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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1325 Bar # 172472	Case Number(s): 12-O-14240-DFM 12-O-15273 13-O-11015	For Court use only <div style="text-align: center; font-size: 24pt; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 18pt; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 14pt; font-weight: bold;">MAY 24 2013</div> <div style="text-align: center; font-size: 12pt; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent Lee Sik No 20320 S.W. Birch Street, Ste. 130 Newport Beach, CA 92660 (949) 478-9079 Bar # 249092	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: LEE SIK NO Bar # 249092 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 1, 2007.
- (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 17 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - 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: (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 11-O-13960, 11-O-15343, 11-O-18732, and 12-O-10587.
 - (b) Date prior discipline effective August 18, 2012
 - (c) Rules of Professional Conduct/ State Bar Act violations: rule 3-700(D)(2), and sections 6068(j) and 6106.3. See Attachment, page 13, "Additional Facts Re Aggravating Circumstances"
 - (d) Degree of prior discipline 90 days actual suspension, one year stayed suspension, two years probation, and restitution.
 - (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. See Attachment, page 14, "Additional Facts Re Aggravating Circumstances"
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment, page 14, "Additional Facts Re Aggravating Circumstances"

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- (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 14, "Additional Facts Re Aggravating Circumstances"
- (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 13, "Additional Facts Re Additional Mitigating Circumstances"

D. Discipline:

(1) **Stayed Suspension:**

- (a) Respondent must be suspended from the practice of law for a period of two 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 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 six months.
- 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
 - Medical Conditions
 - Law Office Management 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**

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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:** If Respondent completes Ethics School or passage of the Multistate Professional Responsibility Examination as required in his prior disciplinary matter prior to effective date of those conditions herein, he shall be deemed to have complied with those conditions of this stipulation.

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In the Matter of: Lee Sik No	Case Number(s): 12-O-14240 12-O-15273 13-N-11015
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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
April Baity	\$2,242.25	June 30, 2011
April Baity	\$4,274.00	July 14, 2011
April Baity	\$2,242.50	July 29, 2011

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

b. Installment Restitution Payments

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

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

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

c. Client Funds Certificate

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

- b. Respondent has kept and maintained the following:
 - i. A written ledger for each client on whose behalf funds are held that sets forth:
 - 1. the name of such client;
 - 2. the date, amount and source of all funds received on behalf of such client;
 - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 - 4. the current balance for such client.
 - ii. a written journal for each client trust fund account that sets forth:
 - 1. the name of such account;
 - 2. the date, amount and client affected by each debit and credit; and,
 - 3. the current balance in such account.
 - iii. all bank statements and cancelled checks for each client trust account; and,
 - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
 - c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
 - i. each item of security and property held;
 - ii. the person on whose behalf the security or property is held;
 - iii. the date of receipt of the security or property;
 - iv. the date of distribution of the security or property; and,
 - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

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

6. At no time did Respondent file a bankruptcy petition on behalf of Baity, or perform any other services of value on her behalf.

7. On February 22, 2012, Baity called Respondent's office and spoke to his associate. In that conversation Baity terminated Respondent's employment, and demanded a refund of the advanced fees that she had paid to him in connection with the bankruptcy.

8. From February 22, 2012 until March 17, 2012, Baity left numerous voicemail messages for Respondent, all of which he received, in which Baity requested that Respondent return her calls and inform her of the status of her refund demand. Respondent did not return any of the calls.

9. To date, Respondent has not provided Baity with a refund of any portion of the unearned, advanced fees that Baity paid to him in connection with Respondent's engagement for bankruptcy services.

10. On May 29, 2012, the State Bar opened an investigation pursuant to a complaint filed by Baity.

11. On June 21, 2012, a State Bar investigator mailed a letter to Respondent regarding the Baity complaint. The investigator's letter requested that Respondent Respondent in writing to specified allegations of misconduct being investigated by the State Bar in the Baity complaint by July 5, 2012. Respondent received the letter.

12. On July 10, 2012, Respondent telephoned the investigator and requested an extension of time to provide his written response to July 19, 2012, which the investigator granted.

13. At no time did Respondent provide a written response to the investigator's June 21, 2012 letter, or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

14. By charging and receiving advanced fees in exchange for agreeing to perform home mortgage loan modification services in violation of California Civil Code section 2944.7(a)(1), Respondent willfully violated Business and Professions Code section 6106.3.

15. By negotiating, arranging or offering to perform a home mortgage loan modification for a fee paid by a borrower in advance of any service and thereafter entering into a fee agreement with Baity without providing Baity, prior to entering into the agreement, the separate statement, in not less than 14-point bold type, specifically required in subdivision (a) of Section 2944.6 of the Civil Code, Respondent willfully violated Business and Professions Code section 6106.3.

