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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
Counsel For The State Bar  <b>Cindy Chan</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017 (213) 765-1292  Bar # 247495	Case Number(s): <b>18-O-11606-YDR</b>	For Court use only   <div style="text-align: center;"> <b>FILED</b>  <i>E.A.</i>  <b>MAY 16 2018</b>                  STATE BAR COURT                  CLERK'S OFFICE                  LOS ANGELES             </div>
In Pro Per Respondent  <b>Scott A. Galland</b> 6800 Quailwood Drive Bakersfield CA 93309 (661) 331-1459  Bar # 211330	<h1 style="margin: 0;">PUBLIC MATTER</h1>	
In the Matter of: <b>SCOTT A. GALLAND</b>  Bar # 211330  A Member of the State Bar of California (Respondent)	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

**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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (13) 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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case **12-H-15804, see Exhibit 3, consisting of 14 pages**
  - (b)  Date prior discipline effective **February 23, 2015**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **Rules of Professional Conduct, rule 1-110**
  - (d)  Degree of prior discipline **four-year period of suspension, stayed, and four-year period of probation subject to conditions, including a three-year period of actual suspension**
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:  
**See page 8 and Exhibits 1 - 3**
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7)  **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.

- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See page 9**
- (10)  **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 9
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. 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 likely to recur.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 with a good faith belief that was honestly held and objectively reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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- (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 extraordinarily 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 subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**Pretrial Stipulation - see page 9**

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**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 \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ 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 \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
  
- (3)  **Other:**



7. On April 27, 2017, Probation Deputy Cheung sent an e-mail to respondent at a non-public e-mail address for respondent maintained by the State Bar. This e-mail was sent in response to respondent's April 10, 2017 e-mail, which included as an attachment his eighth quarterly report, wherein she informed him that the declaration submitted on April 10, 2017 specified an incorrect reporting period and advised him that he could submit new and complete quarterly reports, but that late completion, submission, or filing of proof/documents does not mean that he is in compliance. Respondent received the e-mail.

8. On July 11, 2017, respondent submitted his ninth quarterly report via e-mail, but this report was not compliant because it was submitted one day late and the declaration had an incorrect reporting period.

9. On July 17, 2017, Probation Deputy Cheung sent an e-mail to respondent at his non-public e-mail address. This e-mail informed respondent that the declarations submitted on July 11, 2017 and April 10, 2017 specified an incorrect reporting period and advised him that he could submit new and complete quarterly reports, but that late completion, submission, or filing of proof/documents does not mean that he is in compliance. Respondent received the e-mail.

10. On October 10, 2017, respondent submitted via e-mail his tenth quarterly report that set forth an incorrect reporting period in his declaration.

11. On October 11, 2017, respondent submitted revised quarterly reports that were originally due on April 10, 2017 and July 10, 2017, but these reports were likewise defective because the declarations contained an incorrect reporting period and signatures on the declarations were backdated.

12. On November 20, 2017, Probation Deputy Michael Kanterakis sent an e-mail to respondent's membership records e-mail and non-public e-mail address reminding respondent that the quarterly reports that were due by April 10, 2017, July 10, 2017, and October 10, 2017 were defective for failure to specify the correct reporting periods. Respondent received the e-mails.

13. On January 24, 2018, Probation Deputy Kanterakis sent a letter via first class mail to respondent's Membership Address as well as via e-mail to respondent's membership records e-mail and non-public e-mail address regarding his non-compliance with the probation conditions. Specifically, Probation Deputy Kanterakis identified the same deficiencies as set forth in the August 15, 2017 letter sent by Probation Deputy Cheung and further identified the quarterly report submitted on July 10, 2015 as defective for failure to specify the correct reporting period.

14. To date, respondent has not submitted quarterly reports that cure the aforementioned defects in the quarterly reports submitted on July 10, 2015, April 10, 2015, July 11, 2017, and October 10, 2017.

