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

<p>Counsel For The State Bar</p> <p>Michael J. Glass Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1254</p> <p>Bar # 102700</p>	<p>Case Number(s): 08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; and 10-O-06097 (Cons.); 10-O-05983</p>	<p>For Court use only</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b></p> <p>APR 18 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Edward O. Lear, Esq. Century Law Group LLP 5200 W. Century Blvd., #345 Los Angeles, CA 90045 (310) 642-6900</p> <p>Bar # 132699</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p>	
<p>In the Matter of: Michael Wells</p> <p>Bar # 48850</p> <p>A Member of the State Bar of California (Respondent)</p>	<p><b>ACTUAL SUSPENSION</b></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 January 7, 1971.
- (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 \_\_\_\_\_ pages, not including the order.



(Do not write above this line.)

- (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".
- (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: February 1 in three billing cycles following the effective date of discipline. (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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline** [see standard 1.2(f)]
  - (a)  State Bar Court case # of prior case 85-O-252 SD
  - (b)  Date prior discipline effective March 16, 1987
  - (c)  Rules of Professional Conduct/ State Bar Act violations: rule 2-101(A) of the Rules of Professional Conduct
  - (d)  Degree of prior discipline Public Reprimand
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below.
- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment Page
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (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 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:**

See Attachment Page .

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of two (2) years.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

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

iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of three (3) 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 one (1) year.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

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

iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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

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

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

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

- (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:**

In the Matter of <b>MICHAEL WELLS</b> Member # <b>48850</b> A Member of the State Bar	Case Number(s): 08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; and 10-O-06097 (Cons.); 10-O-05983
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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
Justin Miller	\$3,869.00	March 22, 2010
Frank and Jeannie Horak	\$5,724.00	November 6, 2009
Philip Perlas	\$1,894.00	March 16, 2010
Ruben Valdes	\$2,303.00	December 1, 2010

- 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
Justin Miller	One payment of \$100 must be made monthly to either any of the listed payees or CSF.	The minimum payment of \$100 per month must be made on the first day of each month beginning the month following the effective date of discipline.
Frank and Jeannie Horak		
Philip Perlas		
Ruben Valdes		

- 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 certified public accountant or other financial professional approved by the Office of Probation, certifying that:

In the Matter of  
**MICHAEL WELLS**  
Member # **48850**  
A Member of the State Bar

Case Number(s):  
08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166;  
09-O-19448; 10-O-00300; 10-O-05172; and  
10-O-06097 (Cons.); 10-O-05983

- a. Respondent as 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**

<b>IN THE MATTER OF:</b>	<b>WELLS, MICHAEL</b>
<b>CASE NUMBER(S):</b>	08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; and 10-O-06097 (Cons.); and 10-O-05983

**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. 08-O-13877 (Complainants: Mario and Dawn Hernandez)

**FACTS:**

1. On or about June 11, 2008, Mario and Dawn Hernandez (collectively "Hernandez") signed a retainer agreement, and employed Respondent to file a Chapter 7 Bankruptcy Petition and represent them in a Bankruptcy case. Pursuant to the retainer agreement, Hernandez was required to pay Respondent \$750 in advanced fees and \$299 in advanced costs (for the filing fee), prior to filing the petition.
2. On or about July 2, 2008, Hernandez paid to Respondent advanced fees in the amount of \$750 and advanced costs in the amount of \$299 totaling \$1,049.
3. In or about July 2008, Hernandez received an incomplete petition from Respondent's office, which instructed Hernandez to file the petition themselves with a promise that Respondent would file the remaining documents within the next 15 days. On or about July 24, 2008, Hernandez filed the incomplete petition with the Bankruptcy Court. At this time Hernandez was provided with written notice from the Bankruptcy Court and orally informed that the remaining documents had to be filed within 15 days or the Bankruptcy Court would dismiss the Hernandez Bankruptcy Petition without further notice.
4. On or about July 25, 2008, Hernandez sent a copy of Hernandez's filed petition to Respondent and informed Respondent of the 15 day deadline to complete the petition. Between July 25, 2008, and August 8, 2008, Hernandez sent numerous e-mail messages to Respondent to remind Respondent of the 15 day deadline to complete the petition.
5. Respondent did not file the documents to complete the petition. On or about August 13, 2008, the petition was dismissed by the Bankruptcy Court.

