

ORIGINAL

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State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

<p>Counsel For The State Bar</p> <p>Anand Kumar Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000</p> <p>Bar # 261592</p>	<p>Case Number(s): Filed Matters: 11-O-12629-PEM</p> <p>Investigations: 12-H-10819 11-O-18183 12-O-11056 12-O-11553</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED <i>[Signature]</i></p> <p>APR 12 2012</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Scott A. Galland P.O. Box 12996 Bakersfield, CA 93389 (661) 331-1459</p> <p>Bar # 211330</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Scott A. Galland</p> <p>Bar # 211330</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 7, 2000.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 20 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: three (3) billing cycles immediately following the effective date of the Supreme Court order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case 09-O-18616
 - (b) Date prior discipline effective April 19, 2011.
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct, rules 3-110(A) and 3-700(D)(2); Business & Professions Code, section 6068(m).
 - (d) Degree of prior discipline public reproof with conditions.
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See attachment.

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- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attachment.
- (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. Respondent has cooperated with the State Bar by entering into a stipulated settlement for all matters described herein without the need of a trial.
- (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. Between August 2009 and June 2010, Respondent separated from his ex-wife and the marital dissolution process became

(Effective January 1, 2011)

Actual Suspension

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extremely contentious and required several motion hearings. In June 2010, Respondent's home was foreclosed on because of his ex-wife's failure to pay the necessary mortgage payments.

- (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:

D. Discipline:

- (1) **Stayed Suspension:**
- (a) Respondent must be suspended from the practice of law for a period of two (2) years.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:
- (b) The above-referenced suspension is stayed.

- (2) **Probation:**

Respondent must be placed on probation for a period of three (3) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

- (3) **Actual Suspension:**
- (a) Respondent must be actually suspended from the practice of law in the State of California for a period of one (1) year.
- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

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

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

 No MPRE recommended. Reason:
- (2) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) **Other Conditions:**

6. Accordingly, on April 19, 2010, the District filed an ex parte application for an order dismissing Lomax's action for failure to file the amended complaint. On May 3, 2010, the court dismissed Lomax's complaint with prejudice for failure to file an amended complaint and awarded costs of its suit to the District. Respondent received notice of the dismissal.
7. On May 20, 2010, judgment was entered. Respondent did not inform Lomax that her complaint had been dismissed, that judgment was entered against her or that costs were awarded to the District of its suit.
8. Between August 2009 and October 2010, Lomax made numerous attempts to contact Respondent regarding the status of her case, including leaving messages on Respondent's voicemail and going to Respondent's office location only to find that Respondent had moved from his office location without informing Lomax. Respondent received Lomax's voice messages, but never responded to them.
9. Respondent's failure to communicate with Lomax and his change of office without telling Lomax amounted to an effective withdrawal of employment.
10. In October 2010, Lomax visited the Kern County Superior Court to find out the status of her case and the whereabouts of Respondent and discovered for the first time that her complaint had been dismissed with prejudice upon reviewing the court file. Specifically, she found out that her case had been dismissed with prejudice because of Respondent's failure to file an amended complaint on her behalf. She also learned that Respondent had made five court appearances on her behalf without her knowledge.
11. On July 11, 2011, Lomax made a written request for a refund of the \$2,200.00 unearned fees she had paid to Respondent, because Respondent rendered no services of value to Lomax. Respondent received the request, but to date, Respondent has not issued a refund of any portion of the \$2,200.00.
12. Lomax filed her complaint against Respondent with the State Bar in March 2011 and the State Bar subsequently initiated a disciplinary investigation in case number 11-O-12629 based on Lomax's complaint.
13. On June 14, 2011, a State Bar investigator requested Respondent respond in writing to the allegations in Lomax's complaint by June 28, 2011. Having received no response from Respondent, the State Bar investigator called and emailed Respondent on July 14, 2011 requesting a written response to Lomax's complaint. On July 19, 2011, Respondent replied in an email that he would provide his written response within a week. On July 19, 2011, the State Bar investigator emailed Respondent and sent Respondent a letter granting him an extension until August 2, 2011 to file a written response. Thereafter, Respondent failed to provide a written response to the allegations raised by Lomax's complaint by August 2, 2011 or at any time during the disciplinary investigation.