15. Furthermore, respondent has not submitted the quarterly report that was due on April 10, 2018.

#### CONCLUSIONS OF LAW:

16. By failing to submit compliant quarterly reports due July 10, 2015, April 10, 2015, July 10, 2017, October 10, 2017, and April 10, 2018 and by failing to timely submit satisfactory proof of completion of Ethics School, respondent willfully violated Business and Professions Code section 6068(k).

## AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has three (3) prior records of discipline. In *Galland I* (State Bar Court Case No. 09-O-18616), effective April 19, 2011, respondent received a public reproof with conditions after he stipulated to three ethical violations (failing to keep his client informed, to competently perform, and to return unearned fees) in 2009 in a single client matter. Respondent received mitigation credit for no prior record of discipline and for cooperation. There were no aggravating circumstances. Respondent was required, in relevant part, to submit written quarterly reports and state under penalty of perjury whether he had complied with all reproof conditions and pay restitution to Juli Smith (or the Client Security Fund) according to a payment schedule and provide proof of same with each quarterly report. The parties stipulate that Exhibit 1 is an authenticated copy of the Stipulation and Order for Public Reproof issued in *Galland I*, consisting of 12 pages.

In *Galland II* (consolidated State Bar Court Case Nos. 11-O-12629, 11-O-18183, 12-O-11056, 12-O-11553 and 12-H-10819), effective September 15, 2012, the Supreme Court of California ordered respondent suspended from the practice of law for two years, stayed, and placed him on probation for two years subject to conditions, including a one-year actual suspension and restitution. In three of these matters, his misconduct arose when he abandoned three clients in October 2009, April 2010, and December 2010, all of which occurred before the public reproof was issued in *Galland I*. Respondent was also found to have failed to perform with competence, which resulted in the dismissal of two of his clients' complaints. He also failed to keep his clients informed and failed to return unearned fees to each client, totaling \$11,030. Other misconduct included improper withdrawal from employment, failure to obey a court order, failure to render an accounting, and failure to return a client's file. In the remaining two matters, respondent failed to report a \$1,000 sanction order to the State Bar, failed to obey that order, and failed to comply with reproof conditions in *Galland I* by submitting an untimely quarterly report and two defective quarterly reports and failing to submit proof of passage of the MPRE or that he attended Ethics School. Furthermore, he had ceased making monthly restitution payments to Smith after September 2011. Respondent received mitigation credit for family problems (his home was foreclosed due to his ex-wife's failure to pay the mortgage) and cooperation. Aggravating circumstances included prior record of discipline from *Galland I* and multiple acts of wrongdoing. The parties stipulate that Exhibit 2 are authenticated copies of the Stipulation and Order for Actual Suspension issued in *Galland II* and the Supreme Court Order approving same, consisting of \_\_\_ pages in total.

In *Galland III* (State Bar Court Case No. 12-H-15804), effective February 23, 2015, the Supreme Court of California ordered that respondent be suspended from the practice of law for four (4) years, that execution of suspension be stayed, and that respondent be placed on probation for four (4) years subject to the conditions of probation recommended by the Review Department of the State Bar Court in its October 31, 2014 Order, including three years of actual suspension, after he had violated several conditions of the public reproof issued in *Galland I*. Respondent submitted two defective quarterly reports, failed to submit satisfactory proof of restitution payments, filed a third report late, and did not promptly respond to the State Bar's inquiries about his compliance with the reproof conditions. Respondent received mitigation credit for cooperation, recognition of wrongdoing, and financial difficulties. Aggravating circumstances included the two prior records of discipline from *Galland I* and *II* and multiple acts of wrongdoing. The parties stipulate that Exhibit 3 are authenticated copies of the Review Department Opinion filed on October 31, 2014 and the Supreme Court Order filed on February 23, 2015, consisting of 14 pages in total.



