

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 08-O-11591-DFM
)	(08-O-12426; 08-O-13006;
JAMES ROBERT PATTERSON)	08-O-13391; 08-O-13394;
)	08-O-13398; 09-O-10644;
Member No. 171580)	09-O-11081; 09-O-12104)
)	
A Member of the State Bar.)	DECISION AND INVOLUNTARY
_____)	INACTIVE ENROLLMENT ORDER

INTRODUCTION

In this default proceeding, Respondent James Robert Patterson (Respondent) is charged with twenty-five counts of misconduct, involving nine different client matters. The counts include allegations that Respondent willfully violated: (1) rule 3-110(A) of the Rules of Professional Conduct¹ (failure to perform legal services with competence) [eight counts]; (2) Business and Professions Code² section 6106 (moral turpitude–misrepresentation) [six counts]; (3) rule 3-700(D)(2) (failure to promptly return unearned fees) [three counts]; (4) section 6106 (moral turpitude–misappropriation) [two counts]; (5) section 6106 (moral turpitude–advising a client to lie); (6) rule 3-700(A)(2) (improper withdrawal); (7) section 6068(j) (failure to maintain

¹ Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

² Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

address); (8) rule 3-700(D)(1) (failure to release file); and (9) section 6068(i) (failure to cooperate in a disciplinary investigation). In view of Respondent's misconduct and the aggravating factors, the court recommends, *inter alia*, that Respondent be disbarred from the practice of law.

PERTINENT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) in this matter was filed by the State Bar of California on November 3, 2009. That same day, a copy of the NDC was properly served on Respondent in the manner set forth in rule 60 of the Former Rules of Procedure of the State Bar of California (Former Rules of Procedure).³

On November 25, 2009, Respondent's voluntary resignation was filed with the State Bar Court Clerk's Office. Based on the submission of Respondent's resignation, the court issued an order abating the present proceedings on December 2, 2009.

On February 16, 2011, the Supreme Court filed an order declining to accept Respondent's voluntary resignation. On March 2, 2011, this court issued an order vacating abatement and setting a status conference for March 23, 2011. A copy of this order was properly served on Respondent at his official State Bar membership records address. Respondent did not subsequently appear at the March 23, 2011 status conference. At that conference a trial date of June 21, 2011 was scheduled.

As Respondent did not timely file a response to the NDC, the State Bar, on June 21, 2011, filed and properly served on Respondent a motion for the entry of Respondent's default.⁴

³ Effective January 1, 2011, the Rules of Procedure of the State Bar of California were amended. Based on the court's determination that injustice would otherwise result, the court applied the Former Rules of Procedure in this proceeding.

⁴ The State Bar also requested that the court take judicial notice of Respondent's official membership records address history and registration card. The court grants this request.

That motion was also sent by the State Bar to two other addresses that had been identified for Respondent. When Respondent failed to file a written response within 10 days after service of the motion for the entry of his default, the court, on July 7, 2011, filed an order of entry of default and involuntary inactive enrollment.⁵ A copy of that order was properly served on Respondent and was also sent to the other two addresses for Respondent. To date, no effort has been made by Respondent to seek relief from the default previously entered against him by this court.

Thereafter, the State Bar waived a hearing in this matter, and it was submitted for decision on July 27, 2011.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

All factual allegations of the NDC are deemed admitted upon entry of Respondent's default unless otherwise ordered by the court based on contrary evidence. (Former Rules Procedure, rules 200, et seq.)

Jurisdiction

Respondent was admitted to the practice of law in California on August 24, 1994, and has been a member of the State Bar of California at all times since that date.

General Background

In or about 1996, Respondent began working as an associate in the Law Offices of Lilia Velasquez (Velasquez Law Office). Ms. Velasquez (Velasquez) exclusively handles immigration cases.

⁵ In resolving that motion, the court concluded that Respondent had been given sufficient notice of the pendency of this proceeding to satisfy the requirements of due process. (*Jones v. Flowers, et al.* (2006) 547 U.S. 220 [126 S.Ct. 1708, 164 L.Ed.2d 415].) Respondent's involuntary inactive enrollment pursuant to Business and Professions Code section 6007(e) was effective three days after the service of this order by mail.