16. By not performing any legal services on behalf of Baity with respect to her bankruptcy, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

17. By not returning any of Baity's calls that she made between February 22, 2012, and March 17, 2012, 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).

18. By not providing Baity a refund of the unearned, advanced fee that she paid to him for legal services in connection with the bankruptcy, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

19. By failing to provide a written, substantive response to the investigator's letter or otherwise cooperate in the investigation of the Baity complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code, section 6068(i).

Case No. 12-O-15273 (Complainant: Myung Yoon)

FACTS:

20. On October 8, 2010, Myong Yoon employed Respondent to represent her in a sexual harassment matter against Yoon's employer. On February 28, 2011, Respondent filed Yoon's complaint in Los Angeles Superior Court.

On December 12, 2011, the court sustained a demurrer by the defendants to Yoon's complaint, and gave Respondent leave to amend certain causes of actions within 20 days. On December 13, 2011, defendants mailed notice of the ruling to Respondent, who received it. Respondent did not amend those causes of action to which the court had sustained the defendants' demurrer with leave to amend. Respondent did not seek an extension of time to amend Yoon's complaint.

21. On January 12, 2012, the court dismissed Yoon's entire action with prejudice.

22. In June 2012, Yoon called Respondent to inquire about the status of her case. Respondent did not tell her that it had been dismissed, but instead misrepresented to her that it was still pending. At the time Respondent told Yoon that her case was still pending, he knew that the statement was false.

23. Respondent never informed Yoon that her complaint had been dismissed. Yoon eventually brought a motion in pro per requesting that the dismissal be set aside, which was granted.

24. On July 11, 2012, the State Bar opened an investigation pursuant to a complaint made by Yoon (the "Yoon complaint").

25. On August 27, 2012, and September 10, 2012, a State Bar investigator mailed letters to Respondent at his official membership records address regarding the Yoon complaint. The State Bar investigator's August 27, 2012 and September 10, 2012 letters requested that Respondent respond in writing to specified allegations of misconduct being investigated by the State Bar in the Yoon complaint by September 10, 2012, and September 18, 2012, respectively. Respondent received both of the investigator's letters.

26. On September 19, 2012, Respondent telephoned the investigator and requested an extension of time provide his written response to October 2, 2012, which the investigator granted.

27. At no time did Respondent provide a written response to the investigator's letters, or otherwise cooperate in the investigation.

CONCLUSIONS OF LAW:

28. By neither amending Yoon's complaint nor by seeking an extension within which to amend it, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

29. By not informing Yoon that her case had been dismissed, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m).

30. By misrepresenting to Yoon that her case was still pending, when he knew that the statement was false, Respondent committed an act involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

31. By failing to provide a written, substantive response to the investigator's letters or otherwise cooperate in the investigation of the Yoon complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of Business and Professions Code, section 6068(i).

Case No. 13-N-11015 (State Bar Investigation)

FACTS:

32. On July 19, 2012, the California Supreme Court issued Order No. S202234 ("9.20 Order"). The 9.20 Order included a requirement that Respondent comply with rule 9.20, California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the 9.20 Order.

33. On July 19, 2012, the Clerk of the Supreme Court of the State of California properly served upon Respondent a copy of the 9.20 Order. Respondent received the 9.20 Order.

34. The Supreme Court Order became effective on August 18, 2012, thirty days after the 9.20 Order was issued. Respondent was therefore ordered to comply with subdivision (a) and/or (b) of rule 9.20 of the California Rules of Court no later than on September 17, 2012, and was ordered to comply with subdivision (c) of rule 9.20 no later than on September 27, 2012.

35. On September 27, 2012, Respondent submitted to the Probation Department of the State Bar his State Bar Court approved RULE 9.20 COMPLIANCE DECLARATION ("Declaration"). The Declaration instructed Respondent to "answer each question by checking one box per question. If neither option is correct, attach a declaration under penalty of perjury explaining your situation."

36. Box #3 of the Declaration provided two options: "I refunded fees paid, any part of which had not been earned"; and "As of the date upon which the order to comply with rule 9.20 was filed, I had earned all fees paid to me." Respondent checked neither box.

37. Respondent attached a "RULE 9.20 COMPLIANCE DECLARATION ATTACHMENT" ("Attachment") to his Declaration, in which he stated "I have not refunded all fees that have been paid to me. I still owe amounts ordered by the Supreme Court of California as restitution pursuant to my stipulation. I have been unable to make the first payment because of my current financial situation, however, I am now able to start making payments and plan on making complete restitution during my period of probation."