**Indifference (Std. 1.5(k)):** Respondent failed to comply with the disciplinary orders issued in *Galland I* and *Galland III*. Respondent submitted four quarterly reports, one of which was late, that contained deficiencies and failed to cure these deficiencies. Furthermore, respondent failed to timely submit proof of attendance and completion of Ethics School. This is the exact same type of conduct that has led to the instant disciplinary action. Since filing of the Notice of Disciplinary Charges in this matter, respondent has failed to submit his April 10, 2018 quarterly report, an additional violation. Respondent's repeated failure to comply with his probation conditions and failure to cure deficiencies even after notice is given demonstrates an indifference and unwillingness or inability to comply with disciplinary orders.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent failed to comply with six (6) separate conditions of his probation. Respondent submitted quarterly reports in July 10, 2015, April 10, 2015, July 11, 2017, and October 10, 2017 that contained deficiencies and failed to timely cure these deficiencies. Furthermore, respondent failed to timely submit proof of attendance of Ethics School and has failed to submit his April 10, 2018 quarterly report. These multiple acts of misconduct constitute an aggravating factor pursuant to Standard 1.5(b). (*See In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 529 [holding that failure to cooperate with probation monitor and failure to timely file probation reports constituted multiple acts of misconduct].)

#### **MITIGATING CIRCUMSTANCES.**

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary

purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

Standard 2.14 states:

Actual suspension is appropriate for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's unwillingness or inability to comply with disciplinary orders.

Where, as here, a member has two or more prior records of discipline, Standard 1.8(b) provides that disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

Disbarment is the presumed sanction here where at least two of the above criteria are met: (1) respondent's second and third disciplinary actions resulted in periods of actual suspension, the latter of which resulted in a three-year period of actual suspension and (2) his intermittent misconduct for the past nine years of his career (2009 – 2018) demonstrates an inability or unwillingness to conform to his ethical responsibilities. Indeed, the misconduct from *Galland I* and *Galland II* are closely related (failure to perform competently, failure to return unearned fees) and the misconduct from *Galland II*, *Galland III*, and the present case are nearly identical (failure to comply with conditions of reprobation in *Galland II* and *Galland III* and failure to comply with conditions of probation in instant action). (See *Potack v. State Bar* (1991) 54 Cal.3d 132, 139 [failure to abide by probation terms and conditions is a serious violation]; *In the Matter of Tiernan* (1996) 3 Cal. State Bar Ct. Rptr. 523, 530-531 [multiple violations of same probation condition warrant more severe discipline].)

Section 1.8(b) provides for a departure from the presumptive discipline of disbarment, where "the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct." Neither of these exceptions is present in this case. In fact, respondent was only able to avoid disbarment under 1.8(b) in *Galland III* because the Review Department found that (1) the misconduct in his two priors (*Galland I* and *Galland II*) occurred during the same time period, thereby diminishing their aggravating weight, and (2) cases involving violation of reprobation conditions (as opposed to probation conditions) called for no more than 90 days actual suspension, even where mitigation was absent or nominal. However, in the present case, the misconduct did not occur during the same time frame as the prior misconduct. Respondent's misconduct in *Galland I* occurred in 2009. Respondent's misconduct in *Galland II* occurred between October 2009 and March 2012. Respondent's misconduct in *Galland III* occurred between April 2012

and October 2012. Respondent's current misconduct began in July 2015 and continues to date. Furthermore, the present case involves violation of probation conditions, which is more serious than violation of reprobation conditions. Finally, the mitigating weight to be given to a pretrial stipulation in the present case is tempered by the fact that he has previously entered into stipulations, yet he continues to commit misconduct. The presence of the same mitigating factors is insufficient reassurance that his misconduct will cease. (See *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, 137 [no mitigation for recognition of wrongdoing where "...respondent has repeatedly stipulated to his probation violations, yet in every instance, his seeming recognition of wrongdoing has been undercut by a continued failure to comply with stipulated discipline."].)