In or about 2001, Respondent was diagnosed with a form of Hodgkin's disease and began taking medication for his condition.

In or about the summer of 2007, Respondent often called the Velasquez Law Office to report that he was ill. Velasquez began to receive complaints from clients about Respondent's performance and communication. When Velasquez spoke to Respondent about the problem, he informed her that he was having problems with his medication. Velasquez took some files away from Respondent in order to reduce his work load.

On or about January 30, 2008, Respondent left his employment with Velasquez. When he left, Respondent took case files with him without the agreement of Velasquez.

Effective on or about February 4, 2008, Respondent reported to the State Bar a new address at 1230 Columbia St., #1120, in San Diego, California 92101 (Columbia Street office).

In or about January 2009, Respondent vacated the Columbia Street office. Thereafter, Respondent did not report a new address to the State Bar.

Case No. 08-O-11591 [Hamaan Matter]

In or about May 2005, Thomas Hamaan (Hamaan) employed the Velasquez Law Office for representation in removal proceedings before the United States Immigration Court. Respondent signed the fee agreement with Hamaan and agreed to handle Hamaan's case.

On or about October 25, 2006, Respondent appeared with Hamaan at a master calendar hearing in Immigration Court. At that time, the court ordered that Hamaan could file an application for cancellation of removal and supporting documents by May 1, 2007. On May 1, 2007, Respondent filed a motion for a 30-day extension of time, and the Immigration Court granted Respondent's motion to extend time to submit the application and supporting documents

to June 1, 2007. Thereafter, Respondent did not submit an application and supporting documents on behalf of Hamaan.

On or about July 5, 2007, the immigration court determined that since the application and supporting documents had not been filed, Hamaan's application for cancellation of removal was deemed waived and abandoned. The court issued an order of removal that would become final on or about September 4, 2007. On or about July 5, 2007, the court served the decision and orders on Respondent. Respondent received the decision and orders.

On October 3, 2007, Respondent filed a motion to reopen Hamaan's case. In the motion, Respondent admitted his responsibility for the failure to file Hamaan's application. On October 12, 2007, the court granted Respondent's motion to reopen Hamaan's case.

After Respondent left the Velasquez Law Office in or about January 2008, Velasquez discovered that Respondent had filed a motion to reopen Hamaan's case which had been granted. At that time, Velasquez assumed representation of Hamaan.

On or about June 2008, a complaint related to Hamaan's case was filed against Respondent with the State Bar. On or about June 6, 2008, a State Bar investigator sent a letter to Respondent at the Columbia Street office regarding the complaint about Hamaan's case. On or about June 27, 2008, a State Bar investigator sent another letter to Respondent at the Columbia Street office regarding the complaint about Hamaan's case. Both of the investigator's letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar regarding Hamaan's complaint. Respondent received the letters. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

Count 1 – Rule 3-110(A) [Failure to Perform with Competence]

Rule 3-110(A) provides that an attorney “shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence.”

By failing to file an application for cancellation of removal on behalf of Hamaan, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 2 –Section 6068(i) [Failure to Cooperate]

Section 6068(i) provides that an attorney must cooperate and participate in any disciplinary investigation or proceeding pending against the attorney. By not providing a written response to the allegations or otherwise cooperating in the investigation of the Hamaan matter, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in willful violation of section 6068(i).

Case No. 08-O-12426 [Ramirez Matter]

On or about February 2, 2005, Ramiro Ramirez (Ramirez) and his wife employed Respondent to file applications for permanent residence under the provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA). Ramirez paid Respondent \$1,700 in advanced fees to represent him and \$690 in advanced costs for filing fees. Respondent kept the funds and did not turn them over to Velasquez.

In or about July 2005, Respondent had the Ramirezes sign documents he prepared. At that time, Respondent told the Ramirezes that the applications for permanent residence would be filed in July 2005. Thereafter, Respondent did not file the applications for permanent residence on behalf of the Ramirezes.

On or about February 21, 2007, Respondent contacted Ramirez and his wife about again renewing their work permits. Ramirez agreed and wrote a check payable to Respondent for the \$180 filing fee. Respondent kept the funds. Thereafter, Respondent did not apply to renew work permits for the Ramirezes.