CONCLUSIONS OF LAW:

By not filing an amended complaint and prosecuting Lomax's case, resulting in the dismissal of Lomax's case with prejudice, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), *Rules of Professional Conduct*.

By ceasing all communication with Lomax and not giving her notice of moving from his office location, Respondent failed, upon termination, to take reasonable steps to avoid reasonably foreseeable prejudice to Lomax, Respondent willfully violated rule 3-700(A)(2), *Rules of Professional Conduct*.

By not informing Lomax that Respondent had moved from his office, that Lomax's case had been dismissed, that the District had been awarded costs of suit, and that judgment had been rendered to that effect, Respondent failed to keep a client reasonably informed of significant developments in which Respondent had agreed to provide legal services in willful violation of *Business and Professions Code*, section 6068(m).

By failing to promptly refund to Lomax any part of the \$2,200.00 in unearned advance fees he collected, Respondent willfully violated rule 3-700(D)(2), *Rules of Professional Conduct*.

By not providing the State Bar with a written response to the allegations raised by Lomax's complaint by August 2, 2011 or at any time during the disciplinary investigation, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent in willful violation of *Business and Professions Code*, section 6068(i).

Case No. 12-H-10819 (Reproval Condition Violation)

FACTS:

14. On March 29, 2011, Respondent entered into a Stipulation re Facts and Conclusions of Law with the State Bar stemming from misconduct involving a former client, Juli Smith ("Smith") in case number 09-O-18616.
15. Pursuant to the stipulation, Respondent stipulated to three counts of misconduct in the Smith matter and stipulated to discipline consisting of a public reproval including compliance with reproval conditions for two (2) years. The public reproval became effective on April 19, 2011.
16. The reproval conditions attached to the public reproval in case number 09-O-18616 include in pertinent part: 1) compliance with the provisions of the State Bar Act and Rules of Professional Conduct; 2) submission of written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the two-year condition period

attached to the reproof starting July 10, 2011 whereby Respondent must state under penalty of perjury, whether Respondent has complied the State Bar Act, the Rules of Professional Conduct and all conditions of the reproof during the preceding calendar quarter ; 3) submission of proof to the Office of Probation by April 18, 2012 of attendance at a session of the Ethics School and passage of the test given at the end of that session; 4) submission of proof of passage of the Multistate Professional Responsibility Exam ("MPRE") by April 18, 2012.

17. Respondent filed his October 10, 2011 Quarterly Report one day late. Respondent also filed a defective Quarterly Report for January 10, 2012 on March 27, 2012, on which he omitted to indicate all pending State Bar proceedings against him and the status of his compliance with the reproof conditions.
18. To date, Respondent has also failed to submit proof of passage of the MPRE or attendance at a session of the Ethics School, and there are no MPRE testing sessions or Ethics School classes available between the filing date of this stipulation herein and April 18, 2012.
19. The public reproof in case number 09-O-18616 also included financial conditions consisting of restitution to Smith for the principal amount of \$15,000.00 with interest accruing from April 1, 2011. A payment plan was included in the stipulation allowing Respondent to make monthly payments of \$200.00 to Smith for the first six-months from April 2011 to September 2011 and then Smith \$760.00 per month from October 2011 until March 2013.
20. To date, Respondent has paid Smith \$1,200.00 for restitution from April 2011 to September 2011, but has not paid Smith any monthly restitution payments since October 2011. Respondent still owes Smith \$13,800.00 and the interest on the principal amount of \$15,000.00.

CONCLUSION OF LAW:

By failing to comply with the conditions attached to his public reproof in case number 09-O-18616, Respondent willfully violated rule 1-110, *Rules of Professional Conduct*.

Case No. 11-O-18183 (Complainant: Brett Voris)

FACTS:

21. On March 19, 2008, Brett Voris ("Voriss") employed Respondent and paid Respondent \$5,000.00 in advanced fees to represent Voris in a case against his former employers, including Premier Ten Thirty One Capital Corporation dba PropPoint, Liquididium Capital Partners LLC, Liquididium GCP GOR, LLC, Liquididium REO, LLC, Liquididium Ventures, LLC, Sportfolio, Inc., Mino Holdings, LLC, and Greg Lampert (collectively, "PropPoint") for breach of contract, fraud, conversion and wrongful termination among other claims.