In aggravation, respondent's failure to comply with six (6) conditions of probation ordered in connection with State Bar Case No. 12-H-15804 constitutes multiple acts of misconduct under Standard 1.5(b). Furthermore, respondent's prior records of discipline are serious aggravation where the present misconduct, violating probation conditions, is closely related to his wrongdoing in both *Galland II* and *Galland III*, where he violated reprobation conditions of a similar nature. (See *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 444-445 [prior misconduct similar to that found in present case is serious aggravation]; *In the Matter of Lawrence* (2013) 5 Cal. State Bar Ct. Rptr. 239 ["three prior disciplines are a significant aggravating factor."].)

An attorney's ability to comply with probation conditions is an important bellwether of his capacity to practice law competently. Timely filing quarterly reports plays an important role in the rehabilitative process "because it requires the attorney, four times a year, to review and reflect upon his professional conduct . . . [and] to review his conduct to ensure that he complies with all of the conditions of his disciplinary probation." (*In the Matter of Wiener* (1997) 3 Cal. State Bar Ct. Rptr. 759, 763.) Respondent's repeated ethical violations and failure to comply with probation conditions demonstrates disregard for the administration of justice. (See *In the Matter of Broderick* (1994) 3 Cal. State Bar Ct. Rptr. 138, 151 [attorney's failure to comply with restitution requirement or file any probation reports reflected adversely on rehabilitation efforts and called into question need to protect public.]; *Potack v. State Bar* (1991) 54 Cal.3d 132, 139 [failure to abide by probation terms and conditions is serious violation]; *Matter of Marsh* (1990) 1 Cal. State Bar Ct. Rptr. 291, 300 ["respondent should not be admitted to disciplinary probation where there is clear evidence that he or she will not comply with its conditions"].) Respondent's previous public discipline and actual suspensions put him on notice and gave him the opportunity "to reform his conduct to the ethical strictures of the profession." (*Arden v. State Bar* (1987) 43 Cal.3d 713, 728.)

Based on the foregoing, there is no reason to depart from the presumed sanction of disbarment under Standard 1.8(b) where respondent has demonstrated an inability or unwillingness to conform his conduct to ethical requirements. Given his habitual failures to comply with reprobation and probation conditions, the risk of repetitive misconduct is considerable and there is no indication that respondent can or will comply with another probationary period. (See also *Barnum v. State Bar* (1990) 52 Cal.3d 104, 112 [disbarring attorney where court had "no reason to believe that petitioner can or will comply with another probationary period"]; *In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 300 ["respondent should not be admitted to disciplinary probation where there is clear evidence that he or she will not comply with its conditions"].)

Case law supports this result. In *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, disbarment was recommended based on misconduct which involved the failure to comply with certain conditions of a three-year disciplinary probation. In aggravation, Rose had an extensive record of four prior records of discipline and his misconduct involved multiple acts. Rose's repeated failure to comply with

disciplinary orders caused “grave concern” that he did not understand his ethical obligations, “which in turn cause[d] grave concern that respondent [would] commit future misconduct.” Further, his “demonstrated tendency toward interpreting important and significant court orders in such a way as to fit his needs may negatively impact his future clients.” (*In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. at 655) Where probation and suspension had proven inadequate in the past to protect against future misconduct, and the record did not give assurance that such a sanction would ensure that future misconduct would not occur, the court concluded that disbarment was appropriate to protect the public, courts, and legal profession. (*Id.*)

*In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131 “illustrates the serious consequences of an attorney’s extended inattention to State Bar disciplinary proceedings and his repeated disregard of Supreme Court orders.” (*Id.* at 133) Esau’s underlying misconduct, which involved the wrongful retention of \$1700 in advanced fees in the state of Washington, resulted in a private reproof with conditions attached for 12 months. Thereafter, respondent’s reproof period was extended by one year, he received a six-month stayed suspension and two years’ probation, had his probation revoked and received a six-month actual suspension. “This increasingly strict discipline should have provided respondent with both the incentive and the opportunity to comply with the conditions of his probation...” (*Id.*) Yet, Esau faced a fourth disciplinary proceeding where he was found culpable of violating section 6103 as the result of disobeying a Supreme Court order requiring him to comply with California Rules of Court, rule 955 (now 9.20). His prior record of discipline was an aggravating circumstance. (*Id.* at 135-136) He received minimal mitigation for his three character witnesses, minimal mitigation for his community service, and limited mitigation for stipulating to material facts. (*Id.* at 136-137) The Review Department ultimately recommended disbarment where “respondent’s violation of a court order [was] compounded by his repeated failure to comply with even the most basic terms of his probation, such as filing his quarterly probation reports, updating his membership records, and taking the Multistate Professional Responsibility Exam (MPRE). His apparent lack of concern for his license to practice law in California demonstrates that he is an unsuitable candidate for further disciplinary probation.” (*Id.* at 133)