Between in or about July 2005 and in or about February 2008, Ramirez contacted Respondent on a number of occasions to learn the status of their immigration matters, and Respondent repeatedly assured Ramirez that Respondent had filed the applications for permanent residence and for their work permits. At this time, Respondent knew, or was grossly negligent in not knowing, that he had not filed their applications.

On or about January 30, 2008, Respondent left his employment with Velasquez. At that time, Respondent withdrew from representation of the Ramirezes and left the client file for Velasquez to handle. Thereafter, Velasquez assumed representation of the Ramirezes and discovered that Respondent had not filed applications on behalf of the Ramirezes to obtain permanent residence or to renew their work permits.

Respondent did not provide services of any value to Ramirez in applying for permanent residence. Respondent did not earn any of the advanced fees paid by Ramirez to apply for permanent residence. At no time did Respondent refund any of the \$1,700 paid by Ramirez.

Respondent never paid the filing fees advanced by Ramirez to file an application for permanent residence or to renew work permits. Respondent never returned the advanced filing fees to Ramirez. Respondent dishonestly or with gross negligence misappropriated the \$870 in filing fees paid by Ramirez.

On or about June 10, 2008, Ramirez filed a complaint against Respondent with the State Bar. On or about July 28, 2008, a State Bar investigator sent a letter to Respondent at the

Columbia Street office regarding Ramirez's complaint. On or about August 26, 2008, a State Bar investigator again sent another letter to Respondent at the Columbia Street office regarding Ramirez's complaint. The investigator's letters requested that Respondent respond in writing to specified allegations of misconduct under investigation by the State Bar regarding Ramirez's complaint. Respondent received the letters. Respondent did not respond to the investigator's letters or otherwise communicate with the investigator.

Count 3 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file the applications for permanent residence or for renewals of the work permits for the Ramirezes, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 4 – Section 6106 [Moral Turpitude–Misrepresentation]

Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty, or corruption. By misrepresenting the status of the applications, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 5 – Rule 3-700(D)(2) [Failure to Refund Unearned Fees]

Rule 3-700(D)(2) provides that a member whose employment has terminated shall promptly refund any part of a fee paid in advance that has not been earned. By not refunding the \$1,700 to Ramirez upon termination of employment, Respondent failed to return unearned fees upon termination of employment, in willful violation of rule 3-700(D)(2).

Count 6 – Section 6106 [Moral Turpitude–Misappropriation]

“There is no doubt that the wilful misappropriation of a client's funds involves moral turpitude. [Citations.]’ [Citations omitted.]” (*McKnight v. State Bar* (1991) 53 Cal.3d 1025,

1033-1034.) By misappropriating the Ramirezes' filing fees totaling \$870, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 7 –Section 6068(i) [Failure to Cooperate]

By not providing a written response to the allegations or otherwise cooperating in the investigation of this matter, Respondent failed to cooperate in a disciplinary investigation, in willful violation of section 6068(i).

Case No. 08-O-13006 [Ismael Matter]

In or about October 2004, Ismael San Juan Santos (Ismael) employed Respondent to file applications for U.S. citizenship on behalf of his siblings, Angelica San Juan Santos (Angelica), Mario San Juan Santos, Floribeto San Juan Santos, Erasto San Juan Santos, Eleuterio San Juan Santos, and Gavino San Juan Santos. Respondent had previously represented Ismael in obtaining U.S. citizenship and in petitioning on behalf of Ismael's wife. When he hired Respondent, Ismael and Angelica met with Respondent who agreed to represent Ismael in seeking citizenship for his siblings.

At the time he employed Respondent, Ismael paid Respondent \$2,310 in attorney fees and filing fees. Respondent kept the funds and did not turn them over to Velasquez.

Respondent never filed petitions for alien relative for Ismael's siblings to immigrate to the United States. Respondent failed to advise Ismael that he could not file an alien relative petition on behalf of a relative who was present illegally in the United States.

During the period from October 2004 until March 2008, Ismael and Angelica contacted Respondent repeatedly by telephone to inquire about the status of the immigration petitions. Ismael or Angelica spoke to Respondent on multiple occasions during which Respondent

represented to them that Respondent had filed the immigration petitions. When he told Ismael and Angelica that he had filed the immigration petitions, Respondent knew, or was grossly negligent in not knowing, that he had not filed any petitions on behalf of Ismael's siblings.