6. On or about October 30, 2008, Respondent filed a motion to reopen the Hernandez bankruptcy matter. On or about October 30, 2008, the court granted Respondent's motion and reopened the Hernandez Bankruptcy matter.

7. Subsequently, Respondent took no further action in the Hernandez bankruptcy matter.

8. On or about April 22, 2009, Hernandez terminated Respondent's services and hired new counsel to represent them in the bankruptcy matter.

#### CONCLUSIONS OF LAW:

9. By failing to file a complete petition on behalf of Hernandez, instructing Hernandez to file an incomplete petition, failing to timely file the documents required to complete the petition, waiting until on or about October 30, 2008, to file a motion to reopen the Hernandez bankruptcy, and taking no further action after the court reopened the Hernandez bankruptcy, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

#### Case No. 09-O-19166 (Complainants: Elizabeth and Douglass Quinn)

#### FACTS

1. On or about April 6, 2009, Elizabeth and Douglas Quinn ("the Quinns") signed a retainer agreement and employed Respondent to file a Chapter 13 Bankruptcy Petition for advanced fees in the amount of \$2,800 and advanced costs in the amount of \$399 for a total of \$3,199. On or about April 6, 2009, the Quinns paid Respondent \$3,199. The advanced costs included the filing fee of \$284.

2. On or about April 6, 2009, the Quinns also agreed to pay \$750 to Respondent to send a chain of title demand to their mortgage lender HSBC Mortgage Corporation ("HSBC") in order to determine if their loan documents had been correctly completed.

3. Respondent's office informed the Quinns that the petition would be finished within four weeks of receiving back worksheets that the Quinns were given and instructed to complete. On or about June 19, 2009, the Quinns completed the worksheets and submitted them to Respondent's office, together with additional information requested. Respondent received the completed worksheets.

4. On or about July 11, 2009, the Quinns received a draft of the petition from Respondent. On or about July 11, 2009, the Quinns returned the draft of the petition to Respondent with their comments. On July 14, 2009, Respondent's office acknowledged receipt of the petition returned by the Quinns.

5. On or about September 4, 2009, the Quinns requested from Respondent the proposed timeline for filing the petition. At this time, Respondent informed the Quinns that the petition was about 50 percent completed and that he anticipated sending it to them by September 11, 2009.

6. On or about September 4, 2009, the Quinns completed payment to Respondent of the advanced fees of \$750 for the chain of title demand.

7. Respondent first sent a chain of title demand to HSBC by letter dated on or about September 29, 2009. On or about October 28, 2009, HSBC responded to the demand.

8. From on or about September 4, 2009, to on or about December 2009, the Quinns attempted to contact Respondent to determine the status of the petition and their demand. The Quinns called Respondent at least 20 times, left multiple messages for Respondent to return their calls, and sent multiple e-mail messages to Respondent. Respondent did not return their telephone calls or respond to their e-mail messages. Many of their e-mail messages were returned as undeliverable.

9. Respondent did not file the Quinns petition. After sending the demand to HSBC, Respondent did not perform any further work on behalf of the Quinns.

10. In or about January 2010, the Quinns terminated Respondent's services and hired new counsel who subsequently filed a bankruptcy petition on behalf of the Quinns.

#### CONCLUSIONS OF LAW

11. By failing to file the Quinns bankruptcy petition, and failing to perform any further work on behalf of the Quinns after sending the September 29, 2009, demand to HSBC, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

12. By failing to respond to inquiries from the Quinns regarding the status of their case, Respondent intentionally failed to respond promptly to reasonable status inquiries of client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

13. By failing to refund unearned fees to the Quinns, Respondent failed to refund promptly any part of a fee in advance that had not been earned in willful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

#### Case No. 09-O-19448 (Complainant: Justin Miller)

#### FACTS

1. On or about June 29, 2009, Justin K. Miller ("Miller") signed a retainer agreement and hired Respondent to file a Chapter 7 Bankruptcy Petition. Pursuant to the retainer agreement, before Respondent would commence work on the case, Mr. Miller was required to pay Respondent \$1,800 in advanced fees, and \$569 in advanced costs, for a total of \$2,369. On or about June 29, 2009, Mr. Miller paid Respondent \$2,369. The advanced costs included the \$299 filing fee for the petition.

