ORIGINAL

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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT

Counsel For The State Bar	Case Number(s):	For Court use only
Kimberly G. Anderson The State Bar of California 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1083 Bar # 150359	09-O-16006-DFM 10-O-01785 10-O-02046 10-O-02822 10-O-02824 10-O-03049 10-O-03230 10-O-03260 10-O-03680 10-O-03689 10-O-03923 10-O-05257 10-O-06352 10-O-06353	FILED SEP 27 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES PUBLIC MATTER
Counsel For Respondent Edgar C. Johnson, Jr. Voss & Johnson 111 Pacifica, Suite 130 Irvine, CA 92618 (949) 472-5433 Bar # 145153	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT **DISBARMENT** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: John Michael Harrison Bar # 144964 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 December 13, 1989.

(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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (29) pages, not including the order.

(4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(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):

☒ Costs to be awarded to the State Bar.
☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
☐ Costs are entirely waived.

(9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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**

(a) ☐ State Bar Court case # of prior case

(b) ☐ Date prior discipline effective

(c) ☐ Rules of Professional Conduct/ State Bar Act violations:

(d) ☐ Degree of prior discipline

(e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:

See Stipulation Attachment at page 26.

(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.
See Stipulation Attachment at page 27.

(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 Stipulation Attachment at page 27.

(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 Stipulation Attachment at page 27.

D. Discipline: Disbarment.

E. Additional Requirements:

(1) **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.

(2) ☒ **Restitution:** Respondent must make restitution to see attached in the amount of $ see attached plus 10 percent interest per year from see attached. If the Client Security Fund has reimbursed see attached for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than see attached days from the effective date of the Supreme Court order in this case.

(3) ☐ **Other:**

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	John Michael Harrison
CASE NUMBER(S):	09-O-16006-DFM, 10-O-01785; 10-O-02046; 10-O-02822; 10-O-02824; 10-O-03049; 10-O-03230; 10-O-03260; 10-O-03680; 10-O-03689; 10-O-03923; 10-O-05257; 10-O-06352; 10-O-06353

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on September 7, 2010 and the facts and/or conclusions of law contained in the stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

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.

General Factual Background Pertaining to All Cases

FACTS:

1. In 2009, Respondent's law office was located at 231 S. Lakeview Dr., Suite A, Placentia, CA 92870 (the "Placentia address"). The Placentia address was utilized by Respondent to provide loan modification services through the "Law Office of John M. Harrison" ("Respondent's law office"). At all times stated herein, Respondent was the only attorney associated with Respondent's law office, and Respondent was responsible for supervising his employees at Respondent's law office.

2. In June 2009, Respondent was experiencing a number of medical problems which impacted his ability to practice law. He had suffered a stroke, and was experiencing fatigue and loss of vision in the right eye secondary to diabetic retinopathy and associated bleeding. As a result of these medical problems, Respondent was not properly supervising Respondent's law office, and he was permitting non-attorneys to practice law as detailed more fully below.

3. On July 29, 2009, attorney Thomas Damien Pamilla ("Pamilla") established Waypoint Law Group, Inc. ("Waypoint") to provide loan modification services. Waypoint's principal place of business was 17305 Daimler Street, Irvine, California 92614 ("the Daimler Street office").

4. On September 21, 2009, Respondent recorded a Fictitious Business Name Statement stating that he was the President of Waypoint.

5. On September 23, 2009, Respondent and Pamilla entered into an "Agreement to Purchase Waypoint Law Group, Inc." ("the Agreement"). Pursuant to the Agreement, Respondent agreed to purchase "all the properties, assets and rights" of Waypoint for $17,000. At all times stated herein after September 23, 2009, Respondent was the only attorney associated with Waypoint, and Respondent was responsible for supervising his employees at Waypoint. At all times stated herein, Respondent permitted Waypoint to be identified to clients and to the public as a "law firm" providing "legal services" and accepting payment of "legal fees" or "attorney's fees." Even though Respondent had significant medical issues beginning in June 2009, and even though he was not properly supervising Respondent's law office, Respondent agreed to purchase and start running Waypoint.

6. After purchasing Waypoint, Respondent continued to operate the Waypoint office out of the 17305 Daimler Street office. Respondent also continued to handle loan modifications through his law office.

7. On December 18, 2009, Respondent also began providing loan modification services from an address at 1901 E. 4th Street #200, Santa Ana, CA 92701 (the "Santa Ana" address).

8. By April 2010, Respondent had moved out of the 17305 Daimler Street address without notice to his clients.

9. By June 2010, Respondent had also vacated his Santa Ana office without giving notice to his clients.

Case No. 09-O-16006 (Complainant: David Quinones)

FACTS:

10. In May 2009, David Quinones ("Quinones") called Respondent's law office and spoke to Mitch Dow ("Dow"), a non-attorney senior case manager, about obtaining a home mortgage loan modification. Dow represented to Quinones that Respondent's law office could get Quinones's second mortgage "dropped" and could obtain an interest rate reduction on the first mortgage. In addition, Dow advised Quinones that if Quinones paid Respondent, Quinones would not have to make his mortgage payments for two or three months.

11. In May 2009, Quinones received a letter from Respondent's law office regarding his services. The letter stated that "[They] can send your lender a cease and desist immediately. This stops foreclosure, stops the phone calls and keeps you in the home. We let them know we are representing you."

12. On May 15, 2009, Quinones signed a retainer agreement with Respondent and authorized Respondent to take $3,750 in advanced legal fees from his bank account. On May 23, 2009, the $3,750 was removed from Quninones's account.

13. From May 2009 to mid-August 2009, Quinones called Respondent's law office numerous times, leaving messages inquiring about the status of his loan modification. Neither Respondent nor anyone from Respondent's law office responded to the calls.

14. On July 2, 2009, Kimberly Shipton ("Shipton"), a senior negotiator and non-attorney in Respondent's law office, faxed a third-party authorization to Quinones's lender. Thereafter, Respondent and his law office had no further contact with Quinones's lender.

15. In August 2009, Quinones was able to reach someone at Respondent's law office who informed Quinones that one his of his lenders wanted $20,000 from Quinones, or they would start foreclosure proceedings. However, Respondent's law office did not provide Quinones with anything in writing. In August 2009, Quinones telephoned Respondent's law office and requested to speak with Respondent about the status of his case.