In or about March 2008, Angelica called to speak to Respondent and learned that Respondent had left his employment with the Velasquez Law Office. At that time, Ismael terminated Respondent's representation and employed Velasquez.

Velasquez discovered that there was no record that Respondent had filed any petitions on behalf of Ismael's siblings. Thereafter, Velasquez filed alien relative petitions for three of Ismael's brothers who were not yet present in the United States.

Respondent did not provide services of any value to Ismael or his siblings. Respondent did not earn any of the advanced fees. At no time did Respondent refund any of the \$2,310 paid by Ismael.

On or about July 16, 2008, Ismael filed a complaint against Respondent with the State Bar. On or about January 29, 2009, a State Bar investigator sent a letter to Respondent regarding Ismael's complaint. The letter was returned by the postal service with the notation "attempted – not known."

Thereafter, more than 30 days elapsed after the mail was returned, but Respondent did not inform the State Bar of a current address where he can be reached.

Count 8 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file the alien relative petitions and/or advise Ismael that he could not file petitions for one or more of his siblings, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 9 – Section 6106 [Moral Turpitude–Misrepresentation]

By misrepresenting the status of the immigration petitions for Ismael’s siblings, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 10 – Rule 3-700(D)(2) [Failure to Refund Unearned Fees]

By not refunding the \$2,310 upon termination of employment, Respondent failed to refund unearned fees promptly upon termination of employment, in willful violation of rule 3-700(D)(2).

Count 11 – Section 6068(j) [Failure to Maintain Address]

Section 6068(j) provides that it is the duty of an attorney to comply with the requirements of section 6002.1. Section 6002.1 requires, in part, that members maintain, on the official membership records of the State Bar, their current office address;⁵ and in the event that a member’s address changes, the member must notify the membership records office of the State Bar within 30 days. By not providing to the State Bar a current address where he can be reached to request a response to the complaint by Ismael, Respondent failed to comply with the requirement that he maintain on the official membership records of the State Bar a current address to be used for State Bar purposes, in willful violation of section 6068(j).

Case No. 08-O-13391 [Delgado Matter]

In or about November 1999, Antelma Delgado (Delgado) employed Respondent to file an appeal to a denied application for cancellation of removal. Eventually, upon remand from the U.S. Court of Appeals, the Board of Immigration Appeals issued a decision on or about October 30, 2003, denying Delgado’s appeal and permitting Delgado to depart voluntarily from the U.S.

⁵ If the member does not maintain an office, then they are required to list the address to be used for State Bar purposes.

within 30 days of the order or thereafter be removed. On or about November 28, 2003, Respondent filed a petition for review in the U.S. Court of Appeal.

On or about February 14, 2004, Delgado married Alexander Collaso (Collaso), a citizen of the United States. At that time, Respondent advised Delgado that, since her father had filed an alien immigrant petition on behalf of Delgado in 1993, Delgado could apply to immigrate through her husband without having to leave the United States. Collaso and Delgado then employed Respondent to file the necessary petition and other forms for Delgado to obtain permanent residence.

Respondent never filed the petition on behalf of Delgado to seek permanent residence based upon her marriage to Collaso.

Between February 2004 and June 2007, Respondent repeatedly told Collaso and Delgado that he had filed Delgado's petition for permanent residence. When Respondent told Delgado and Collaso that he had filed the petition for Delgado to obtain permanent residence based upon her marriage to Collaso, Respondent knew, or was grossly negligent in not knowing, that he had not filed the petition for Delgado.

On or about December 12, 2006, the Court of Appeal denied Delgado's case. On or about January 26, 2007, Respondent filed a motion to stay the mandate so that Respondent could file a motion with the Immigration Court to reopen the case. On or about March 21, 2007, the Court of Appeal granted the motion to stay the issuance of the mandate for 60 days. Thereafter, Respondent did not file a motion to reopen. On or about May 22, 2007, the Court of Appeal issued the mandate.

On or about June 19, 2007, the United States Immigration and Customs Enforcement arrested Delgado. Delgado was removed to Mexico.