2. On or about August 7, 2009, Respondent filed and served a Chapter 7 Bankruptcy Petition on behalf of Mr. Miller. On or about August 27, 2009, Mr. Miller's lender, One West Bank ("OWB"), filed a motion for relief from automatic stay regarding Mr. Miller's residence. The motion was served on Respondent who received it.

3. Respondent failed to file any opposition to OWB's motion for relief from automatic stay, or otherwise contest the motion, and failed to take any further action on behalf of Mr. Miller in the bankruptcy matter after filing the petition.

4. On or about September 23, 2009, the court granted OWB's motion. On or about October 13, 2009, OWB foreclosed upon Mr. Miller's property.

5. On or about October 14, 2009, Mr. Miller employed Respondent for loan modification services, for which Mr. Miller paid Respondent additional advanced fees in the amount of \$1,500.

6. On or about October 21, 2009, Respondent contacted counsel for OWB, spoke with a paralegal, and informed the paralegal that Mr. Miller wanted to reaffirm his debt. Respondent was referred to OWB's Loss Mitigation Department. Respondent had no other contact with counsel for OWB on behalf of Mr. Miller.

7. On or about October 28, 2009, Mr. Miller sent Respondent an e-mail message stating that Mr. Miller had received an eviction notice and that Mr. Miller wanted advice as to how to proceed. Respondent failed to respond to that message.

8. On or about October 29, 2009, Respondent informed Miller by e-mail message that Respondent had called OWB earlier that day and was waiting for a return call in order to propose an offer to bring Mr. Miller's home loan current.

9. On or about October 30, 2009, November 2, 2009, and November 3, 2009, respectively, Mr. Miller sent e-mail messages to Respondent requesting a report on the status of Mr. Miller's case. Respondent failed to respond to the messages.

10. Subsequently, Respondent took no further action on behalf of Mr. Miller and had no further contact with Mr. Miller. Respondent failed to engage in competent negotiations with OWB regarding loan modification or render any services of value to Mr. Miller for the additional fees paid to him.

11. On or about March 22, 2010, Mr. Miller's bankruptcy matter was closed without discharge.

#### CONCLUSIONS OF LAW

12. By failing to contest the motion, failing to complete the services for which he was hired in the bankruptcy matter, failing to complete the services for the loan modification, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

13. By failing to responde to Mr. Miller's multiple inquiries, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

14. By failing to refund unearned unearned fees to Mr. Miller, Respondent failed to refund promptly any part of a fee paid in advance which had not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

15. By charging and receiving advance fees for loan modification services, Respondent failed to comply with California Civil Code section 2944.7(a)(1).

Case No. 10-O-00300 (Complainant: Frank and Jeannie Horak)

FACTS

1. On or about September 9, 2009, Frank and Jeannie Horak ("the Horaks") signed a retainer agreement and employed Respondent to file a Chapter 7 Bankruptcy Petition. Pursuant to the agreement, before Respondent would commence work, the Horaks were required to pay Respondent advanced fees in the amount of \$2,750 and advanced costs in the amount of \$674, for a total of \$3,424.

2. On or about September 9, 2009, the Horaks signed a second retainer agreement and agreed to pay Respondent advanced fees in the amount of \$2,000 and advanced costs in the amount of \$300, for a total of \$2,300, to prepare two chain of title demands regarding the Horaks properties located in Antioch, California, and Grass Valley, California, respectively.

3. In regard to the Bankruptcy matter, on September 10, 2009, the Horaks paid Respondent advanced fees in the amount of \$2,750 and advanced costs in the amount of \$674, for a total of \$3,424. The advanced costs included the court's filing fee for the petition in the amount of \$299.

4. In regard to the chain of title demands, on or about September 10, 2009, the Horaks paid Respondent advanced fees in the amount of \$2,000 and advanced costs in the amount of \$300, for a total of \$2,300.

5. As such, as of September 10, 2009, the Horaks had paid Respondent advanced fees and costs totaling \$5,724.

6. From in or about September 2009, to in or about November 6, 2009, Respondent failed to promptly respond to the Horaks' calls and e-mail messages and failed to provide the Horaks with timely assistance so that the Horaks could complete the worksheets Respondent required them to complete.

7. On or about November 6, 2009, the Horaks mailed a letter to Respondent in which the Horak's terminated Respondent's services and requested a full refund of advance fees and costs. Respondent received the letter. Respondent failed to respond to the Horak's request for a refund.

