 2015 and January 25, 2016, made by respondent's client, Vincent Foster, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).

63. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letters of March 29, April 14 and May 26, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 16-O-11783, in willful violation of Business and Professions Code, section 6068(i).
64. By failing to deposit advanced fees of \$1,500 received from his client Vincent Foster on June 18, 2014, into his client trust account for the benefit of the client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import to be drawn down as fees became earned respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

Case No. 16-O-11880: (Complainant: Georgette Call)

FACTS:

65. Georgette Call retained respondent in September 2014, to pursue her personal injury claim arising out of a January 11, 2014 vehicular accident.
66. On October 1, 2014, respondent sent a representation letter to the third party administrator for the adverse party's carrier Everest National, American Claims Management, enclosing an authorization executed by Call.
67. Between September 18, 2014 and February 23, 2016, American Claims Management sent eighteen letters to respondent requesting a status update regarding Call's medical special and loss of earnings contention. Respondent failed to reply to any of these requests.
68. Respondent failed to protect the statute of limitations by filing suit on behalf of Call prior to January 11, 2016.
69. On May 27, 2015, Call met with respondent and was advised that respondent would attempt to settle her claim and that the proceeds would be transmitted to the facility where she was to serve an unrelated criminal sentence. Call requested that any settlement be transmitted to her mother whose contact information Call gave respondent.
70. On July 17, 2015, Call sent a letter to respondent seeking a status update. The letter was returned undelivered.
71. Upon receipt of the returned mail, Call called respondent's office and was advised the number was no longer in service. Call's mother determined that respondent had closed his office and opened an office in Porterville.
72. Call's mother left multiple messages for respondent at his Porterville number seeking a status update on behalf of her daughter which went unanswered.
73. On January 17, 2016, respondent called Call and advised her that he had little recollection of her matter and that he would return her client file to her. This was the last communication Call received from respondent. To date, respondent has failed to make the client's file materials available to her.
74. Call filed a complaint with the State Bar. The State Bar wrote to respondent on April 8, May 11 and May 26, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

75. By failing to timely submit to the adverse party's carrier, American Claims Management, a thorough and complete demand package, including billing statements, medical records, course of treatment and loss of earnings supportive documentation, failing to protect against the statute of limitations by filing suit, or otherwise take any action to promote a successful resolution of Call's claim arising out of a vehicular accident, for which respondent was employed in September 2014, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
76. By constructively terminating respondent's employment on January 17, 2016, by failing to take any action on the client's behalf after having been retained, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Georgette Call, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
77. By failing to release promptly, after termination of respondent's employment on January 17, 2016, to respondent's client, Georgette Call, all of the client's papers and property following the client's request for the client's file on January 17, 2016, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).
78. By failing to respond promptly to a July 17, 2015 letter to respondent and multiple telephonic reasonable status inquiries throughout 2015, made by respondent's client, Georgette Call and her mother, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).
79. By failing to provide a substantive response to the State Bar's letters of April 8, May 11 and May 26, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 16-O-11880, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of Business and Professions Code, section 6068(i).

Case No. 16-O-12644: (Complainant: Richard Ricards)

FACTS:

80. On January 16, 2015, Richard Ricards consulted with respondent to discuss a 1992 misdemeanor domestic violence conviction, precluding his purchase of a firearm. Respondent advised Ricards he was putting together a class action suit on behalf of clients with similar issues and invited Ricards to participate.
81. Ricards brought respondent his underlying conviction paperwork, gun shop sales paperwork and correspondence from the Department of Justice, and paid him \$2,500 in cash.
82. Premised upon respondent's representations that this matter would be a prolonged process, Ricards did not attempt to reach respondent for status updates over the course of the next year.
83. Having heard from other clients of respondent that he had shut his office and taken a position with the Department of Corrections, Ricards went to respondent's office in March 2016 and found it was empty.
84. No retainer had been executed by the parties. No receipt for his \$2,500 was provided. Respondent never provided an accounting.