In or about December 2007, Delgado and Collaso met with Respondent at his office in California and informed him that Delgado had returned to the United States. Respondent prepared a petition for alien relative immigration which stated under penalty of perjury that Delgado was currently residing at an address in Mexico, and he advised Delgado to sign the petition. Respondent also advised Collaso and Delgado to sign the petition on different dates in order to create the appearance that Delgado was still residing in Mexico. Thereafter, Respondent did not file the petition.

Count 12 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file a petition for Delgado to obtain permanent residence based upon her marriage to Collaso and failing to file a motion to reopen Delgado's immigration case based on these new grounds for relief, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 13 – Section 6106 [Moral Turpitude–Misrepresentation]

By misrepresenting to Delgado and Collaso that he had filed a petition for Delgado to obtain permanent residence based upon her marriage to Collaso, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 14 – Section 6106 [Moral Turpitude–Advising Misrepresentation]

By advising Delgado to misrepresent under penalty of perjury in an immigration petition that she was residing in Mexico when she had returned to the United States, Respondent committed acts involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Case No. 08-O-13394 [Lopez Matter]

On or about March 7, 2006, Samuel Lopez (Lopez) employed Respondent to file petitions for permanent residence for four of Lopez's children. During the months of March through June 2006, Lopez paid Respondent \$1,000 in advanced fees and \$750 in advanced costs for Respondent to file the petitions.

From in or about March 2006 to August 2008, Lopez and his wife, Maria Estrada Lopez, contacted Respondent by telephone on multiple occasions to inquire about the status of the petitions. Respondent told them at various times that he was working on the petitions or that they would have to call back later.

Respondent never filed the petitions to seek permanent residence for Lopez's four children.

In or about August 2008, Lopez met with Velasquez and learned that Respondent had not filed any petitions seeking permanent residence for his children. Thereafter, Velasquez filed petitions for three of the Lopez children. A change in circumstances since 2006 concerning one of the children, however, potentially disqualified him for approval, and the decision was made not to file a petition on his behalf which could result in removal proceedings against him.

Count 15 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file the petitions seeking permanent residence for Lopez's children, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Case No. 08-O-13398 [Marquez-Lopez Matter]

Beginning in or about 1992, Gracia Cristina Marquez-Lopez (Marquez-Lopez) employed Respondent to represent her in a removal proceeding before the U.S. Immigration Court. Thereafter, the removal proceeding was administratively closed.

On or about June 25, 2006, Marquez-Lopez married Manuel Montero, a U.S. citizen. On or about March 23, 2007, Marquez-Lopez employed Respondent to represent her in an immigration petition. On or about August 23, 2007, Respondent filed with the United States Citizenship and Immigration Service (USCIS) a petition on behalf of Marquez-Lopez for adjustment of status based upon her marriage.

On March 27, 2008, Marquez-Lopez and Respondent attended an adjustment interview with the USCIS at which time the immigration officer told them that the USCIS did not have jurisdiction until the removal proceedings in Immigration Court were terminated. The USCIS gave Respondent until May 9, 2008, to submit evidence that Marquez-Lopez's removal proceedings were terminated. Respondent told Marquez-Lopez that he would have the removal proceedings terminated and submit the necessary evidence to the USCIS.

Prior to the May 9, 2008, deadline, Marquez-Lopez contacted Respondent by telephone and inquired about the status of her case. At that time, Respondent told Marquez-Lopez that he had submitted the papers to terminate the removal proceedings. When he told Marquez-Lopez that he had submitted the papers to terminate her removal proceeding, Respondent knew, or was grossly negligent in not knowing, that he had not filed the papers to terminate the removal proceedings.

Respondent never filed paperwork with the Immigration Court seeking to terminate the removal proceeding. Respondent never submitted proof of termination of the removal proceeding to the USCIS.

On August 1, 2008, the USCIS mailed to Respondent a request for a copy of Marquez-Lopez's marriage certificate to her first husband, Ramon Talamantes, and gave Respondent until September 1, 2008, to submit the marriage certificate to the USCIS. The USCIS also sent a copy of the request to Marquez-Lopez's husband, Manuel Montero, at the address where Marquez-Lopez and he resided, and she received the notice. Between August 1, 2008 and August 26, 2008, Montero called Respondent approximately seven times to determine if Respondent had submitted the marriage certificate to the USCIS, but Respondent did not answer his phone. On August 26, 2008, Montero submitted the marriage certificate to the USCIS without Respondent's assistance.