16. In August 2009, after being unable to speak to Respondent on the telephone, Quinones drove to Respondent's law office, but he was not able to see or talk to Respondent. While in Respondent's office, Quinones requested a refund. Respondent's employee, "Melanie," initially told Quinones that she would write Quinones a check for a full refund. Quinones was later told by Shipton that he was not entitled to a refund because Quinones's second lender agreed to $17,700 pay off. However, Quinones never received any written evidence of a settlement offer or of a loan modification.

17. On September 5, 2009, Quinones received a notice of foreclosure from his lender and subsequently filed for bankruptcy.

18. Respondent did not provide any services of value to Quinones.

19. Respondent failed to supervise his non-attorney employees, including but not limited to Dow, Shipton and "Melanie."

20. To date, Respondent has not refunded any portion of the $3,750 in legal fees to Quinones.

CONCLUSIONS OF LAW:

21. By not performing any legal services of value to Quinones, and by failing to supervise his non-attorney employees, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

22. By not properly responding to Quinones's inquiries regarding his loan modification matter, Respondent willfully failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code, section 6068(m).

23. By not refunding the $3,750 in unearned attorney fees to Quinones despite his request, Respondent willfully 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).

24. By permitting his non-attorney employees to perform legal services on behalf of Quinones, Respondent aided those non-attorney employees in the unauthorized practice of law in willful violation of Rules of Professional Conduct, rule 1-300(A).

Case No. 10-O-01785 (Complainant: Jane Petrozzi)

FACTS:

25. In October 2009, Jane Petrozzi ("Petrozzi"), a California resident, received an unsolicited mailing from Waypoint advertising its loan modification services. Since Petrozzi was experiencing financial hardship, she contacted Waypoint.

26. In October 2009, Petrozzi spoke to Jim Helman ("Helman"), a non-attorney client intake specialist with Waypoint. Helman told Petrozzi that Waypoint could reduce the principal on her mortgage loan from $557,000 to $400,000 and could reduce Petrozzi's mortgage interest rate to a fixed 2% rate.

27. Relying on Helman's representation, on October 9, 2009, Petrozzi entered into a retainer agreement with Waypoint whereby Waypoint agreed to perform legal services to seek and negotiate a loan modification on her behalf.

28. On October 14, 2009, Petrozzi paid Waypoint $4,650 in advanced attorney's fees. In October 2009, Petrozzi provided Waypoint with all of the requested documentation.

29. Respondent collected $4,650 from Petrozzi prior to completing all of the loan modification services he had agreed to perform.

30. On November 17, 2009, Richlyn Graf ("Graf"), a non-attorney negotiator for Waypoint, faxed a Third-Party Authorization and Agreement to Release to First Horizon Home Loan authorizing Waypoint to act on behalf of Petrozzi. In addition, Graf faxed documentation to First Horizon in support of Petrozzi's loan modification request. Thereafter, Waypoint had no further contact with First Horizon on Petrozzi's behalf.

31. On December 2, 2009, Petrozzi emailed Graf requesting the status of her loan modification. Graf did not respond to the email.

32. In December 2009, Petrozzi contacted Waypoint on multiple occasions leaving voicemail messages regarding her loan modification but neither Respondent nor his employees responded to the telephone calls.

33. On December 14, 2009, Petrozzi called Waypoint and found the telephone number disconnected. She also tried to access the Waypoint website and found it no longer existed. Petrozzi then contacted her lender, who told her they had not heard from Waypoint. By December 14, 2009, Respondent effectively withdrew from employment.

34. On December 30, 2009, First Horizon wrote Petrozzi urging her to submit financial documentation to their Loss Mitigation Department.

35. Respondent did not obtain a loan modification for Petrozzi and did not provide any legal services of value to Petrozzi in connection with negotiating and obtaining a home loan modification on her behalf.

36. Respondent failed to supervise his non-attorney employees, including but not limited to Helman and Graf.

37. To date, Respondent has not refunded the $4,650, which he collected $4,650 from Petrozzi prior to completing all of the loan modification services he had agreed to perform in violation of California Civil Code section 2944.7(a)(1).

CONCLUSIONS OF LAW:

38. By not performing any legal services of value for Petrozzi, and by failing to supervise his employees, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

39. By permitting his non-attorney employees to perform legal services on behalf of Quinones, Respondent aided those non-attorney employees in the unauthorized practice of law in willful violation of Rules of Professional Conduct, rule 1-300(A).

40. By not responding to Petrozzi's email and telephone calls, Respondent willfully failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code, section 6068(m).

41. By agreeing to negotiate a mortgage loan modification for Petrozzi and collecting $4,650 from Petrozzi in fees when he had not completed all loan modification services he had agreed to perform, Respondent negotiated, arranged or otherwise offered to perform a mortgage loan modification for a fee paid by the borrower, and demanded, charged, collected or received such fee prior to fully performing each and every service Respondent had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code. Respondent thereby willfully violated Business and Professions Code section 6106.3.

42. By disconnecting his telephone number, by taking down his website and by ceasing communication with Petrozzi, Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2).

Case No. 10-O-02046 (Complainants: Annette Kaipo and Jesse Valera)

FACTS:

43. Respondent is not presently admitted to practice law in Hawaii and has never been admitted to practice law in Hawaii.

44. Hawaii Rules of Professional Conduct, Rule 5.5, Unauthorized Practice of Law, states that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; ..."

45. Pursuant to Hawaii Rev. Stat. § 605-14, Unauthorized practice of law provides that, "It shall be unlawful for any person, firm, association, or corporation to engage in or attempt to engage in or to offer to engage in the practice of law, or to do or attempt to do any act constituting the practice of law,

except and to the extent that the person, firm, or association is licensed or authorized so to do by an appropriate court, agency, or office or by a statute of the State or of the United States."

46. The Hawaii Supreme Court has stated "that agreeing to represent a client and accepting retainer fees, appearing before the Hawai'i Paroling Authority on behalf of a client, preparing and signing, as a client's attorney, a motion to continue a case, and making an appearance in court as counsel for a client were aspects of 'the practice of law.'" *Office of Disciplinary Counsel v. Lau* (1997) 85 Haw. 212 [941 P.2d 295]

47. In September 2009, Jesse Valera and Annette S. Kaipo, residents of Hawaii, received an unsolicited mailing from Waypoint notifying them they had been pre-selected for a loan modification.