38. On October 1, 2012, a probation deputy in the Office of Probation of the State Bar sent Respondent a letter, which he received, informing him that his Declaration was rejected as "vague such that it is not clear in relation to your obligation to refund unearned fees. Specifically, the declaration you drafted does not state that the only unearned fees left to be refunded are those ordered as restitution (which gives you a different deadline than that of the Rule 9.20 acts)." Along with the letter from the probation deputy was enclosed a blank Declaration form for Respondent to use to resubmit his Declaration. Respondent did not respond to the October 1, 2012 letter.

39. On October 19, 2012, the probation deputy sent Respondent a second letter, again requesting him to resubmit a compliant Declaration. Respondent received the letter but did not respond to it.

40. Respondent has failed to file with the clerk of the State Bar Court a Declaration describing his unequivocal compliance with rule 9.20 (a) and (b), California Rules of Court, as required by rule 9.20(c).

CONCLUSIONS OF LAW:

41. By not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), Respondent failed to timely comply with the provisions of Supreme Court Order No. S202234 requiring compliance with rule 9.20, California Rules of Court. By the foregoing conduct, Respondent willfully violated rule 9.20, California Rules of Court.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): Respondent has been a member of the State Bar since June 1, 2007, and has been disciplined on one prior occasion.

Effective August 18, 2012, the California Supreme Court ordered that Respondent be suspended from the practice of law in California for one year, that execution of the suspension be stayed, and that he be placed on probation for two years, subject to certain conditions, including 90 days of actual suspension, and restitution to each of the four clients (including the principal amount plus interest at 10 percent per annum). The discipline resulted from Respondent's misconduct in case numbers 11-O-13960, 11-O-15343, 11-O-18732, and 12-O-10587. In each of those four matters, Respondent charged and collected an advanced fee for home mortgage loan modification services which were illegal under California Civil Code section 2944.7(a)(1) because they were charged and collected by Respondent prior to his completion of all those services. In each of those four matters, Respondent also failed to promptly

refund those illegal, and therefore unearned, advanced fees. In addition to those eight counts in the client matters, Respondent failed to notify the State Bar of his change of address within 30 days of the change, as required by Business and Professions Code section 6002.1. Respondent's misconduct occurred between December 2009 and September 2010.

Dishonesty (Std. 1.2(b)(iii)): Respondent intentionally misrepresented to Yoon the status of her matter.

Harm (Std. 1.2(b)(iv)): Respondent harmed April Baity by collecting from her advanced fees totaling \$8,758.75 that were either for home mortgage loan modification services for which an advanced fee was illegal, or for services that were not performed, and which have still not been refunded to her.

Multiple Acts of Misconduct (Std. 1.2(b)(ii)): Respondent committed 11 separate acts of misconduct in the three matters resolved by this stipulation, including failing to perform on behalf of, and communicate with, his clients, collecting an illegal advanced fee in a loan modification case, failing to return unearned fees, failing to participate in disciplinary investigations, and violating a Rule 9.20 Order from the California Supreme Court.

ADDITIONAL FACTS RE ADDITIONAL MITIGATING CIRCUMSTANCES.

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to trial, thereby saving State Bar Court time and resources. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept.) 2006 4 Cal. State Bar Ct. Rptr. 980, 993-994.) However, the cooperation inherent in this pretrial stipulation is tempered by his failure to cooperate in the investigations of the Baity and Yoon matters.

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing 11 acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

Respondent's current misconduct concerns two client matters and one non-client matter. In the Baity matter, Respondent failed to perform on behalf of or to communicate with his client, and collected fees totaling \$8,758.75 which were either illegal or for services not performed, all of which were therefore unearned and none of which Respondent has refunded. In the Yoon matter, Respondent also failed to perform on behalf of or communicate with his client, and misrepresented the status of his client's case to her. In addition, Respondent failed to cooperate in the State Bar's investigation. In a third, non-client related matter, Respondent failed to correct a defect in his 9.20 declaration even though he received written instruction from the Office of Probation to do so on two occasions. Respondent's failure to file a 9.20 declaration which conforms to requirements constitutes a violation of a Supreme court order.

The most severe sanction applicable to Respondent's misconduct, prior to consideration of aggravating circumstances, is found in standard 2.3. Standard 2.3 provides that culpability of a member of an act of *moral turpitude, fraud, or intentional dishonesty toward a client shall result in actual suspension or disbarment* depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law. In the present case, Respondent misrepresented to client Yoon that her case was still pending in court, despite the fact that the matter had already been dismissed. There is no evidence that Yoon was harmed by the misrepresentation, Yoon eventually brought a motion in pro per requesting that the dismissal be set aside, which was granted. Nevertheless, the misrepresentation was made directly within Respondent's practice of law.

As discussed above, Respondent's multiple acts of misconduct in two client matters, and his failure to correct the defect in his 9.20 declaration constitute serious, multiple, and diverse acts of misconduct. Further, Respondent's prior record of discipline is a serious aggravating factor. Standard 1.7(a) provides that, if a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.