On or about August 20, 2008, Marquez-Lopez employed Velasquez to represent her.

On or about August 20, 2008, Velasquez sent a letter to Respondent requesting Marquez-Lopez's file. Respondent received the letter, but did not communicate with Velasquez or Marquez-Lopez to arrange for the release of Marquez-Lopez's file.

On or about August 27, 2008, the USCIS mailed a notice to Respondent and to Manuel Montero that they were unable to make a decision on the adjustment of status application since the removal proceedings had only been administratively closed, and the USCIS gave a final extension until October 27, 2008, to submit evidence that the removal proceedings had been terminated.

Count 16 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to seek termination of the removal proceedings, failing to submit evidence to the USCIS regarding termination of the removal proceedings, and failing to submit the marriage certificate to the USCIS, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 17 – Section 6106 [Moral Turpitude–Misrepresentation]

By misrepresenting to Marquez-Lopez that he had taken steps to terminate the removal proceedings, Respondent committed acts involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 18 – Rule 3-700(D)(1) [Failure to Release File]

Rule 3-700(D)(1) states that a member whose employment has terminated shall promptly release to the client, at the request of the client, all the client papers and property. By not releasing the client file to Velasquez or Marquez-Lopez, Respondent failed, upon termination of employment, to release promptly to a client, at the request of the client, all the client papers, in willful violation of rule 3-700(D)(1)

Case No. 09-O-10644 [Dhami Matter]

In or about 2001, Tarlok S. Dhami (Dhami) employed Respondent to represent him in filing with the USCIS an I-130 Immigrant Visa Petition (I-130) so that Dhami’s brother, Sukhuir Singh (Sukhuir), could immigrate to the United States.

On or about April 30, 2001, Respondent filed the I-130 petition for Sukhuir to immigrate.

On or about August 29, 2003, Dhami employed Respondent to file an I-130 for another brother, Satuir Singh (Satuir), to immigrate to the United States. At that time Dhami paid

Respondent \$470 in advanced fees and \$130 in advanced costs for Respondent to handle the petition and received a receipt from Respondent.

At no time did Respondent file an I-130 petition for Satuir to immigrate.

On or about August 26, 2005, Dhami employed Respondent to file an I-130 for Dhami to petition for parents-in-law, Rupinder Dhami (Rupinder) and Surinder Kaur (Surinder) to immigrate to the United States. At that time, Dhami paid Respondent \$870 in advanced fees.

At no time did Respondent file I-130 petitions for Rupinder and Surinder to immigrate to the United States.

On or about April 7, 2006, the USCIS sent a notice of denial of Sukhuir's petition to Respondent. Respondent received the notice. Respondent never told Dhami that Sukhuir's petition had been denied.

On or about August 3, 2006, Respondent told Dhami that Respondent had filed I-130s for Satuir, Rupinder, and Surinder with the USCIS. When Dhami requested proof of the filing, Respondent told him that he had did not have proof because he had sent the petitions by regular mail.

When Respondent told Dhami on or about August 3, 2006, that Respondent had filed I-130 petitions for Satuir, Rupinder, and Surinder with the USCIS, Respondent knew, or was grossly negligent in not knowing, that he had not filed those petitions.

On or about that same date, August 3, 2006, Dhami contacted the USCIS and learned that no I-130 petitions had been filed on behalf of Satuir, Rupinder, and Surinder.

On or about November 17, 2008, Dhami contacted the USCIS and learned that the petition for Sukhuir had been denied by USCIS on April 7, 2006.

Count 19 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file the I-130 petitions for Satuir, Rupinder, and Surinder and failing to inform Dhami that Sukhuir's petition had been denied, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 20 – Section 6106 [Moral Turpitude–Misrepresentation]

By misrepresenting to Dhami the status of the I-130 petitions, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Case No. 09-O-11081 [Cuevas-Morales Matter]

On or about December 9, 2005, Rogelia Cuevas-Morales (Cuevas-Morales) employed Respondent to file for her an I-485 application for permanent residence with the USCIS. At that time, Cuevas-Morales paid Respondent \$1,895 for attorney fees and filing fees. Cuevas-Morales and her husband had previously filed an I-130 petition in 1997 for her to immigrate and that petition had been approved, but Respondent had not represented them in that matter.