48. On September 23, 2009, they called the number on the advertisement and spoke to Brandon Hossli ("Hossli"), a non-attorney employee from Waypoint. Hossli told Valera and Kaipo that Waypoint charged a flat fee of $4,450 for a loan modification. Hossli also mentioned that some Waypoint clients did not pay their monthly mortgage to pay the fee to Waypoint.

49. After Hossli told Valera and Kaipo they were "pre-qualified," Valera agreed to hire Waypoint for loan modification services. On September 24, 2009, Valera issued two checks to Waypoint for $2,225 each – one dated September 24, 2009 and one post dated for October 24, 2009. On September 30, 2009, Waypoint cashed the first check.

50. On October 13, 2009, Valera and Kaipo sent all the requested documentation to Waypoint via overnight mail.

51. On October 24, 2009, Hossli called Valera and Kaipo to tell them that Waypoint had lost the October 24, 2009 check and would debit $2,175 from their account.

52. On October 26, 2009, Waypoint collected $2,175 in advanced legal fees from Valera's account through a third-party entity entitled "DLD Consulting."

53. On October 27, 2009, Travis Crawford ("Crawford"), a non-attorney employee from Waypoint told Kaipo and Valera that Bank of America was processing the loan modification and advised them not to speak to the bank because any type of discussion could jeopardize Waypoint's negotiation with the bank.

54. In November 2009, Bank of America told Kaipo that they had received documents from Waypoint but advised Kaipo to obtain a loan modification directly from Bank of America because there would be no fee.

55. On November 5, 2009, Kaipo spoke to Rose from Waypoint who confirmed that Respondent was the attorney for Waypoint.

56. On November 10, 2009, Kaipo received a copy of a check reflecting the $2,175 withdrawal from Valera's account and found that it was made payable to DLD Consulting rather than Waypoint. Valera and Kaipo filed a claim for reimbursement for the $2,175 in funds claiming they had not done business with DLD Consulting and they received a refund of that withdrawal from Bank of America.

But Respondent never refunded the initial $2,255 in legal fees he had accepted from Valera on September 24, 2009.

CONCLUSIONS OF LAW:

57. By accepting the representation of Valera and Kaipo, Hawaii residents, for loan modification services, and by accepting advanced legal fees in a jurisdiction where he was not entitled to practice law, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

58. By entering into an agreement to charge and by collecting $4,450 in legal fees from Valera in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-02822 (Complainant: Rachel Jernigan)

FACTS:

59. Respondent is not presently admitted to practice law in Illinois and never has been admitted to practice law in Illinois.

60. Illinois Rules of Professional Conduct, Rule 5.5(a), states that "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so."

61. Illinois statute 705 ILCS 205/1 [License required], states that "No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose form the Supreme Court of this State." Illinois statute 705 ILCS 205/1 also states, "No person shall receive any compensation directly or indirectly for any legal services other than a regularly licensed attorney, nor may an unlicensed person advertise or hold himself or herself out to provide legal services."

62. In addition, an Illinois State Bar Association advisory opinion on Professional Conduct, Opinion 94-02 (1994 WL 904175), held that letters from an out-of state attorney to Illinois residents soliciting personal injury cases amounted to, at least, a tentative offer to provide legal services within the state and as a result, constituted engaging in the unauthorized practice of law.

63. In October 2009, Rachel Jernigan ("Jernigan"), an Illinois resident, received a cold call from John Williams ("Williams"), a non-attorney senior modification specialist from Waypoint. During the conversation, Williams represented to Jernigan that she could receive a loan modification even though she had bad credit and the home loan in question was under the name of Jernigan's sister. Williams also represented to Jernigan that Waypoint could reduce Jernigan's monthly mortgage payment from $1,400 a month to $900 a month. Williams also promised Jernigan that the home mortgage loan could be transferred from her sister's name to Jernigan's name.

64. Williams told Jernigan that a loan modification would cost $1,200. After Jernigan told Williams she only had $700, Williams told Jernigan that Waypoint would accept the $700.

65. On November 10, 2009, Waypoint debited $700 from Jernigan fiancé's account, and Jernigan's sister provided Waypoint with all the requested paperwork. Thereafter, Jernigan had no further contact with Williams or with anyone else from Waypoint.

66. Jernigan's sister contacted the lender and learned that no documents for a loan modification had been submitted by Waypoint. Subsequently, Jernigan's sister took over the house payments so the home would not go into foreclosure.

67. To date, Respondent has not refunded the $700 in legal fees he accepted from Jernigan.

CONCLUSIONS OF LAW:

68. By soliciting Jernigan, an Illinois resident, for loan modification services and by agreeing to represent Jernigan, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

69. By charging and collecting legal fees from Jernigan in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-02824 (Complainant: Jeffrey Fletcher)

FACTS:

70. Respondent is not presently admitted to practice law in Virginia and has never been admitted to practice law in Virginia.

71. Virginia Rules of Professional Conduct, Rule 5.5(c), Unauthorized Practice of Law, Multijurisdictional Practice of Law, states that "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so."

72. Virginia Rules of Professional Conduct, Rule 5.5(d)(1), defines a "Foreign Lawyer" as the following: "'Foreign Lawyer' is a person authorized to practice law by the duly constituted and authorized governmental body of any State or Territory of the United States or the District of Columbia, or a foreign nation, but is neither licensed by the Supreme Court of Virginia or authorized under its rules to practice law generally in the Commonwealth of Virginia, nor disbarred or suspended from practice in any jurisdiction."

73. Pursuant to Virginia Rules of Professional Conduct, Rule 5.5(d)(3), a "Foreign Lawyer" may provide legal services on an temporary and occasional basis in Virginia only after informing clients and interested third parties in writing: "(i) that the lawyer is not admitted to practice law in Virginia; (ii) the jurisdiction(s) in which the lawyer is licensed to practice, and (iii) the lawyer's office address in the foreign jurisdiction."

74. Virginia Rules of Professional Conduct, Rule 5.5(d)(4) provides circumstances where a Foreign Lawyer, may provide legal services on a temporary and occasional basis in Virginia, but only after complying with rule 5.5.(d)(3). Respondent did not satisfy the requirements to practice law in Virginia as a "Foreign Lawyer."

75. On September 26, 2009, Jeffery Fletcher, a resident of Virginia, called Waypoint and spoke to non-attorney Waypoint employee Duey Pham ("Pham") about obtaining a loan modification.