22. On February 27, 2009, Respondent filed a complaint on Voris's behalf in the matter entitled *Voris v. Premier Ten Thirty One Capital Corp. dba PropPoint, et al.*, Los Angeles County Superior Court case number BC408562. PropPoint subsequently filed a demurrer to Voris's complaint.
23. On September 22, 2009, Respondent attended the hearing on PropPoint's demurrer. At the hearing, the court sustained PropPoint's demurrer with leave to amend to file an amended complaint within 10 days and ordered Respondent to serve responses to form interrogatories within 10 days in response to PropPoint's prior motion to compel answers and seeking sanctions.
24. On October 6, 2009, opposing counsel for PropPoint sent Respondent a letter threatening terminating sanctions for failure to provide discovery responses as ordered by the court. Respondent received the letter but did not respond.
25. Respondent failed to file an amended complaint or provide discovery responses to opposing counsel for PropPoint in violation of the court's order. At the time, Respondent did not inform Voris that Respondent was not filing an amended complaint on Voris's behalf, that there were outstanding discovery responses due to PropPoint's counsel, or that Respondent was not filing discovery responses after the court ordered Respondent to file the discovery responses.
26. One of the defendants in the PropPoint action, Ryan Bristol ("Bristol") had filed a cross-complaint against Voris, which Respondent failed to disclose to Voris. Respondent also failed to file a response to Bristol's cross-complaint on Voris's behalf, leading to an entry of default against Voris on Bristol's cross-complaint on October 8, 2009.
27. On October 26, 2009, PropPoint filed a motion for terminating sanctions to dismiss Voris's complaint with prejudice for Respondent's failures to file an amended complaint and provide discovery responses in violation of the court's September 22, 2009.
28. A hearing was set on the motion for terminating sanctions on November 23, 2009. Respondent received notice of the hearing, but filed no opposition to PropPoint's motion for terminating sanctions and failed to appear at the November 23, 2009 terminating sanctions hearing. As a result, on December 2, 2009, the court granted PropPoint's motion for terminating sanctions and dismissed Voris's complaint. Respondent failed to respond or file a motion to vacate the dismissal of Voris's complaint.
29. On January 12, 2010, Respondent informed Voris for the first time of the terminating sanctions when he provided Voris with his client file. Voris terminated Respondent's services on the same day and requested a refund of his \$5,000.00 in unearned fees, because Respondent rendered no services of value to Voris. Respondent received the request, but to date, Respondent has not issued a refund of any portion of the \$5,000.00.

30. On January 25, 2010, Voris hired new counsel, Justin Sobodash (“Sobodash”) to represent Voris in the PropPoint action.
31. On February 22, 2010, Sobodash filed a motion to vacate the December 2, 2009 dismissal of the PropPoint action on Voris’s behalf with an attached declaration from Respondent admitting to attorney neglect under Code of Civil Procedure, section 473(b). On May 28, 2010, the court vacated its December 2, 2009 order, but not before Voris was forced to retain new counsel and incur additional costs in attorneys’ fees in the amount of \$21,520.08.

CONCLUSIONS OF LAW:

By not filing an amended complaint, not responding to discovery, not filing an opposition to the terminating sanctions motion, not attending the terminating sanctions hearing, not filing a motion to vacate the dismissal of Voris’s complaint, Respondent failed to prosecute Voris’s case resulting in terminating sanctions and the dismissal of Voris’ case with prejudice. Accordingly, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), *Rules of Professional Conduct*.

By failing to serve responses to PropPoint’s form interrogatories within 10 days of the court’s September 22, 2009 order, Respondent willfully violated *Business and Professions Code*, section 6103.

By failing to keep Voris reasonably informed of significant developments in the PropPoint action including the possibility of terminating sanctions and subsequent terminating sanctions order, the cross-complaint filed by Bristol and that a default judgment had been rendered against Voris, Respondent willfully violated *Business and Professions Code*, section 6068(m).

By failing to promptly refund to Voris any part of the \$5,000.00 in unearned advance fees he collected, Respondent willfully violated rule 3-700(D)(2), *Rules of Professional Conduct*.