After employing Respondent, Cuevas-Morales met with Respondent several times and provided documents and information. Respondent never informed her that she needed to provide additional information before he could file.

Thereafter, Cuevas-Morales called Respondent and visited his office periodically to check on her case. Respondent told her that he had filed her application and that it was proceeding smoothly. At no time did Respondent file the I-485 application for permanent residence for Cuevas-Morales. When Respondent told Cuevas-Morales that he had filed the I-145 petition for permanent residence with the USCIS, Respondent knew, or was grossly negligent in not knowing, that he had not filed a petition on behalf of Cuevas-Morales.

In or about February 2008, Cuevas-Morales called the Velasquez Law Office and learned that Respondent no longer worked there. She went to Respondent's new office and spoke to him. Respondent told her that he was going to court, and he directed Cuevas-Morales to return to his old office and request her client file so he could review it. When Cuevas-Morales went back to Respondent's former office, she was informed by Velasquez that Respondent had not left a file for Cuevas-Morales. Cuevas-Morales then employed Velasquez to represent her.

Count 21 – Rule 3-110(A) [Failure to Perform with Competence]

By failing to file the I-485 application for permanent residence on behalf of Cuevas-Morales, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

Count 22 – Section 6106 [Moral Turpitude–Misrepresentation]

By misrepresenting to Cuevas-Morales the status of the 1-145 petition, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Case No. 09-O-12104 [Lopez-Melara Matter]

On or about January 14, 2008, Carlos Lopez-Melara (Lopez-Melara) employed Respondent to file an application for naturalization on his behalf with the USCIS. At that time, Lopez-Melara paid Respondent \$675 in advanced costs and \$100 in advanced fees toward a total fee of \$1,000. Respondent told Lopez-Melara to return in 15 days with his passport.

On or about January 30, 2008, Respondent left his employment with the Velasquez Law Office. When he left, Respondent kept the funds paid to him by Lopez-Melara. Respondent did not notify Lopez-Melara of his new address.

Thereafter, when Lopez-Melara called to speak to Respondent, he learned that Respondent no longer worked in that office.

At no time did Respondent file an application for naturalization for Lopez-Melara with the USCIS. Respondent withdrew from representation of Lopez-Melara without giving notice to Lopez-Melara.

Respondent never returned to Lopez-Melara the \$675 paid as advanced costs to file the application for naturalization. Respondent dishonestly or with gross negligence misappropriated the advanced costs.

Respondent did not provide services of any value to Lopez-Melara. Respondent did not earn any of the advanced fees paid by Lopez-Melara. At no time did Respondent refund any of the \$100 paid by Lopez-Melara.

Count 23 – Rule 3-700(A)(2) [Improper Withdrawal]

Rule 3-700(A)(2) provides that an attorney may not withdraw from employment until taking reasonable steps to avoid foreseeable prejudice to the client's rights. By moving his office without informing Lopez-Melara, Respondent withdrew from representation without taking reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of rule 3-700(A)(2).

Count 24 – Section 6106 [Moral Turpitude–Misappropriation]

By misappropriating the \$675 advanced costs paid by Lopez-Melara, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of section 6106.

Count 25 – Rule 3-700(D)(2) [Failure to Refund Unearned Fees]

By not refunding the \$100 advanced fee to Lopez-Melara upon withdrawing from employment, Respondent failed to return unearned fees upon termination of employment, in willful violation of rule 3-700(D)(2).

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b).)⁶ The court finds the following with regard to aggravating factors.

Multiple Acts of Misconduct/Pattern of Misconduct

Respondent’s multiple acts of misconduct, demonstrating a pattern of misconduct, are an aggravating factor. (Std. 1.2(b)(ii).)

Significant Harm

Respondent’s misconduct has caused serious financial harm to his clients. Respondent failed to refund unearned fees to three clients and misappropriated monies belonging to two clients.