76. On September 28, 2009, Pham sent an email to Fletcher stating that Fletcher had been "pre-approved" for a loan modification with an interest rate from 2.5% and 3% and stating that Fletcher's monthly payment would be lowered from $1,500 to $750 a month. In the email, Pham told Fletcher that Waypoint's services were guaranteed – if they did not receive a loan modification, the Fletchers would be entitled to a refund.

77. On September 29, 2009, Fletcher employed Waypoint for loan modification services and faxed all the necessary financial information to Waypoint.

78. On October 1, 2009, U.S. Homeowners Relief, which also did business as Waypoint, debited $1,995 from Fletcher's account. Soon after the payment was made, Pham advised Fletcher not to make any mortgage payments until December 2009. Thereafter, Respondent and Waypoint performed no legal services on Fletcher's behalf.

79. From December 2, 2009 to December 9, 2009, Fletcher called Waypoint's office on several occasions and left messages asking for a return call. No one from Waypoint returned his calls. Fletcher's wife also sent an email to Pham but did not receive a response.

80. In December 2009, Fletcher contacted his lender and learned that Waypoint had not submitted a loan modification request on his behalf.

81. In December 2009, Fletcher contacted his lender, Bank of America, to obtain information regarding obtaining a loan modification on his own.

82. In April 2010, Bank of America approved Fletcher for a loan modification, but only due to Fletcher's own efforts and not as the result of any services provided by Respondent.

83. To date, Respondent has not refunded any portion of the $1,995 in legal fees to Fletcher. collected.

CONCLUSIONS OF LAW:

84. By accepting the representation of Fletcher, a Virginia resident, for loan modification services, any by accepting advanced legal fees from Fletcher to perform loan modification services in a jurisdiction where he was not permitted to practice law, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

85. By charging and collecting legal fees from Fletcher in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03049 (Complainant: Daniel and Imelda Donaldson)

FACTS:

86. Respondent is not presently admitted to practice law in Texas and never has been admitted to practice law in Texas.

87. Texas Rules of Professional Conduct, Rule 5.05 Unauthorized Practice of Law, states that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in the jurisdiction; ..."

88. Pursuant to Texas Code § 81.101 (a), ... "the 'practice of law' means the preparation of a pleading or other documents incident to an action or special proceedings or the management of the action or proceedings on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skills or knowledge ...

89. In *In re Zuniga*, a Texas bankruptcy court determined that a California law office that delivered its services to an out-of-state client via telephone and emails was practicing law in Texas and under Texas law, the law office and its lawyer were engaged in the unauthorized practice of law. In re Zuniga (2005) 332 B.R. 760.

90. At all relevant times, Daniel and Imelda Donaldson were Texas residents.

91. On May 25, 2009, the Donaldsons received a call from non-attorney Sean Perry ("Perry") from Respondent's law office offering loan modification services. Perry promised the Donaldsons that Respondent would represent them through all phases of the loan modification.

92. On June 2, 2009, Daniel Donaldson signed a retainer agreeing to hire Respondent's law office for loan modification services.

93. Perry advised the Donaldsons not to communicate with their lender and not to make their mortgage payments for two months so that their mortgage with Bank of America would be delinquent.

94. On June 4, 2009, Respondent debited $1,000 for advanced legal fees from the Donaldsons' bank account. On July 2, 2009, Respondent debited a second $1,000 for advanced legal fees from the Donaldsons' bank account.

95. On December 3, 2009, Perry called Daniel Donaldson to advise him that Respondent had not been working on Donaldson loan modification because Respondent had moved his office.

96. On January 19, 2010, Imelda Donaldson wrote Respondent a letter requesting a refund. Respondent received the letter but failed to respond and failed to provide a refund. On January 19, 2010, Imelda Donaldson also emailed a copy of the letter to Respondent's email address. Respondent received the email, but failed to respond.

97. To date, Respondent has not refunded any portion of the $2,000 in legal fees to the Donaldsons.

CONCLUSIONS OF LAW:

98. By accepting the representation of the Donaldsons, Texas residents, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

99. By charging and collecting legal fees from the Donaldsons in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03230 (Complainant: Kimberly Gifford)

FACTS:

100. Respondent is not presently admitted to practice law in New York and has never been admitted to practice law in New York.

101. New York Rules of Professional Conduct, Rule 5.5(a), Unauthorized Practice of Law, states that "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction."

102. Pursuant to New York Code section 478, Practicing or Appearing as Attorney-at-law Without Being Admitted and Registered, provides that, "It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself in a court of record in this state, ... or to hold himself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he is a legal practitioner of law or in any manner to advertise that he either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of law, without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath."

103. In September or October 2009, Kimberly Gifford ("Gifford"), a resident of New York, saw a commercial for Waypoint advertising its loan modification services.

104. On October 16, 2009, Gifford called Waypoint and spoke with non-attorney paralegal Shawn Tanner ("Tanner"). Tanner told Gifford that Waypoint could restructure Gifford's mortgage and reduce her mortgage interest rate to 1% within a few weeks. Tanner told Gifford that under the "Obama Plan" people with low incomes like Gifford could qualify for loan modifications. Tanner also advised Gifford to stop making her mortgage payments.

105. In October 2009, Gifford provided Waypoint with all her financial documents.

106. On October 27, 2009, Waypoint debited $795 from Gifford's bank account. On November 5, 2009, Waypoint debited an additional $400 from Gifford's bank account. Thereafter, Gifford had no further communication from Tanner and Waypoint.

107. In November 2009, Gifford faxed a letter to Tanner asking him to get in touch with her as soon as possible since she was falling behind with her mortgage payments. No one from Waypoint responded to her letter.

108. A couple of weeks later, Gifford called Tanner and left messages requesting a return telephone call. No one from Waypoint responded to Gifford's calls.

109. When Gifford contacted her lender, she was told that they had not heard from Tanner or Waypoint. Respondent performed no services of value to Gifford.

110. To date, Respondent has not refunded any portion of the $1,195 in legal fees.

CONCLUSIONS OF LAW:

111. By accepting the representation of Gifford, a New York resident, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

112. By collecting legal fees from Gifford in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03260 (Complainant: Lori Beth Thomas)

FACTS:

113. Respondent is not presently admitted to practice law in Virginia and never has been admitted to practice law in Virginia.

114. Virginia Rules of Professional Conduct, Rule 5.5(c), Unauthorized Practice of Law, Multijurisdictional Practice of Law, states that "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so."