## CONCLUSIONS OF LAW

8. By failing to promptly respond to the Horaks' communications, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

9. By failing to refund unearned fees to the Horaks, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 10-O-05172 (Complainant: Philip J. Perlas)

## FACTS

1. On or about September 14, 2009, Philip J. Perlas ("Perlas") signed a retainer agreement with Respondent and employed Respondent to file a Chapter 7 Bankruptcy Petition. Pursuant to the agreement, before Respondent would commence work on the case, Mr. Perlas was required to pay Respondent advanced fees in the amount of \$995 and advanced costs in the amount of \$599, for a total of \$1,594.

2. On or about September 14, 2009, Mr. Perlas paid Respondent \$995 in advanced fees and \$599 in advanced costs for a total of \$1,594. The advanced costs included the court's filing fee for the petition in the amount of \$299.

3. On or about September 14, 2009, Mr. Perlas also entered into a second retainer agreement with Respondent, whom Mr. Perlas hired to seek reaffirmation of Mr. Perlas' car loan, and paid Respondent advanced fees in the amount of \$300.

4. As such, as of September 14, 2009, Mr. Perlas had paid Respondent advanced fees in the amount of \$1,295 and advanced costs in the amount of \$599, for a total of \$1,894.

5. On or about September 23, 2009, Mr. Perlas had delivered to Respondent's office all documents necessary for Respondent to prepare the Chapter 7 Bankruptcy Petition.

6. On or about October 20, 2009, November 5, 2009, November 19, 2009, December 10, 2009, January 11, 2010, and January 28, 2010, respectively, Mr. Perlas sent e-mail messages to Respondent to inquire about the status of the petition.

7. Between October 21, 2009, and January 28, 2010, Respondent informed Mr. Perlas that Respondent would complete the Chapter 7 Bankruptcy Petition.

8. As of March 12, 2010, Respondent had failed to complete Mr. Perlas' Chapter 7 Bankruptcy Petition. As a result, on or about March 12, 2010, Mr. Perlas sent Respondent a letter terminating Respondent's services and requesting a refund.

9. On or about March 17, 2010, Respondent sent a Chapter 7 Bankruptcy Petition to Mr. Perlas and contended in part that it was ready to be filed.

10. On or about March 19, 2010, Mr. Perlas mailed a letter to Respondent in which Mr. Perlas reminded Respondent that Respondent's services had been terminated before Respondent sent the Petition. In the March 19, 2010, letter, Mr. Perlas again requested a refund.

11. On or about March 19, 2010, Respondent replied to Mr. Perlas's March 19, 2010, letter, contending in part that Respondent had not received a termination letter from Mr. Perlas, that the Petition was ready to be filed, and that Perlas was not entitled to any refund because Respondent had performed the services for which he was hired.

12. Respondent offered to pay the \$50 fee for Mr. Perlas to take another credit counseling course, which was required because Mr. Perlas' credit counseling certificate had expired due to the delay by Respondent in preparing the Petition.

#### CONCLUSIONS OF LAW

13. By improperly delaying completion of Perlas' bankruptcy petition for over six months, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

14. By failing to refund unearned fees, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

#### Case No. 10-O-06097 (Complainant: State Bar Investigation)

#### FACTS

1. At all times mentioned herein, Respondent maintained a client trust account at Bank of America, account number xxxxxx2005 ("CTA").<sup>1</sup>

2. From on or about November 10, 2009, to May 12, 2010, Respondent repeatedly deposited personal funds in the CTA, as follows:

DATE	PAYER	AMOUNT
11/10/09	US Treasury, Soc Sec	1,144.00
12/9/09	US Treasury, Soc Sec	1,144.00
1/13/10	US Treasury, Soc Sec	1,144.00

<sup>1</sup> For privacy purposes, only the last four digits of the account number are shown.

(Do not write above this line.)