When viewed in its totality, respondent’s current offenses plainly echo his prior record of discipline and provide “a disturbing repetitive theme,” as that found in *Rose* and *Esau*. (See, *In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 841) The misconduct from *Galland I* and *Galland II* are closely related (failure to perform competently, failure to return unearned fees) and the misconduct from *Galland II*, *Galland III*, and the present case are nearly identical (failure to comply with probations). Respondent continues to file untimely and/or defective quarterly reports with the wrong reporting period, despite repeated warnings from the Office of Probation. The risk of respondent repeating this misconduct would be considerable if he were permitted to continue in practice. Thus, disbarment is warranted and necessary to protect the public, the courts and the legal profession.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 17, 2018, the discipline costs in this matter are \$3,758. 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): 18-O-11606
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### 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:

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

1. On page 6 of the stipulation, in paragraph number 2, the first two lines are CORRECTED to read:

On February 23, 2015, the Supreme Court filed an order in case number S223211 (State Bar Court case number 12-H-15804) in which it ordered that respondent be suspended from the practice of law.

2. On page 6 of the stipulation, in paragraph number 6, in the last line, the phrase "28 days late" is CORRECTED to read: "381 days late."
3. On page 7 of the stipulation, in paragraph number 9, in the third line, the date "April 10, 217," is CORRECTED to read: "April 10, 2017."
4. On page 7 of the stipulation, in paragraph number 14, in the second line, the date "April 10, 2015," is CORRECTED to read: "April 10, 2017."
5. On page 7 of the stipulation, in paragraph number 16, in the first line, the date "April 10, 2015," is CORRECTED to read: "April 10, 2017."
6. On page 8 of the stipulation, in the second paragraph, which begins "In *Galland II*," in the last sentence, the number "25" is INSERTED in the blank, underlined space preceding the word "pages" so that the last phrase in the last sentence now reads: "consisting of 25 pages in total."
7. On page 9 of the stipulation, in the second paragraph, which begins "Multiple Acts," in the second line, the text "Respondent submitted quarterly reports in July 10, 2015, April 10, 2015" is CORRECTED to read: "Respondent submitted quarterly reports on July 10, 2015, April 10, 2017."

(Do not write above this line.)


In the Matter of: SCOTT A. GALLAND	Case Number(s): 18-O-11606
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### DISBARMENT ORDER CONTINUED

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 SCOTT A. GALLAND 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.


May 15, 2018  
Date

  
YVETTE D. ROLAND  
Judge of the State Bar Court





(Do not write above this line.)

<b>State Bar Court of California Hearing Department San Francisco REPROVAL</b>		
<b>Counsel For The State Bar</b>  Esther Rogers Deputy Trial Counsel State Bar of California 180 Howard Street San Francisco, CA 94105 (415)538-2258  Bar # 148246	<b>Case Number(s):</b> 09-O-18616	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>   MAR 29 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Scott A. Galland  Bar # 211330	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> Scott A. Galland  Bar # 211330  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 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 10 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."

(Do not write above this line.)

- (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 are added to membership fee for calendar year following effective date of discipline (public reproof).
  - Case ineligible for costs (private reproof).
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) The parties understand that:
- (a)  A private reproof imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
  - (b)  A private reproof imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
  - (c)  A public reproof imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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
  - (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 or a separate attachment entitled "Prior Discipline."