115. Virginia Rules of Professional Conduct, Rule 5.5(d)(1), defines a "Foreign Lawyers" as the following: "'Foreign Lawyer' is a person authorized to practice law by the duly constituted and authorized governmental body of any State or Territory of the United States or the District of Columbia, or a foreign nation, but is neither licensed by the Supreme Court of Virginia or authorized under its rules to practice law generally in the Commonwealth of Virginia, nor disbarred or suspended from practice in any jurisdiction."

116. Pursuant to Virginia Rules of Professional Conduct, Rule 5.5(d)(3), a "Foreign Lawyer" may provide legal services on an temporary and occasional basis only after informing clients and interested third parties in writing: "(i) that the lawyer is not admitted to practice law in Virginia; (ii) the jurisdiction(s) in which the lawyer is licensed to practice, and (iii) the lawyer's office address in the foreign jurisdiction."

117. Virginia Rules of Professional Conduct, Rule 5.5(d)(4) provides circumstances where a Foreign Lawyer, may provide legal services on a temporary and occasional basis in Virginia, but only after complying with rule 5.5.(d)(3). Respondent did not satisfy the requirements to practice law in Virginia as a "Foreign Lawyer."

118. In July 2009, Lori Beth Thomas ("Thomas"), a Virginia resident, received a call from Respondent's non-attorney employee Mitch Dow ("Dow") soliciting to provide loan modification services. Dow represented to Thomas that her current home mortgage loan could be reduced by $200 a month through a 30-year fixed interest rate.

119. Dow mentioned obtaining a loan modification for Thomas through the "Obama Plan" and Thomas told Dow that she did not believe she would not qualify because she was behind on her mortgage payments. Dow told Thomas that there were other loan modifications he could utilize for Thomas. Dow instructed Thomas to stop her mortgage payments so she could pay Respondent's retainer fee. Dow also told Thomas that missing the payments would help with the loan modification process.

120. On July 24, 2009, Thomas signed retainer agreement hiring Respondent's law office for loan modification services. Thereafter, Thomas made four payments to Respondent totaling $1,800 for advanced legal fees.

121. To date, Respondent has not refunded any portion of the $1,800 in legal fees to Thomas.

CONCLUSIONS OF LAW:

122. By agreeing to represent Thomas, a Virginia resident, for loan modification services, and by accepting advanced legal fees from her, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

123. By collecting legal fees from Thomas in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03680 (Complainant: Bobby Flenoid)

FACTS:

124. Respondent is not presently admitted to practice law in Arizona and has never been admitted to practice law in Arizona.

125. Arizona Rules of Professional Conduct, Ethics Rule 5.5, Unauthorized Practice of Law, provides in relevant part: "(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. (b) A lawyer who is not admitted to practice in this jurisdiction shall not: ... (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction."

126. Arizona Supreme Court Rule 31(a)(2)(A) defines the "practice of law, as "providing legal advice or services to or for another by: (1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity; (2) preparing or expressing legal opinions; ... (5) negotiating legal rights or responsibilities for a specific person or entity.

127. Arizona Supreme Court Rule 31(a)(2)(B), defines the "Unauthorized practice of law", in pertinent part as "using the designations 'lawyer,' 'attorney at law,' 'counselor at law,' 'law,' 'law

office.' 'J.D.,' 'Esq.,' or other equivalent words by any person or entity who is not authorized to practice law in this state ... ."

128. In July 2009, Bobby Flenoid ("Flenoid"), an Arizona resident, received a telephone call from Rodney Holmes ("Holmes"), a non-attorney employee from Respondent's law office, soliciting to provide loan modification services.

129. On July 22, 2009, Flenoid hired Respondent's law office for legal services related to modification of his home loan. On August 6, 2009, Flenoid paid Respondent $750 in advanced legal fees and signed a retainer agreement indicating Respondent was an "Attorney."

130. In August 2009, Flenoid faxed and mailed the requested financial documents to Respondent's law office.

131. In mid-December 2009, Flenoid spoke to Respondent and asked if he was going out of business. Respondent assured Flenoid that he was not going out of business and was just moving locations. Thereafter, Flenoid did not hear from Respondent or from anyone in Respondent's law office.

132. Shortly after his conversation with Respondent in mid-December 2009, Flenoid tried to access Respondent's website and found that it no longer existed.

133. On January 22, 2010, Flenoid wrote Respondent a letter terminating his services and requesting a refund of the $750. Respondent received the letter but did not respond and did not provide a refund.

CONCLUSIONS OF LAW:

134. By holding himself out as an attorney and by accepting the representation of Flenoid, a Arizona resident, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

135. By collecting legal fees from Flenoid in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03689 (Complainant: Belinda and Melvin Daniels)

FACTS:

136. Respondent is not presently admitted to practice law in North Carolina and never has been admitted to practice law in North Carolina.

137. North Carolina Rules of Professional Conduct, Ethics Rule 5.5, Unauthorized Practice of Law, provides in relevant part: "(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction. (b) A lawyer who is not admitted to practice in this jurisdiction shall not: ... (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction."

138. North Carolina General Statute § 84-2.1 defines the practice of law in North Carolina as: "performing any legal service for another person, firm or corporation, with or without compensation; preparing court documents; assisting in legal work; or advising another person, firm or corporation about their legal rights."

139. North Carolina General Statute § 84-4, Persons other than members of State Bar prohibited from practicing law, provides in relevant part, "it shall be unlawful for any person or association of persons, except active members of the Bar of the State of North Carolina admitted and licensed to practice as attorneys-at-law, to appear as attorney or counselor at law in any action or proceeding before any judicial body, ... or by word, sign letter, or advertisement, to hold out himself, or themselves, as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor-at-law, or in furnishing the services of a lawyer or lawyers; and it shall be unlawful for any person or association of persons except active members of the Bar, for or without a fee or consideration, to give legal advice or counsel, perform for or furnish to another legal services, ..."

140. In August 2009, Belinda Daniels and her husband Melvin, North Carolina residents, saw a television advertisement for Respondent's law office offering loan modification services. After seeing the advertisement, Belinda Daniels called Respondent's law office regarding his loan modification services. Respondent's law office non-attorney staff told Belinda Daniels that she and her husband would be represented by Respondent (a lawyer) and that the legal fees for the loan modification process would cost $2,500.