DATE	PAYER	AMOUNT
2/10/10	US Treasury, Soc Sec	1,144.00
3/10/10	US Treasury, Soc Sec	1,144.00
4/14/10	US Treasury, Soc Sec	1,144.00
5/12/10	US Treasury, Soc Sec	1,144.00

3. From on or about November 2, 2009, to on or about May 17, 2010, Respondent repeatedly and routinely withdrew funds from the CTA to pay personal expenses, including, but not limited to the following withdrawals:

DATE PAID	PAYMENT TYPE	PAYEE	AMOUNT
11/02/09	Check #3471	Reihahl Mgmt, LLC	300.00
11/02/09	Online pmt	Capital One	165.00
11/02/09	E Check	Verizon Wireless	425.00
11/04/09	Check #3473	Regency Business Center	1,735.00
11/09/09	Check#3474	Julie Anne Glynn	2,000.00
11/16/09	Check#3476	Reidahl Mgmt, LLC	250.00
11/16/09	Check#3477	Reidahl Mgmt, LLC	300.00
11/23/09	Check#3479	Reidahl Mgmt, LLC	250.00
11/25/09	Check#3482	Reidahl Mgmt, LLC	1,000.00
11/17/09	Ins Prem	AAA Life	638.15
11/30/09	Online pmt	Capital One	170.00
11/30/09	Online pmt	Capital One	250.00
11/30/09	Online pmt	Capital One	600.00

#### CONCLUSIONS OF LAW

4. By depositing and maintaining personal funds in the CTA and withdrawing the funds to pay personal expenses, Respondent wilfully deposited and commingled funds belonging to Respondent in a bank account labeled "Trust Account," "Client's Funds Account," or words of similar import in violation of rule 4-100(A) of the Rules of Professional Conduct.

Case No. 05-O-05983 (Complainant: Ruben Valdes)

FACTS

1. On or about June 30, 2009, Ruben Jose Vidales ("Vidales") employed Respondent to file a joint Chapter 7 Bankruptcy Petition for him and his husband, Hector Eduardo Leon ("Leon"). At this time, Mr. Vidales paid Respondent the amount of \$1,625 as a flat fee for his legal services and \$598 as the court filing fee for a total of \$2,223.

2. On or about June 30, 2009, Mr. Vidales also submitted to Respondent's office the documents requested to prepare the bankruptcy petition.

3. In or about July 2009, Mr. Vidales contacted Respondent's office and spoke to an employee from Respondent's office who promised to follow up with Mr. Vidales soon regarding the bankruptcy petition.

4. On or about December 7, 2009, after receiving no further communications from Respondent's office, Mr. Vidales sent an e-mail message to Respondent to inquire about the status of the bankruptcy petition. At this time, Respondent responded by e-mail promising to complete the bankruptcy petition.

5. Mr. Vidales subsequently informed Respondent that Mr. Vidales and Mr. Leon had separated. On or about December 16, 2009, Mr. Vidales sent an e-mail message to Respondent, in part to confirm that Mr. Vidales and Mr. Leon had separated, and to inquire as to how the separation would affect the filing of the bankruptcy petition.

6. On or about December 16, 2009, Respondent responded by e-mail to Mr. Vidales providing further information to Mr. Vidales and inquiring in part about the status of the marital dissolution.

7. On or about December 17, 2009, Mr. Vidales responded by e-mail to Respondent's questions and inquired as to whether legal expenses for the marital dissolution could be included in the bankruptcy petition. On or about December 17, 2009, Respondent responded by e-mail to Mr. Vidales' questions and advised Mr. Vidales that the bankruptcy petition needed to be filed and a hearing held before the dissolution became final.

8. On or about January 21, 2010, Mr. Vidales sent an e-mail message to Respondent informing him in part that the dissolution would be final in March 2010 and also inquiring as to when the bankruptcy petition would be filed. On or about January 21, 2010, Respondent responded by e-mail, stating in part, that he would move on finishing the bankruptcy petition.

9. On or about February 11, 2010, Mr. Vidales sent an e-mail to Respondent inquiring about the status of the bankruptcy petition. On or about February 11, 2010, Respondent responded by e-mail promising to complete the bankruptcy petition by the end of the month.

10. On or about April 20, 2010, Mr. Vidales sent an e-mail message to Respondent informing Respondent that a hearing in the dissolution matter was scheduled for May 11, 2010, at which time he

expected his divorce to be granted, and asking Respondent to expedite the filing of the bankruptcy petition and provide a date by which that filing would occur.

11. Respondent did not respond to Mr. Vidales' April 20, 2010, e-mail message. Subsequently, Mr. Vidales called Respondent on two occasions to inquire about the status of his bankruptcy case. Mr. Vidales left messages for Respondent, but Respondent did not return his calls.

12. Mr. Vidales did not receive any further communications from or on behalf of Respondent. Respondent also never completed Mr. Vidales's bankruptcy petition.