(Do not write above this line.)

- (2)  **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (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. See Attachment
- (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. See Attachment
- (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

(Do not write above this line.)

any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances are involved.**

**Additional mitigating circumstances:**

See Attachment

**D. Discipline:**

- (1)  **Private reproof (check applicable conditions, if any, below)**
- (a)  Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).
- (b)  Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).
- or
- (2)  **Public reproof (Check applicable conditions, if any, below)**

**E. Conditions Attached to Reproval:**

- (1)  Respondent must comply with the conditions attached to the reproof for a period of two years.
- (2)  During the condition period attached to the reproof, 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 condition period attached to the reproof. 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 the reproof during the preceding calendar quarter. Respondent

(Effective January 1, 2011).

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must also state in each report 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 (thirty) days, that report must be submitted on the next following 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 condition period and no later than the last day of the condition period.

- (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 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 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 conditions attached to the reproof.
- (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)  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 within one year of the effective date of the reproof.
- No MPRE recommended. Reason:
- (11)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |

**F. Other Conditions Negotiated by the Parties:**

See attachment

(Do not write above this line.)

In the Matter of: Scott A. Galland	Case Number(s): 09-O-18616
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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
Juli Smith	\$15,000	April 1, 2011

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

#### b. Installment Restitution Payments

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

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency
Juli Smith	\$200 for 1st 6 months; \$760 per month for remaining 18 months	Monthly

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

#### c. Client Funds Certificate

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



## **Conclusions of Law**

By failing to perform any services for Smith after the mediation and by failing to take action to pursue Smith's employment matter, respondent intentionally failed to perform legal services with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

### Count Two

#### **Facts**

Count One is incorporated by reference as if fully set forth herein.

Between in or about May 2009 and in or about December 2009, Smith sent respondent several emails and telephoned respondent several times and left messages for respondent each time requesting that respondent provide her with a status update on her matter. Although respondent received the email and telephone messages, he failed to respond to them and failed to provide Smith with a status update on her matter.

#### **Conclusions of Law**

By failing to respond to Smith's messages requesting a status update, respondent failed to respond to reasonable status inquiries of a client in a matter in which respondent had agreed to provide legal services, in willful violation of Business and Profession Code section 6068(m).

### Count Three

#### **Facts**

Count One is incorporated by reference as if fully set forth herein.

Smith paid respondent \$36,060 to represent her in her employment matter. At the time that respondent ceased performing services, settlement negotiations were on-going and a settlement offer was pending. Respondent's failure to perform resulted in the forfeiture of Smith's claim and the loss of \$15,000 and the removal of a negative comment on her employment record.

The services respondent provided were of little or no value to Smith since respondent abandoned Smith before the conclusion of her matter. Respondent did not earn all the advanced fees Smith paid since the fees resulted in no benefit to Smith. At no time since respondent ceased performing services, has respondent provided Smith with a refund of the unearned fees.

Respondent agrees that he owes \$15,000 in unearned fees to Smith as a result of his failure to perform.

#### **Conclusions of Law**

By failing to provide Smith with a refund of unearned fees, respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of Business and Profession Code section 3-700(D)(2).



### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(6), was March 3, 2011.

### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of March 3, 2011, the prosecution costs in this matter are approximately \$3,000. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

### **AGGRAVATING CIRCUMSTANCES.**

None

### **MITIGATING CIRCUMSTANCES.**

No Prior Record (Standard 1.2(e)(i)) Respondent has been admitted since December 2000 and has no prior record of discipline.

Cooperation (Standard 1.2(e)(v)) Respondent agreed to the imposition of discipline without requiring a hearing.

Other Mitigating Circumstances. During the time period of respondent's misconduct, respondent was going through a divorce and his home was in foreclosure. The emotional and financial stressed caused by these events contributed to respondent's conduct in this matter.