141. Thereafter, Daniels received a letter from Sean Perry ("Perry"), a non-attorney senior case manager in Respondent's law office, on Respondent's law office letterhead indicating Respondent was an attorney. The letter stated the following: "We need to save your home. That is what we do best. You need someone like us to negotiate in your behalf with the lender an affordable fixed interest rate that keeps you in the home permanently for the next 30 years."

142. On August 3, 2009, Melvin Daniels signed a retainer agreement agreeing to hire Respondent's law office for legal services related to modification of his home loan. The retainer agreement indicated Respondent was an "Attorney," and the Daniels agreed to pay Respondent $2,500 in advanced legal fees.

143. On September 1, 2009, Respondent withdrew $1,000 in advanced legal fees from the Daniels' bank account. On October 10, 2009, Respondent withdrew an additional $1,000 in advanced legal fees from the Daniels' account.

144. On November 12, 2009, Respondent withdrew $500 in advanced legal fees from the Daniels' account through an electronic check. The check for $500 was made out "BCI", but the address on the check was Respondent's membership records address and the memo on the check stated "Verbal Auth/J. M. H. Law."

145. In January 2010, the Daniels called Respondent's law office and were told that Respondent was no longer employed there.

146. On February 5, 2010, the Daniels received a 45-day notice of pre-foreclosure from their lender.

147. To date, Respondent has not returned the advanced legal fees he collected from the Daniels.

CONCLUSIONS OF LAW:

148. By holding himself out as an attorney to the Daniels and by accepting the representation of the Daniels, North Carolina residents, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

149. By collecting legal fees from Daniels in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-03923 (Complainant: Florence Chambliss)

FACTS:

150. Respondent is not presently admitted to practice law in Hawaii and has never been admitted to practice law in Hawaii.

151. Hawaii Rules of Professional Conduct, Rule 5.5, Unauthorized Practice of Law, states that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; ..."

152. Hawaii Rev. Stat. § 605-14, Unauthorized practice of law prohibited, "It shall be unlawful for any person, firm, association, or corporation to engage in or attempt to engage in or to offer to engage in the practice of law, or to do or attempt to do or offer to engage in the practice of law, or to do or attempt to do or offer to do any act constituting the practice of law, except and to the extent that the person, firm, or association is licensed or authorized so to do by an appropriate court, agency, or office or by a statute of the State or of the United States."

153. The Hawaii Supreme Court has stated "that agreeing to represent a client and accepting retainer fees, appearing before the Hawai'i Paroling Authority on behalf of a client, preparing and signing, as a client's attorney, a motion to continue a case, and making an appearance in court as counsel for a client were aspects of 'the practice of law.'" *Office of Disciplinary Counsel v. Lau* (1997) 85 Haw. 212 [941 P.2d 295].

154. On September 21, 2009, Randolph and Florence Chambliss, residents of Hawaii, received an unsolicited mailing from Waypoint advertising its loan modification services.

155. Florence Chambliss ("Florence") called the number on the Waypoint flier and spoke to non-attorney Jon Sarafian ("Safarian") who explained Waypoint's loan modifications services.

156. In September 2009, Mr. and Mrs. Chambliss sent a check to Waypoint for $1,245 made out to "US Homeowners Relief/Waypoint Law Group" for advanced legal fees. The check for $1,245 was post dated for September 30, 2009.

157. On September 29, 2009, Florence checked the status of her bank account and found it overdrawn. Waypoint had withdrawn the $1,245 prior to September 30, 2009 date. Florence called

Sarafian and his Waypoint supervisor, non-attorney Andrew Jencks ("Jencks"), but could not reach them. Florence left several messages for both Sarafian and Jencks to call her back.

158. On September 30, 2009, Florence spoke to her bank. The bank asked if she had authorized a company called Direct Source Marketing to withdraw $1,245 from her account. Florence told the bank she had not authorized the withdrawal and the bank advised her to close her account.

159. On October 1, 2009, Jencks called Florence to try and explain what happened with the check for $1,245.00. During the conversation, Jencks told Florence he would refund the $24.00 bank fee.

160. On October 6, 2009, Florence left a message for Jencks terminating Respondent's services and requesting a refund of the full $1,245.00. At the time they cancelled Waypoint's services, Mr. and Mrs. Chambliss had not received a loan modification packet from Waypoint and had not submitted any financial documents to Waypoint. Waypoint had not performed any services of value for Mr. and Mrs. Chambliss.

161. Thereafter, Florence received a telephone call from her credit union stating that someone had withdrawn an additional $1,245 from her account. Florence was able to reverse the second $1,245 charge.

162. On October 7, 2009, Florence wrote Jencks again terminating Waypoint's services and requesting a refund of the $1,245 in fees. Randolph and Florence Chambliss never received a refund or a loan modification.

CONCLUSIONS OF LAW:

163. By accepting the representation the Randolph and Florence Chambliss, Hawaii residents, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

164. By collecting legal fees from Randolph and Florence Chambliss in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-05257 (Complainant: John Karp)

FACTS:

165. Respondent is not presently admitted to practice law in Arizona and has never been admitted to practice law in Arizona.

166. Arizona Rules of Professional Conduct, Ethics Rule 5.5, Unauthorized Practice of Law, provides in relevant part: "(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. (b) A lawyer who is not admitted to practice in this jurisdiction shall not: ... (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction"

167. Arizona Supreme Court Rule 31(a)(2)(A) defines the "practice of law" as, "providing legal advice or services to or for another by: (1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity; (2) preparing or expressing legal opinions; ... (5) negotiating legal rights or responsibilities for a specific person or entity.

168. Pursuant to Arizona Supreme Court Rule 31(a)(2)(B), defines the "Unauthorized practice of law", in pertinent part as "using the designations 'lawyer,' 'attorney at law,' 'counselor at law,' 'law,' 'law office.' 'J.D.,' 'Esq.,' or other equivalent words by any person or entity who is not authorized to practice law in this state ... ."

169. Since early 2009, John Karp ("Karp"), a resident of Arizona, had been working with Flagstar Bank to modify his home loan mortgage.

170. In early November 2009, Karp received a call from Mike Henderson from Waypoint soliciting to provide him with loan modification services. Henderson told Karp that Waypoint had been hired by Flagstar Bank to close loan modifications. When Karp told Henderson that his mortgage was now with Nationstar Mortgage, Henderson stated it didn't matter and guaranteed Karp a loan modification. Henderson represented to Karp that he would get a full refund if he did not receive a loan modification.