Lack of Participation in Disciplinary Proceeding

Respondent’s failure to participate in this disciplinary proceeding before the entry of his default is also an aggravating factor. (Std. 1.2(b)(vi).) Although Respondent was aware of the disciplinary charges and sought unsuccessfully to resign as a result of them, he eventually failed to file an answer to the NDC and then failed to participate any further in the proceeding after his resignation effort was rejected. Such conduct by Respondent is an aggravating factor.⁷

⁶ All further references to standard(s) or std. are to this source.

⁷ However, because of the nexus between this aggravating circumstance and Respondent’s culpability for violating section 6068(i), the court gives this aggravating factor

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Standard 1.2(e).) No mitigating factors were shown by the evidence presented to this court. However, the court takes judicial notice of the fact that Respondent has not been previously disciplined since being admitted to the bar in August 1994. Because there was a period of more than ten years of practice before any of the above misconduct began, Respondent is entitled to “full” and “significant” mitigation credit for that prior practice. (See *Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [entitled to significant credit]; *In the Matter of Loftus* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80, 88 [“entitled to full credit”]; *In the Matter of Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585, 589 [twelve years-“important mitigating circumstance].)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, this court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The court then looks to the decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.) As the Review Department noted more than 18 years ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419,

only slight weight. (*In the Matter of Bailey* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220, 225.)

even though the standards are not be applied in a talismanic fashion, they are to be followed unless there is a compelling reason that justifies not doing so. (Accord, *In re Silverton* (2005) 36 Cal.4th 81, 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.6(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. Standards 2.2(a), 2.3, and 2.4, among others, apply in this matter. Standard 2.2(a) recommends disbarment for willful misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or unless the most compelling mitigating circumstances clearly predominate. Standard 2.3 provides: “Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person 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.” Standard 2.4 (a) provides: “Culpability of a member of a pattern of wilfully failing to perform services demonstrating the member's abandonment of the causes in which he or she was retained shall result in disbarment.”

The State Bar contends that disbarment of Respondent is called for by both the case law and the standards and that such is necessary to protect both the public and the profession. This court agrees. Based on Respondent’s egregious and repeated misconduct, his failure to

participate in the present proceedings, the court finds that there is no reason to deviate from the standards and that disbarment is necessary both to properly protect the public and to assure the integrity of the profession.

RECOMMENDED DISCIPLINE

Disbarment

The court recommends that Respondent **James Robert Patterson**, Member No. 171580, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

Restitution

It is further recommended that Respondent make restitution to the following former clients within 30 days following the effective date of the Supreme Court order in this matter or within 30 days following the Client Security Fund payment, whichever is later (Rules Proc. of State Bar, rule 5.136):

- (1) To Ramiro Ramirez in the amount of \$1,700.00, plus 10% interest per annum from January 30, 2008 (or to the Client Security Fund to the extent of any payment from the fund to Ramiro Ramirez, plus interest and costs, in accordance with Business and Professions Code section 6140.5);
- (2) To Ramiro Ramirez in the amount of \$870.00, plus 10% interest per annum from January 30, 2008 (or to the Client Security Fund to the extent of any payment from the fund to Ramiro Ramirez, plus interest and costs, in accordance with Business and Professions Code section 6140.5);
- (3) To Ismael San Juan Santos in the amount of \$2,310.00, plus 10% interest per annum from January 30, 2008 (or to the Client Security Fund to the extent of any payment from the fund to Ismael San Juan Santos, plus interest and costs, in accordance with Business and Professions Code section 6140.5);
- (4) To Carlos Lopez-Melara in the amount of \$675, plus 10% interest per annum from January 30, 2008 (or to the Client Security Fund to the extent of any payment from the fund to Carlos Lopez-Melara, plus interest and costs, in accordance with Business and Professions Code section 6140.5); and

Rule 9.20

The court further recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007(c)(4), it is ordered that **James Robert Patterson**, Member No. 171580, be involuntarily enrolled as an inactive member

of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)⁸

Dated: August _____, 2011.

DONALD F. MILES
Judge of the State Bar Court

⁸ An inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b); see also Bus. & Prof. Code, § 6125.) It is a crime for an attorney who has been enrolled inactive (or disbarred) to practice law, to attempt to practice of law, or to even hold himself or herself out as entitled to practice law. (*Ibid.*) Moreover, an attorney who has been enrolled inactive (or disbarred) may not lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Ibid.*; *Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)