#### **Other Probation Conditions**

Respondent agrees that if he files for bankruptcy and seeks a discharge of the debt he owes Smith or the Client Security Fund (if it paid Smith), he will notify the State Bar and Juli Smith of his petition and provide them with an opportunity to object to the discharge.

Respondent agrees that if the debt to Smith or the Client Security Fund (if it paid Smith) is discharged in bankruptcy then respondent still is obligated to pay the debt for rehabilitation purposes.

(Do not write above this line.)

In the Matter of: Scott A. Galland	Case number(s): 09-O-18616
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### SIGNATURE OF THE PARTIES

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

3/16/11  
Date

  
Respondent's Signature

Scott A. Galland  
Print Name

Date

Respondent's Counsel Signature

Print Name

3/21/11  
Date

  
Deputy Trial Counsel's Signature

Esther Rogers  
Print Name

(Do not write above this line.)

In the Matter of: Scott A. Galland	Case Number(s): 09-O-18616
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- All court dates in the Hearing Department 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.) Otherwise the stipulation shall be effective 15 days after service of this order.

Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.

March 29, 2011  
Date

Pat McElroy  
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 San Francisco, On March 29, 2011, I deposited a true copy of the following document(s):

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

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

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

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

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

ESTHER ROGERS , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 29, 2011.



Laurretta Cramer  
Case Administrator  
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST April 19, 2018

State Bar Court, State Bar of California,  
Los Angeles

By \_\_\_\_\_  
Clerk


A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be "J. H. G.". Below the signature, the word "Clerk" is printed.



**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><b>PUBLIC MATTER</b></p> <p><b>FILED</b> </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: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></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.

(Do not write above this line.)

- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
  - Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: 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.

(Effective January 1, 2011)



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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)

(Do not write above this line.)

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:

(Do not write above this line.)

### 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:  

<input type="checkbox"/> Substance Abuse Conditions	<input type="checkbox"/> Law Office Management Conditions
<input type="checkbox"/> Medical Conditions	<input checked="" type="checkbox"/> Financial Conditions

(Effective January 1, 2011)

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**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:**

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Attachment language (if any):

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:

Scott A. Galland

CASE NUMBERS:

11-O-12629; 12-H-10819; 11-O-18183; 12-O-11056;  
12-O-11553

**FACTS AND CONCLUSIONS OF LAW.**

Respondent pleads nolo contendere to the following facts and violations. Respondent completely understands that the plea for nolo contendere shall be considered the same as an admission of the stipulated facts and of his culpability as to the violations of the statutes and/or Rules of Professional Conduct specified herein.

Case No. 11-O-12629 (Complainant: Vicki Lomax)

**FACTS:**

1. On July 11, 2007, Lomax employed Respondent to represent her in a wrongful termination and employment discrimination action against her former employer, Kern Community College District (the "District") among others. Lomax paid Respondent \$1,000.00 in advanced fees and a total of \$2,200.00 over several months for representation in the wrongful termination and employment discrimination action.
2. On September 17, 2008, Respondent filed a civil complaint on Lomax's behalf alleging wrongful termination and employment discrimination among other claims in the matter entitled *Lomax v. Kern Community College District, et al.*, Kern County Superior Court case number S-1500-cv-265106.
3. Between July 2009 and December 2009, hearings were held to address an order to show cause concerning Respondent's failure to provide proofs of service on the defendants named in Lomax's complaint.
4. On February 22, 2010, the District filed a demurrer to Lomax's complaint for failure to state facts sufficient to constitute a cause of action and due to the uncertainty of the allegations made in the complaint.
5. On March 25, 2010, a hearing on the demurrer was held. Respondent was present on behalf of Lomax. The court sustained the District's demurrer with twenty (20) days leave for Lomax to amend her complaint by April 14, 2010. Thereafter, Respondent failed to file an amended complaint on behalf of Lomax.

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

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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 ("Voris") 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, Liquiddium Capital Partners LLC, Liquiddium GCP GOR, LLC, Liquiddium REO, LLC, Liquiddium 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 Silverton* (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

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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.

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**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.

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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.