171. On November 14, 2009, Karp returned the completed forms to Waypoint.

172. On November 23, 2009, Waypoint withdrew $300.00 from Karp's bank account for advanced attorney's fees to perform the loan modification. Thereafter, Waypoint ceased communicating with Karp.

173. In December 2009, Karp called Waypoint and found the telephone number disconnected.

174. Thereafter, Karp was forced to sell his home in a short sale. Respondent did not perform any services of value for Karp.

175. To date, Respondent has not returned the $400.00 in legal fees he charged Karp.

CONCLUSIONS OF LAW:

176. By holding himself and Waypoint out as entitled to practice law in Arizona, and by accepting the representation of Karp, an Arizona resident, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

177. By collecting $300 in legal fees from Karp in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-06352 (Complainant: Brad Ingram)

FACTS:

178. Respondent is not presently admitted to practice law in Hawaii and never has been admitted to practice law in Hawaii.

179. Hawaii Rules of Professional Conduct, Rule 5.5, Unauthorized Practice of Law, states that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; ..."

180. Pursuant to Hawaii Rev. Stat. § 605-14, Unauthorized practice of law prohibited, "It shall be unlawful for any person, firm, association, or corporation to engage in or attempt to engage in or to offer to engage in the practice of law, or to do or attempt to do or offer to engage in the practice of law, or to do or attempt to do or offer to do any act constituting the practice of law, except and to the extent that the person, firm, or association is licensed or authorized so to do by an appropriate court, agency, or office or by a statute of the State or of the United States."

181. The Hawaii Supreme Court has stated "that agreeing to represent a client and accepting retainer fees, appearing before the Hawai'i Paroling Authority on behalf of a client, preparing and signing, as a client's attorney, a motion to continue a case, and making an appearance in court as counsel for a client were aspects of 'the practice of law.'" *Office of Disciplinary Counsel v. Lau* (1997) 85 Haw. 212 [941 P.2d 295].

182. In August 2009, Brad Ingram ("Ingram"), a resident of Hawaii, received an unsolicited mailing from Waypoint advertising its loan modification services. Ingram called the number on the flier and spoke to non-attorney Waypoint employee Damien Grant ("Grant"), who told Ingram that Thomas Pamilla ("Pamilla") would be his attorney. Ingram also talked to Richlyn Graf ("Graf"), a non-attorney negotiator for Waypoint.

183. A few days later, Grant told Ingram that his file had been approved, and they could start the loan modification process. Grant also told Ingram that the total retainer fee would be $3,450 - $1,725 paid initially and $1,725 paid upon completion of the loan modification.

184. On August 27, 2009, Ingram and his wife signed a retainer agreement agreeing to hire Waypoint for loan modification services.

185. On September 1, 2009, Waypoint withdrew $1,725 for advanced legal fees from the Ingrams' account. In mid-October, Waypoint attempted, without authorization, to withdraw an additional $1,725 for advanced legal fees from Ingrams' account but was unable to do so because there were insufficient funds in the account.

186. On September 21, 2009, Respondent took over the running of Waypoint from Pamilla. Neither Respondent nor Pamilla informed Ingram that Respondent would be taking over as the attorney at Waypoint.

187. On October 26, 2009, Waypoint withdrew $862 for advanced legal fees from Ingram's account without Ingram's authorization. Ingram contacted Waypoint for a return of the $862, but was told a "refund" would slow down the processing of his loan modification. Ingram told his credit union about the unauthorized withdrawal, and the credit union credited his account.

188. In mid-November 2009, Ingram called Waypoint and got a message that the office had closed.

CONCLUSIONS OF LAW:

189. By representing Ingram, a Hawaii resident, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

190. By collecting $2,587 in legal fees from Ingram in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

Case No. 10-O-06353 (Complainant: Harold Richmond)

FACTS:

191. Respondent is not presently admitted to practice law in Tennessee and has never been admitted to practice law in Tennessee.

192. Tennessee Rules of Professional Conduct, Rule 5.5, Unauthorized Practice of Law, provides in relevant part that "A lawyer shall not: (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; ..."

193. Tennessee Code Ann. § 23-3-101 defines "practice of law" as "the appearance as an advocate in a representative capacity or the drawing of papers, pleadings, or documents, or the performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies, or the soliciting of clients directly or indirectly to provide such services."

194. Tennessee Code Ann. § 23-3-103 prohibits any person from engaging in the "practice of law" and/or the "law business" without a license. There is an exemption for certain licensed out-of state attorneys who have associated with a licensed Tennessee attorney. This exemption did not apply to Waypoint or Respondent.

195. In or about August 2009, Harold Richmond ("Richmond"), a Tennessee resident, called Waypoint after he and his wife saw Waypoint's television advertisement offering loan modification services.

196. Richmond also spoke to Mike Brooks ("Brooks"), a non-attorney compliance officer with Waypoint, about the loan modification services. Brooks represented that Waypoint could reduce Richmond's monthly payments from $1,437 to $750 a month and reduce the interest rate on his mortgage to under 2%.

197. On August 25, 2009, Brooks sent a letter to Richmond stating that he had been approved for a loan modification. The letter stated that if Waypoint could not improve Richmond's situation, "the retainer fee [would] be refunded back to you."

198. In September 2009, Richmond signed and returned a retainer agreement as well as the requested financial documentation to Waypoint. On September 1, 2009, Richmond issued a check to Waypoint for $1,725 in advanced attorney's fees.

199. On September 21, 2009, Respondent took over the running of Waypoint from Pamilla. Neither Respondent nor Pamilla informed Ingram that Respondent would be taking over as the attorney at Waypoint.

200. On October 1, 2009, Waypoint charged an additional $800 in advanced legal fees to the Richmond's credit card, although it was billed through "DLD Consulting." Brooks told the Richmonds that the $800 charge was made by Waypoint.

201. On October 16, 2009, Richmond paid Waypoint an additional $925 in advanced legal fees.

202. In December 2009, Richmond checked with his lender and found out that Waypoint had not performed on his behalf. On December 4, 2009, Richmond wrote Waypoint seeking a complete refund of the advanced legal fees but did not receive a response.

203. In January 2010, Richmond spoke to Respondent and asked for a refund and his client file. Respondent told Richmond that he was sorry, "that he didn't give a shit" and told Richmond not bother him. Thereafter, Richmond learned that his lender had only received a hardship letter and Richmond's letter requesting a modification. Respondent performed no services of value for Richmond.