Case No. 12-O-11056 (Complainant: State Bar Investigation)

FACTS:

32. On May 28, 2010, Los Angeles County Superior Court Judge Ralph W. Dau in the PropPoint action described above imposed monetary sanctions on Respondent for causing Voris’s case to be dismissed with prejudice.
33. Pursuant Code of Civil Procedure, section 473(c)(1), the court ordered Respondent to pay \$1,000.00 to PropPoint’s counsel, Dan Case [sic; Dan Woods “Woods”] of White & Case LLP and \$1,000.00 to the Client Security Fund respectively. Respondent was aware of the sanctions, but at no point thereafter did Respondent inform the State Bar of the sanctions order imposed on him.

34. On August 10, 2010, the Los Angeles County Superior Court reported the sanctions order to the State Bar. On May 25, 2011, the State Bar sent a letter to Respondent at his official State Bar membership records address requesting proof of payment of the sanctions. Respondent received the letter but did not respond.
35. To date, Respondent has not paid the sanctions to Woods or the Client Security Fund, nor filed a motion with the Los Angeles Superior Court seeking relief from the monetary sanctions order.

CONCLUSIONS OF LAW:

By failing to pay the \$1,000.00 sanctions to Woods and the Client Security Fund respectively in violation of the court's May 28, 2010 order in the PropPoint action, Respondent willfully violated *Business and Professions Code*, section 6103.

By failing to report to the State Bar, in writing, within 30 days of the date when Respondent became aware of the imposition of the judicial sanctions against him in the PropPoint action, Respondent willfully violated *Business and Professions Code*, section 6068(o)(3).

Case No. 12-O-11553 (Complainant: Herbert Robinson)

FACTS:

36. Herbert Robinson ("Robinson") and his ex-wife Judy Hughes Robinson ("Hughes") owned real property located at 4713 Calder Lane, Bakersfield, CA ("Calder Lane home"). Ownership of the property was subsequently disputed and litigated in a divorce proceeding entitled *Robinson v. Hughes*, Kern County Superior Court case number S-1501-FL-59408 in 2005.
37. In August 2005, Robinson filed a Notice of Pendency Action in Kern County Superior Court case number S-1501-FL-59408 to have the real property standing of record title of the Calder Lane home, which had previously been in Hughes's name alone as her separate property, be declared community property of both Robinson and Hughes, in which Robinson possessed an undivided one-half interest. Robinson also had the Notice of Pendency Action recorded in the Kern County Assessor-Recorder Office.
38. Hughes subsequently attempted to refinance the Calder Lane home. On July 21, 2006, two lending companies, Aegis Funding Corporation ("Aegis") and Sea Breeze Financial Services, Inc. ("Sea Breeze"), contacted Fidelity National Title Company ("Fidelity") and North American Title Company Inc. ("NATC") to conduct a title search in order to refinance the Calder Lane home on Hughes' behalf. Without consideration of Robinson's interest in the Calder Lane home, Aegis and Sea Breeze loaned Hughes over \$130,000.00 against the equity in the home unbeknownst to Robinson.

39. On December 5, 2007, Robinson employed Respondent to pursue claims on Robinson's behalf against Fidelity and NATC for their allegedly negligent failure to inform Aegis and Sea Breeze of Robinson's one-half interest in the Calder Lane home. Robinson paid Respondent an advanced fee of \$2,000.00. Robinson subsequently paid Respondent an additional \$1,330.00 in fees and \$500.00 for costs associated with pursuing the action.
40. On May 21, 2010, Respondent filed a complaint in *Robinson v. Aegis Funding Corp. et al.*, Kern County Superior Court, case number S-1500-CV-270501-SPC with Aegis and Sea Breeze as the named defendants. Respondent, however, failed to name Fidelity and NATC as defendants in the action against Robinson's wishes. Respondent performed no further work on Robinson's behalf after December 2010.
41. From January 4, 2012 to February 4, 2012, Robinson made numerous phone calls to Respondent leaving voice messages requesting Respondent to return his case file and requesting a refund of unearned fees, because Respondent rendered no services of value to Robinson. Respondent received the requests, but to date, Respondent has not issued a refund of any portion of the \$3,830.00, turned over Robinson's client file nor provided Robinson with an accounting.

CONCLUSIONS OF LAW:

By not naming Fidelity and NATC as defendants in Robinson's complaint and failing to prosecute Robinson's case, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A), *Rules of Professional Conduct*.

By failing to keep Robinson reasonably informed of significant developments in Robinson's action including the decision not to name Fidelity and NATC as defendants in the complaint, Respondent willfully violated *Business and Professions Code* section 6068(m).