13. On or about October 15, 2010, Mr. Vidales filed a Small Claims action against Respondent, entitled *Ruben Jose Vidales v. Michael T. Wells, et al.*, LASC Case No. 10M09782, to recover advance fees and costs paid to Respondent in the amount of \$2,223. On or about November 4, 2010, the Small Claims action was served on Respondent who received it.

14. On or about December 1, 2010, the Small Claims Court entered judgment against Respondent and in favor of Mr. Vidales in the amount of \$2,223 plus \$80 as reimbursement of Mr. Vidales costs in the Small Claims action. To date, Respondent has not paid any portion of the judgment.

#### CONCLUSIONS OF LAW

1. By failing to complete Mr. Vidales' bankruptcy petition, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A) of the Rules of Professional Conduct.

2. By failing to respond to Mr. Vidales' inquiries regarding the status of his case, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in violation of Business and Professions Code section 6068(m).

3. By failing to refund unearned fees to Vidales, Respondent failed to refund promptly any part of a fee paid in advance that had not been earned in violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was March 28, 2011.

#### AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2(b) provides that, "Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the willfull misappropriation of entrusted funds or property

shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

Standard 2.4(b) provides that, “Culpability of a member of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or culpability of a member of willfully failing to communicate with a client shall result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.”

Standard 2.6 provides, in pertinent part, that “Culpability of a member of a violation of any of the following provisions of the Business and Professions Code shall result in disbarment or suspension depending on the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3:

(a) Sections 6067 and 6068;....”

Standard 2.10 provides that “Culpability of a member of a violation of any provision of the Business and Professions Code not specified in these standards or a wilful violation of any Rule of Professional Conduct not specified in these standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.”

In *Hawes v. State Bar* (1990) 51 Cal. 3d 587, in six separate client matters, from 1981 through 1985, Respondent was found to have engaged in acts that disclosed a pattern of wilful disregard of his professional obligations, including the failure to perform services and to communicate with clients, amounting to abandonment of his clients, failure to return unearned fees and failure to respond to the State Bar. The Court imposed discipline consisting of a five year stayed suspension, five years probation with conditions, including a one year actual suspension. In mitigation, Respondent showed that he was suffering from a mental disorder, and alcohol and drug abuse. Respondent also showed that he had been rehabilitated for almost four years. Respondent had also been in practice for over ten years without any prior discipline at the time of his misconduct.

In *Silva-Vidor v. State Bar* (1989) 49 Cal. 3d 1071, in a proceeding involving fourteen clients, Respondent was found culpable of abandoning thirteen clients, failure to return unearned fees, failure to account to one client, trust account violations as to two clients, moral turpitude as to three clients, and unauthorized practice of law for a period of three years. The Court imposed discipline consisting of a five year stayed suspension, and a one year actual suspension. In mitigation, Respondent had extensive personal problems including a marital break up, severe depression, the birth of a child with birth defects, physical injury, and a recuperation period.

In *Martin v. State Bar* (1978) 20 Cal. 3d 717, in six separate client matters, Respondent failed to perform, failed to communicate, and knowingly misrepresented the status of the case to a client. The Court imposed discipline consisting of a two year stayed suspension, and a one year actual suspension. In mitigation, Respondent had no prior discipline in 28 years of practice.

(Do not write above this line.)

## DISMISSALS.

The parties respectfully request that the Court dismiss the following matters in the interest of justice:

Case No. 08-O-13832; and Case No. 08-O-13834.

The parties also respectfully request that the Court dismiss the following alleged violations in the interest of justice:

CASE NO.	COUNT	ALLEGED VIOLATION
08-O-13877	Five	Business and Professions Code section 6106
09-O-19166	Eight	Business and Professions Code section 6106
09-O-19166	Nine	rule 4-100(B)(3), Rules of Professional Conduct
09-O-19166	Eleven	Business and Professions Code section 6068(i)
09-O-19448	Fourteen	rule 4-100(B)(3), Rules of Professional Conduct
09-O-19448	Seventeen	Business and Professions Code section 6068(i)
10-O-00300	Nineteen	rule 4-100(B)(3), Rules of Professional Conduct
10-O-00300	Twenty-One	Business and Professions Code section 6068(i)
10-O-05172	Twenty-Three	rule 4-100(B)(3), Rules of Professional Conduct
10-O-05172	Twenty-Five	rule 4-100(B)(4), Rules of Professional Conduct
10-O-05172	Twenty-Six	Business and Professions Code section 6068(i)
10-O-06097	Two	Business and Professions Code section 6106
10-O-06097	Three	Business and Professions Code section 6068(i)
10-O-05983	Three	rule 4-100(B)(3), Rules of Professional Conduct
10-O-05983	Five	rule 4-100(B)(4), Rules of Professional Conduct
10-O-05983	Six	Business and Professions Code section 6068(i)

## COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 28, 2011, the prosecution costs in this matter are \$13,419.48. 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.