204. To date, Respondent has not refunded any portion of the $3,450.00 in legal fees to Richmond.

CONCLUSIONS OF LAW:

205. By holding himself out as an attorney and by accepting the representation of Richmond, a Tennessee resident, for loan modification services, Respondent willfully violated the Rules of Professional Conduct, rule 1-300(B).

206. By collecting $3,450.00 in legal fees from Richmond in a jurisdiction in which he was not admitted to practice law, Respondent willfully violated Rules of Professional Conduct, rule 4-200(A).

AUTHORITIES SUPPORTING DISCPLINE AND DISCUSSION.

AGGRAVATING CIRCUMSTANCES:

Prior Record of Discipline:

State Bar Court Case No. 03-H-01621
Effective Date of Discipline: July 10, 2004
Violation: Rule 1-110(A), Rules of Professional Conduct and Business and Professions Code, section 6103
Discipline: Two (2) years' probation and one (1) year stayed suspension.

State Bar Court Case No. 00-O-11519 and 00-O-11562
Effective Date of Discipline: October 14, 2001
Violations: Rules 4-100(A), 4-100(B)(2) and 3-110(A), Rules of Professional Conduct and Business and Professions Code, section 6068(i).
Discipline: One (1) year public reproval

Harm: Respondent's actions have significantly harmed his clients, who were financially distressed homeowners looking for assistance in modifying their home loans. When the clients sought to learn the status of their cases from Respondent or his representatives, they were frequently unable to get any information or response. When the clients demanded a refund of unearned fees, their requests were either denied or ignored. (Standard 1.2(b)(iv).)

Multiple Acts of Misconduct: Respondent's actions amount to multiple acts of misconduct involving 14 client matters. (Standard 1.2(b)(ii).)

ADDITIONAL MITIGATING CIRCUMSTANCES.

Candor/Cooperation: Respondent is entitled to some mitigation for admitting to these facts and circumstances prior to the trial in this matter. (*In the Matter of Connor* (Review Dept. 2008) 5 Cal.State Bar Ct. Rptr. 93, 107, concluding an attorney is entitled to some mitigation for cooperating in entering into stipulations of fact.)

AUTHORITIES SUPPORTING DISCIPLINE AND ADDITIONAL DISCUSSION.

The Supreme Court has stated that the assessment of appropriate discipline should begin with an application of the standards, which are entitled to great weight. (*In re Silverton* (2006) 36 Cal.4th 81, 92).

In this matter, Respondent's misconduct caused significant harm to his clients, which is an aggravating factor. (Standard 1.2(b)(iv).) Respondent's actions amount to multiple acts of misconduct involving 14 client matters. (Standard 1.2(b)(ii).)

Respondent is entitled to some mitigation for candor and cooperation with the State Bar in entering into this stipulation and resolving this matter early, and before the trial. (*In the Matter of Connor* (Review Dept. 2008) 5 Cal.State Bar Ct. Rptr. 93, 107.)

Respondent also had some significant medical issues which are outlined above, which explains, but does not justify his misconduct. Respondent cannot be given any weight in mitigation for those medical issues. Even though Respondent had significant medical issues beginning in June 2009, and even though he was not properly supervising Respondent's law office, Respondent agreed to purchase and start running Waypoint. Respondent had a duty, particularly in light of his medical issues and physical limitations, not to take on an additional law practice.

Standard 1.7(b) 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 two prior impositions of discipline, the degree of discipline in the instant case shall be disbarment unless the most compelling mitigating circumstances clearly predominate. In the instant case, this disciplinary matter will be Respondent's third imposition of discipline. There is no compelling mitigation, and any mitigation is outweighed by three significant aggravating factors set forth in Standard 1.2(b) (harm, multiple acts of misconduct and a prior record of two disciplines). Therefore, disbarment is warranted here.

RESTITUTION.

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

Payee	Principal Amount	Interest Accrues From
David Quinones	$3,750.00	5/23/09
Jane Petrozzi	$4,650.00	10/14/09
Jesse Valera	$2,255.00	9/24/09
Jeffrey Fletcher	$1,995.00	10/1/09
Daniel and Imelda Donaldson	$1,000.00	6/4/09
Daniel and Imelda Donaldson	$1,000.00	7/2/09
Kimberly Gifford	$795.00	10/27/09
Kimberly Gifford	$400.00	11/5/09
Lori Beth Thomas	$1,800.00	7/24/09
Bobby Flenoid	$750.00	8/6/09
Melvin and Melinda Daniels	$1,000.00	9/1/09
Melvin and Melinda Daniels	$1,000.00	10/10/09
Melvin and Melinda Daniels	$500.00	11/12/09
Florence Chambliss	$1,269.00	9/29/09
John Karp	$300.00	11/23/09
Brad Ingram	$1,725.00	9/1/09
Brad Ingram	$862.00	10/26/09
Harold Richmond	$1,725.00	9/1/09
Harold Richmond	$800.00	10/1/09
Harold Richmond	$925.00	10/16/09

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was August 14, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 14, 2012, the prosecution costs in this matter are approximately $11,741.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of:	Case number(s):
JOHN MICHAEL HARRISON **Member # 144964**	09-O-16006-DFM 10-O-01785 10-O-02046 10-O-02822 10-O-02824 10-O-03049 10-O-03230 10-O-03260 10-O-03680 10-O-03689 10-O-03923 10-O-05257 10-O-06352 10-O-06353

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.

8/24/2012	2012		JOHN M. HARRISON
Date		Respondent's Signature	Print Name
9/6/2012	2012		EDGAR C. JOHNSON, JR.
Date		Respondent's Counsel Signature	Print Name
9/14/12	2012		KIMBERLY G. ANDERSON
Date		Senior Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:	Case number(s):
JOHN MICHAEL HARRISON **Member # 144964**	09-O-16006-DFM 10-O-01785 10-O-02046 10-O-02822 10-O-02824 10-O-03049 10-O-03230 10-O-03260 10-O-03680 10-O-03689 10-O-03923 10-O-05257 10-O-06352 10-O-06353

DISBARMENT 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:

- [X] 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.

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.)**

Respondent **John Michael Harrison** is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

9/26/12
Date

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 September 27, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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:

EDGAR C. JOHNSON JR
VOSS & JOHNSON
111 PACIFICA STE 130
IRVINE, CA 92618

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

KIMBERLY ANDERSON, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 27, 2012.

T Cleaver

Tammy Cleaver
Case Administrator
State Bar Court