85. Ricards never heard from respondent after leaving his paperwork with him and paying his fee. Respondent did not return Ricard's file or paperwork.
86. Ricards filed a complaint with the State Bar. The State Bar wrote to respondent on April 28, May 26, and September 2, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

87. By failing to vacate a misdemeanor domestic violence conviction for the client or perform any other legal services for Richard Ricards, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
88. By constructively terminating respondent's employment in or about March 2016, by failing to take any action on the client's behalf after having been retained, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Richard Ricards, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
89. By failing to release promptly, after termination of Respondent's employment in or about Mach 2016, to Respondent's client, Richard Ricards, all of the client's papers and property following the client's request for the client's file in March 2016, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1).
90. By failing to refund promptly, upon respondent's termination of employment in March 2016, any part of the \$2,500 fee to the client, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).
91. By failing to render an appropriate accounting to the client regarding the sum of \$2,500 received on January 16, 2015 from respondent's client, Richard Ricards, as advanced fees for legal services to be performed following the termination of Respondent's employment in March 2016, respondent willfully violated the Rules of Professional Conduct, rule 4-100(B)(3).
92. By failing to provide a substantive response to the State Bar's letters of April 28, May 26, and September 2, 2016, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 16-O-12644, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent and willfully violated Business and Professions Code, section 6068(i).

Case No. 16-O-13148: (Complainant: David Hayes)

FACTS:

93. David Hayes retained respondent on December 22, 2014, to prepare a writ of coram nobis to facilitate the purchase of a firearm that had been denied due to a misdemeanor domestic violence conviction from 1995.
94. Hayes paid respondent \$5,000 for this service. Respondent represented to Hayes that the process would be rather prolonged and as such, Hayes deferred from seeking updates as the matter progressed.
95. Approximately a year later, Hayes commenced in earnest efforts to contact respondent and secure information regarding the status of his matter.

96. Hayes sent respondent five e-mails during January 2016. Respondent received the e-mails and failed to respond. Multiple phone calls from Hayes to respondent over the course of nine months were received by respondent. Respondent failed to respond to any of the phone calls.
97. Upon visiting respondent's office, Hayes discovered no one there and accumulated mail.
98. Respondent did not perform legal services for Hayes and did not refund or render an accounting.
99. Hayes filed a complaint with the State Bar. The State Bar wrote to respondent on May 17, and June 10, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

100. By failing to prepare a writ of coram nobis to address a misdemeanor domestic violation conviction for the client or perform any other legal services for David Hayes, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
101. By constructively terminating Respondent's employment in or about January 2016, by failing to take any action on the client's behalf after having been retained to prepare a writ of coram nobis, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, David Hayes, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
102. By failing to refund promptly, upon respondent's termination of employment in January 2016, any part of the \$5,000 fee to the client, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).
103. By failing to render an appropriate accounting to the client regarding the sum of \$5,000 received from respondent's client, David Hayes, on December 22, 2014 as advanced fees for legal services to be performed, following upon the termination of respondent's employment in or about January 2016, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).
104. By failing to provide a substantive response to the State Bar's letters of May 17, and June 10, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 16-O-13148, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code, section 6068(i).
105. By failing to respond promptly to five e-mails from David Hayes sent to respondent during January 2016 and multiple telephonic reasonable status inquiries throughout 2015, made by Respondent's client, David Hayes, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).

Case No. 16-O-12371: (Complainant: Darren O'Neil)

FACTS:

106. Darren O'Neil retained respondent on June 25, 2014, to pursue three writs of coram nobis for a fee of \$3,500. At the time of executing the retainer, O'Neil received a receipt for his initial

payment of \$2,200. The remainder of the fee was paid in full by installments from O'Neil between July 27 and October 5, 2014.