## **AGGRAVATING CIRCUMSTANCES**

Under standard 1.2(b)(ii) as indicated above in Case Nos. 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; 10-O-06097; and 10-O-05983, Respondent's current misconduct involves multiple acts of wrongdoing.

## **MITIGATING CIRCUMSTANCES**

### **ADDITIONAL MITIGATING CIRCUMSTANCES**

In 2004 Respondent's wife became ill, had two bouts with cancer, several surgeries, and was ultimately diagnosed with Stage 4 inoperable lung cancer. As such, Respondent was managing his law practice and became his wife's caregiver. Respondent's wife passed away on March 4, 2005.

Later in 2005, Respondent's stepmother, who resided in San Jose, California, became ill. Respondent began making numerous trips to San Jose to visit her. As her condition worsened, Respondent's responsibilities in assisting in her care increased. She passed away in 2008.

While Respondent continued practicing as a sole practitioner, in a high volume bankruptcy practice, Respondent was unable to recognize the depression and fatigue. Additionally, Respondent began suffering physically with constant pain and underwent a complete hip replacement in 2008. Respondent's recovery was further complicated as Respondent did not want to take pain medication, due to the fact that he has been a recovering alcoholic since 1986.

The aforementioned factors made it difficult for Respondent to keep up with and focus on his practice. Respondent believed that he needed to make changes to his life. In this regard, in September 2009, Respondent ceased advertising for bankruptcy clients and focused on completing the bankruptcy cases he had accepted.

Further, on February 3, 2011, Respondent began treatment with Judith R. Cohn, Ph.D., a Clinical Psychologist. Dr. Cohn diagnosed Respondent as suffering from Major Depressive Disorder during the period of Respondent's misconduct. Dr. Cohn prescribed therapy sessions which Respondent undergoes at the present time. Dr. Cohn has noted that Respondent is making progress and should continue with psychotherapy.

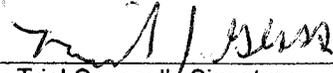
Additionally, in Case No. 09-O-19166, Respondent has also made complete restitution, in the amount of \$3,949.00, to clients Elizabeth and Douglas Quinn.

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In the Matter of <b>MICHAEL WELLS</b> Member # 48850	Case number(s): 08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; and 10-O-06097 (Cons.); 10-O-05983
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### SIGNATURE OF THE PARTIES

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

<u>April 4</u> , 2011 Date	 Respondent's Signature	<u>Michael Wells</u> Print Name
<u>4/4/</u> , 2011 Date	 Respondent's Counsel Signature	<u>Edward O. Lear</u> Print Name
<u>4/4/</u> , 2011 Date	 Deputy Trial Counsel's Signature	<u>Michael J. Glass</u> Print Name

(Do not write above this line.)

In the Matter of <b>MICHAEL WELLS</b> Member # 48850	Case number(s): 08-O-13832; 08-O-13834; 08-O-13877; 09-O-19166; 09-O-19448; 10-O-00300; 10-O-05172; and 10-O-06097 (Cons.); 10-O-05983
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### ACTUAL SUSPENSION ORDER

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

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

*PARA 2 - SECTION A. (S) - INSERT AFTER Feb 1,  
" 2012, 2013, AND 2014 "*

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.)**

*04-18-11*  
Date

  
Judge of the State Bar Court

**RICHARD A. PLATEL**

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 18, 2011, 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:

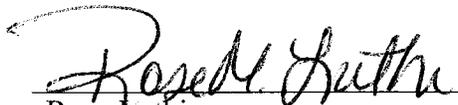
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

EDWARD O. LEAR, ESQ.  
CENTURY LAW GROUP LLP  
5200 W CENTURY BLVD #345  
LOS ANGELES, CA 90045

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

MICHAEL GLASS, ESQ., Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 18, 2011.



Rose Euthi  
Case Administrator  
State Bar Court