Respondent's prior discipline became effective on August 18, 2012, and consisted of a 90-day actual suspension. Respondent's prior discipline was for misconduct that included four violations of Civil Code section 2944.7(a) (accepting illegal advanced fees on behalf of clients seeking loan modification services), and four failures to refund the illegal, advanced fees. Respondent committed the acts of misconduct in the prior matters between December 2009 and September 2010. Respondent committed the current misconduct between July 2011 and October 2012. His prior discipline was therefore neither remote in time nor minimal in severity, and standard 1.7(a) therefore requires that the discipline imposed herein be greater than the discipline imposed in his prior disciplinary proceeding.

When the magnitude of the misconduct committed herein is considered, as well as the direct connection between the misconduct and Respondent's practice of law, along with the aggravating and mitigating circumstances that are presented, discipline consisting of a two-year stayed suspension, two years'

probation, with conditions including a six month actual suspension and until complete restitution is made, is consistent with the Standards, and accomplishes the purposes of attorney discipline.

Case law also supports the level of discipline. In *Matthew v. State Bar* (1989) 49 Cal. 3d 784, the Supreme Court ordered an attorney actually suspended for 60 days for failing to perform services, communicate and return unearned fees in three client matters with financial and other client harm. In the instant matter, Respondent's prior discipline of 90 days actual suspension is increased to six months for his misconduct in two client matters and the one non-client matter.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of May 8, 2013, the prosecution costs in this matter are approximately \$10,240. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT.

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: LEE SIK NO	Case number(s): 12-O-14240 12-O-15273 13-N-11015
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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.

May 8, 2013

Date



Respondent's Signature

Lee S. No

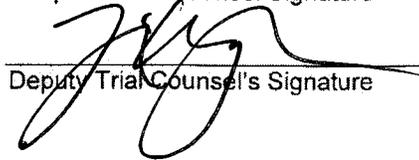
Print Name

Date

May ¹⁰ 8, 2013

Date

Respondent's Counsel Signature



Deputy Trial Counsel's Signature

Print Name

Timothy G. Byer

Print Name

(Do not write above this line.)

In the Matter of: LEE SIK NO	Case Number(s): 12-O-14240 12-O-15273 13-N-11015
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ACTUAL SUSPENSION ORDER

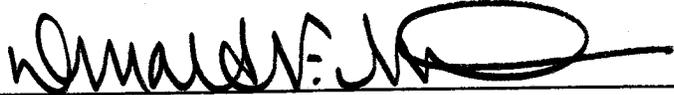
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

1. In the caption on page 1 of the Stipulation, "13-O-11015" is deleted, and in its place is inserted "13-N-11015".
2. On page 4 of the Stipulation, under the heading "Additional mitigating circumstances," "page 13" is deleted, and in its place is inserted "page 14".
3. On page 5 of the Stipulation, the "X" in the box at paragraph E.(8) is deleted, and an "X" is inserted in the box at paragraph E.(8) next to "No Ethics School recommended." In addition, the following language is added after "Reason.": "Respondent has been ordered to provide proof of attendance at Ethics School and passage of the test given at the end of such session within one year of August 18, 2012, as a condition of his probation in Supreme Court Case S202234."
4. On page 5 of the Stipulation, the "X" in the box at paragraph F.(1) is deleted, and an "X" is inserted in the box at paragraph F.(1) on page 6 next to "No MPRE recommended." In addition, the following language is added after "Reason.": "The Supreme Court ordered respondent to take and pass the MPRE and provide proof of passage within one year after August 18, 2012, in case number S202234. If respondent fails to pass the MPRE within that time, he will be suspended from the practice of law until he does. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8; but see also Cal. Rules of Court, rule 9.10(b); Rules Proc. of State Bar, rule 5.162.)"
5. On page 10 of the Stipulation, numbered paragraph 11, line 2, the second "Respondent" is deleted, and in its place is inserted "respond".
6. On page 15 of the Stipulation, paragraph 6, line 3, continuing to page 16, line one, "two years' probation" is deleted, and in its place is inserted "three years' probation".
7. On page 16 of the Stipulation, the heading "Exclusion from MCLE Credit" and the language under this heading are deleted, as this language is no longer necessary in light of the above modifications regarding Ethics School and the MPRE.

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.)**

5/23/13
Date


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 24, 2013, 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:

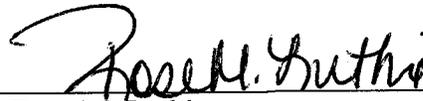
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LEE S. NO
20320 SW BIRCH ST STE 130
NEWPORT BEACH, CA 92660

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

TIMOTHY BYER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 24, 2013.



Rose M. Luthi
Case Administrator
State Bar Court