107. At the time of executing the retainer, O'Neil provided respondent with the docket sheets from the underlying criminal matters to facilitate the writ process.
108. Approximately six months after having retained respondent, O'Neil called respondent's office and was advised by respondent's secretary that respondent was in the process of retrieving necessary documentation from the underlying criminal matters needed for the writs.
109. Not hearing anything from respondent for some six months, O'Neil decided to drop by respondent's office in September 2015 for a status update.
110. At that time, respondent acknowledged that nothing had been done on O'Neil's matter and that he would immediately address the case and place it on the top of his to-do list.
111. O'Neil next bumped into respondent at a local gun show on December 5, 2015, where the parties agreed to a meeting at respondent's office on December 8 to further discuss the pending matter.
112. O'Neil arrived on time. Respondent was not present. O'Neil waited for a half hour and left without satisfaction. Upon leaving the office, O'Neil left a note on the office door inviting respondent to reschedule.
113. O'Neil also left respondent a voice-message on December 8, 2015, requesting the meeting be rescheduled. Respondent received the message and failed to respond.
114. O'Neil sent respondent an e-mail on January 6, 2016, requesting a refund. Respondent received the e-mail and failed to respond. To date, respondent has failed to refund fees and failed to account.
115. O'Neil filed a complaint with the State Bar. The State Bar wrote to respondent on April 25, May 25, and September 2, 2016, requesting a written response from respondent. Respondent received the letters but did not provide a written response to the State Bar.

CONCLUSIONS OF LAW:

116. By failing to prepare a writ of coram nobis to address the misdemeanor domestic violation convictions for Darren O'Neil, respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).
117. By constructively terminating respondent's employment in December 2015, by failing to take any action on the client's behalf after having been retained to prepare three writs of coram nobis, and thereafter failing to inform the client that respondent was withdrawing from employment, respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to respondent's client, Darren O'Neil, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).
118. By failing to refund promptly, upon respondent's termination of employment in December 2015, any part of the \$3,500 fee to the client, respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2).
119. By failing to render an appropriate accounting to the client regarding those funds received from respondent's client, Darren O'Neil, consisting of the sum of \$3,500 as advanced fees for legal services to be performed, received between June 25, 2014 and October 5, 2014,

following upon the termination of respondent's employment in or about December 2015, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3).

120. By failing to provide a substantive response to the State Bar's letters of April 25, May 25, and September 2, 2016, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 16-O-12371, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent in willful violation of Business and Professions Code, section 6068(i).
121. By failing to respond promptly to an e-mails from Darren O'Neil sent to respondent on or about December 8, 2015, and January 6, 2016 and multiple telephonic reasonable status inquiries throughout 2015, made by respondent's client, Darren O'Neil, that respondent received in a matter in which respondent had agreed to provide legal services, respondent willfully violated Business and Professions Code, section 6068(m).

Mitigating Circumstances:

No Prior Record of Discipline: Respondent was admitted to practice law December 5, 1990. Respondent had been discipline-free for almost 25 years of practice from admission to the misconduct occurring in 2015. Respondent's 25 years of discipline free practice should be given highly significant weight. (*Friedman v. State Bar* (1990) 51 Cal.3rd 235, 245.) [attorney's practice of law for over 20 years given highly significant weight in mitigation].)

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a stipulation of facts and conclusions of law prior to trial, thereby preserving State Bar Court time and resources and acknowledging and accepting responsibility for his misconduct. However, this is tempered due to respondent's failure to cooperate in these State Bar investigations. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability].)

Family Problems/Emotional Difficulties: In July 2015, respondent's son was kidnapped and fortuitously escaped. At the same time, respondent's mother suffered a heart attack in his office from which she recovered. In August 2015 his mother-in-law was diagnosed with a cancerous brain tumor requiring respondent to assist with her care and treatment. His mother-in-law died February 2, 2016. During that time, respondent was evicted from his residence and forced to relocate. Respondent's ex-wife remarried and her husband abused drugs and threatened respondent's children who his ex-wife had custody of requiring that he secure a TRO which required that respondent spend more time protecting his children. On August 26, 2015, respondent's nephew committed suicide. On January 28, 2016, another nephew lost his life in a drowning accident. Respondent's misconduct in this matter occurred between January 2015 and May 2016. These emotional difficulties were a contributing factor towards respondent's behavior surrounding his misconduct. (See *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 519 [marital problems and similar difficulties can be mitigating if they are extreme and are directly responsible for the misconduct].) Respondent only recently commenced psychiatric/psychological treatment for his emotional and behavioral issues and there is no current prognosis for his recovery. As such, respondent is entitled to only partial mitigation under this factor. (*In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 280-281.)