By failing to promptly refund to Robinson any part of the \$3,330.00 in unearned advance fees he collected, Respondent willfully violated rule 3-700(D)(2), *Rules of Professional Conduct*.

By failing to render appropriate accounts to Robinson regarding the \$3,830.00 which came into Respondent's possession from Robinson, Respondent willfully violated rule 4-100(B)(3), *Rules of Professional Conduct*.

By failing to promptly release Robinson's client file upon Robinson's request, Respondent willfully violated rule 3-700(D)(1), *Rules of Professional Conduct*.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was March 23, 2012.

AGGRAVATING CIRCUMSTANCES.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Standard 1.2(b) provides for a greater degree of sanction set forth in the standards where aggravating circumstances exist. Under *Standard 1.2(b)(ii)*, Respondent's current misconduct described above evidences multiple acts of wrongdoing as indicated above in case numbers 11-O-12629, 12-H-10819, 11-O-18183, 12-O-11056 and 12-O-11553.

Under *Standard 1.2(b)(iv)*, Respondent's misconduct harmed significantly clients Lomax, who lost her cause of action due to Respondent's failure to prosecute her case and Voris, who was forced to expend over \$21,000 in attorneys' fees to vacate the dismissal of his complaint as a result of Respondent's failure to prosecute his case.

AUTHORITIES SUPPORTING DISCIPLINE.

The *Standards For Attorney Sanctions For Professional Misconduct* ("*Standard*" or "*Standards*") are entitled to "great weight" and "promote the consistent and uniform application of disciplinary measures." (*In re Silvertown* (2005) 36 Cal.4th 81, 92.) The presumptively appropriate level of discipline for any misconduct is as set forth in the standards.

Standard 1.3 provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 1.6 provides that the appropriate "...sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found or acknowledged."

Standard 1.7(a) provides that if an attorney has a record of one prior imposition of discipline, then "the degree of discipline in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust." Here, Respondent's prior State Bar discipline is recent—the public reproof became effective on April 19, 2011—and Respondent has failed to comply with the reproof conditions as stated above.

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

Standard 2.6(b) provides that culpability of a member's violation of *Business and Professions Code, section 6103* [violation of a court order] shall result in disbarment or suspension depending on the

gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in *Standard* 1.3.

Standard 2.9 provides that culpability of a member of a wilful violation of rule 1-110, *Rules of Professional Conduct*, shall result in suspension.

Standard 2.10 provides that culpability of a member of wilful violation of any *Rule of Professional Conduct* not specified in the standards shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set for the *Standard* 1.3.

C. Applicable Case Law:

In fashioning the appropriate level of discipline, the Standards are the starting point. Consideration must also be given to whether the recommended discipline is consistent with prior decisions of the California Supreme Court and the Review Department of the State Bar Court.

In *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631 (“*Bach*”), the Hearing Department found that attorney Bach abandoned two client matters when he failed to obtain a temporary restraining order for a client after months of delay during a time-sensitive period. Bach also failed to communicate with his client despite numerous failed returned phone calls. Ultimately, the client discovered that Bach failed to file the temporary restraining order after visiting Bach’s office. The Hearing Department found the attorney culpable of violating *Business and Professions Code, section 6068(m)* and failing to perform and refund unearned fees. On review, the Review Department upheld the Hearing referee’s decision as to the above charges and also found the attorney culpable of improper withdrawal because the circumstances surrounding Bach’s failure to provide services “were such that time was plainly of the essence to the services requested” and that accordingly the respondent’s “failure to provide the necessary services constituted an effective withdrawal” and “a failure to take any reasonable steps to avoid foreseeable prejudice to his client prior to his withdrawal.” (*Id.* at pp. 642-643.) In Bach’s other abandoned client matter, he failed to take any steps to bring his client’s personal injury claim to trial after filing the complaint but prior to the expiration of the statute of limitations, thereby causing his client to lose her cause of action irrevocably and simultaneously failing to inform his client of the running of the statute. The Review Department found Bach culpable of violating *Business and Professions Code, section 6068(m)*, and failing to perform and improper withdrawal. Bach had 19 years of practice at the time of his first misconduct and had one prior State Bar discipline involving similar abandonment of a client. The Review Department recommended that the attorney be suspended for two years stayed, with two years of probation and an actual suspension for nine months and until restitution was made.

Here, Respondent Galland’s misconduct is more serious with violations of a court order and multiple violations of the conditions of his reproof imposed in his recent 2011 State Bar discipline in addition to the failures to perform and keep his clients reasonably informed of significant developments. Therefore, two (2) years stayed suspension, three (3) years probation with conditions including a one-year actual suspension is justified in the described matters herein.

(Do not write above this line.)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 23, 2012, the prosecution costs in this matter are approximately \$4,161.00. 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: Scott A. Galland	Case Number(s): 11-O-12629; 12-H-10819; 11-O-18183; 12-O-11056; 12-O-11553
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Financial Conditions

a. Restitution

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

Payee	Principal Amount	Interest Accrues From
Vicki Lomax	\$2,200.00	7/11/2011
Brett Voris	\$5,000.00	1/12/2010
Herbert Robinson	\$3,830.00	2/7/2012

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

b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Vicki Lomax	\$75.00 for first 12 months; \$100.00 for the next 13 months	monthly (first payment due 30 days from the effective date of Supreme Court order)
Brett Voris	\$75.00 for first 16 months; \$190.00 for remaining 20 months	monthly (first payment due 30 days from the effective date of Supreme Court order)
Herbert Robinson	\$75.00 for first 16 months; \$131.50 for remaining 20 months	monthly (first payment due 30 days from the effective date of Supreme Court order)

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

(Do not write above this line.)

In the Matter of: Scott A. Galland	Case Number(s): 11-O-12629; 12-H-10819; 11-O-18183; 12-O-11056; 12-O-11553
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Nolo Contendere Plea Stipulations to Facts, Conclusions of Law, and Disposition

The terms of pleading nolo contendere are set forth in the Business and Professions Code and the Rules of Procedures of the State Bar. The applicable provisions are set forth below:

Business and Professions Code § 6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere will be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court will find the member culpable. The legal effect of such a plea will be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

Rules of Procedure of the State Bar, rule 5.56. Stipulations to Facts, Conclusions of Law, and Disposition

“(A) Contents. A proposed stipulation to facts, conclusions of law, and disposition must comprise:

[1] . . . [1]

(5) a statement that the member either:

- (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
- (b) pleads nolo contendere to those facts and misconduct;

[1] . . . [1]

(B) Plea of Nolo Contendere. If the member pleads nolo contendere, the stipulation must also show that the member understands that the plea is treated as an admission of the stipulated facts and an admission of culpability.”

I, the Respondent in this matter, have read the applicable provisions of Business and Professions Code section 6085.5 and rule 5.56 of the Rules of Procedure of the State Bar. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea will be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

April 5, 2012
Date


Respondent's Signature

Scott A. Galland
Print Name

(Do not write above this line.)

In the Matter of:
Scott A. Galland

Case number(s):
11-O-12629; 12-H-10819; 11-O-18183;
12-O-11056; 12-O-11553

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.

April 5, 2012

Date


Respondent's Signature

Scott A. Galland

Print Name

N/A

Date


Respondent's Counsel Signature

N/A

Print Name

April 6, 2012

Date


Deputy Trial Counsel's Signature

Anand Kumar

Print Name

(Do not write above this line.)

In the Matter of: Scott A. Galland	Case Number(s): 11-O-12629; 12-H-10819; 11-O-18183; 12-O-11056; 12-O-11553
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ACTUAL SUSPENSION ORDER

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

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

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

04-11-12
Date


RICHARD A. PLATEL
Judge of the State Bar Court

RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on April 12, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

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

SCOTT A. GALLAND
LAW OFFICES OF SCOTT A. GALLAND
PO BOX 12996
BAKERSFIELD, CA 93389

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

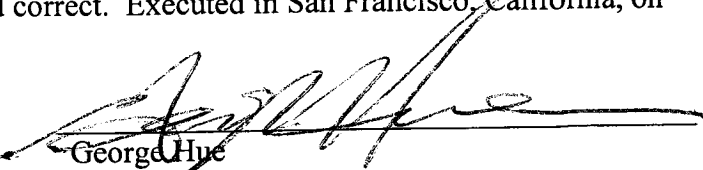
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Anand Kumar, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 12, 2012.


George Hue
Case Administrator
State Bar Court