Aggravating Circumstances:

Multiple Acts of Misconduct (Std. 1.5(b)): Respondents committed multiple acts of misconduct, specifically violations of Rules of Professional Conduct, rule 3-110(A) [failure to perform] 7 counts,

rule 3-700(A)(2) [improper withdrawal] 6 counts, rule 3-700(D)(2) [failure to refund unearned fee] 4 counts, rule 3-700(D)(1) [failure to return file] 4 counts, rule 4-100(A) [failure to deposit client funds in trust account] 1 count, Business and Professions Code sections 6068(m) [failure to respond to client inquiries] 5 counts, 6068(o)(3) [failure to report sanctions] 3 counts, section 6068(i) [failure to cooperate in State Bar investigation] 7 counts, and section 6103 [failure to obey court order] 3 counts.

Significant Harm to Clients and the Public (Std. 1.5(j)): Respondent's abandonment and failure to provide the client-files and documents have caused significant harm to his clients. Ms. Call lost her cause of action by respondent's failure to file her suit and protect the statute of limitations. *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646 (the loss of a case constitutes significant harm, even if damages are relatively modest); *In the Matter of Copren* (2005) 4 Cal. State Bar Ct. Rptr. 861, 864-66 (member harmed client by depriving her of \$750 in funds.)

Failure to Make Restitution, Standard 1.5(k): Respondent has failed to make restitution to his multiple clients. Respondent has failed to satisfy any of the sanction awards.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of May 5, 2017, the discipline costs in this matter are approximately \$5,640. 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: LOREN NICHOLAS KLEIER	Case number(s): 16-O-11119, 16-O-11304, 16-O-11774, 16-O-11783, 16-O-11880, 16-O-12644, 16-O-13148, 16-O-12371 DFM
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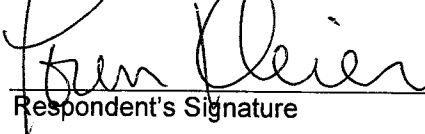
SIGNATURE OF THE PARTIES

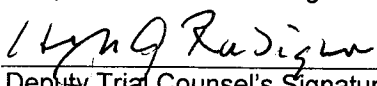
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

5/8/16  Loren Nicholas Kleier
Date Respondent's Signature Print Name

May 8 '17  Hugh G. Radigan
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: LOREN NICHOLAS KLEIER	Case Number(s): 16-O-11119, 16-O-11304, 16-O-11783, 16-O-11774, 16-O-11880, 16-O-12644, 16-O-13148, 16-O-12371
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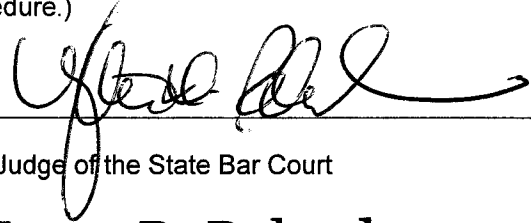
ALTERNATIVE DISCIPLINE PROGRAM ORDER

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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

September 18, 2017
Date



Judge of the State Bar Court

Yvette D. Roland

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 September 18, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

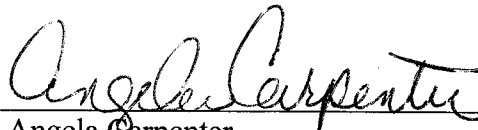
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LOREN N. KLEIER
PO BOX 60177
BAKERSFIELD, CA 93386 - 0177

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

Hugh Gerard Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 18, 2017.



Angela Carpenter
Case Administrator
State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist 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 August 24, 2018, I deposited a true copy of the following document(s):

DECISION; ORDER SEALING DOCUMENT; AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT; STIPULATION RE FACTS AND CONCLUSIONS OF LAW FILED SEPTEMBER 18, 2017

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:

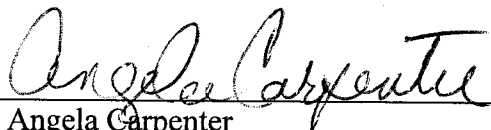
LOREN N. KLEIER
PO BOX 60177
BAKERSFIELD, CA 93386 - 0177

LOREN NICHOLAS KLEIER
2878 N. INYO STREET
BAKERSFIELD, CA 93305

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

Hugh Gerard Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 24, 2018.



Angela Carpenter
Court Specialist
State Bar Court