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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:

¶ . . . ¶

(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;

¶ . . . ¶

(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 6, 2012  
Date

  
Respondent's Signature



Scott A. Galland  
Print Name

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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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### SIGNATURE OF THE PARTIES

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

<u>April 5, 2012</u> Date	 Respondent's Signature	<u>Scott A. Galland</u> Print Name
<u>N/A</u> Date	<u>Respondent's Counsel Signature</u>	<u>N/A</u> Print Name
<u>April 6, 2012</u> Date	 Deputy Trial Counsel's Signature	<u>Anand Kumar</u> 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:

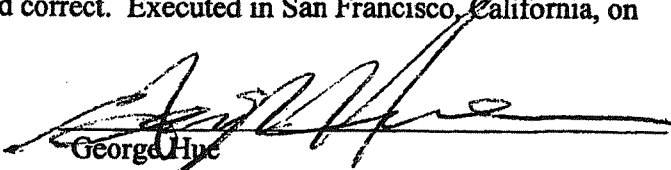
by fax transmission, at fax number . No error was reported by the fax machine that I used.

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

SUPREME COURT  
**FILED**

(State Bar Court Nos. 11-O-12629; 12-H-10819; 11-O-18183 (12-O-11056;  
12-O-11553))

AUG 16 2012

S203069

Frank A. McGuire Clerk

**IN THE SUPREME COURT OF CALIFORNIA**

Deputy

*En Banc*

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In re SCOTT ANTHONY GALLAND on Discipline

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The court orders that Scott Anthony Galland, State Bar Number 211330, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. Scott Anthony Galland is suspended from the practice of law for the first year of probation;
2. Scott Anthony Galland must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on April 12, 2012; and
3. At the expiration of the period of probation, if Scott Anthony Galland has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Scott Anthony Galland must also take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Scott Anthony Galland must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with his membership fees for each of the years 2013, 2014, and 2015. If Scott Anthony Galland 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.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

11<sup>th</sup> day of August 2012

By  Deputy

CANTIL-SAKAUYE

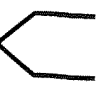
Chief Justice



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST April 19, 2018  
State Bar Court, State Bar of California,  
Los Angeles

By   
Clerk





**FILED**

OCT 31 2014 JG

STATE BAR COURT OF CALIFORNIA

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

REVIEW DEPARTMENT

In the Matter of	)	Case No. 12-H-15804
SCOTT ANTHONY GALLAND,	)	OPINION
A Member of the State Bar, No. 211330.	)	
_____		

The Office of the Chief Trial Counsel of the State Bar (OCTC) appeals the discipline recommendation of a hearing judge who found Scott Anthony Galland culpable of violating several conditions of a public reproof. The judge recommended Galland be suspended for three years and until he establishes his rehabilitation and fitness to practice law pursuant to a proceeding under Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, former standard 1.4(c)(ii).<sup>1</sup> OCTC renews its trial request that Galland be disbarred. It stresses that this is Galland's third discipline case,<sup>2</sup> and that he previously failed to comply with his reproof conditions. Galland did not seek review.

After independently reviewing the record (Cal. Rules of Court, rule 9.12), we affirm the hearing judge's culpability findings and the mitigating and aggravating circumstances, with modifications. Although this is Galland's third discipline, the misconduct in his two prior records of discipline occurred during the same period of time. Further, Galland's cumulative

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<sup>1</sup> All further references to standards are to this source. These standards were modified effective January 1, 2014. Since this case was submitted for ruling in 2014, the new standards apply. The current applicable standard is standard 1.2(c)(1).

<sup>2</sup> Standard 1.8(b) provides that disbarment is appropriate discipline under certain circumstances for an attorney with two prior disciplines unless the most compelling mitigating factors predominate.

misconduct neither demonstrates a pattern nor that he is unwilling to conform to his ethical responsibilities. We find that the recommended three-year suspension with the requirement that Galland present proof at a formal hearing of his rehabilitation and present fitness to practice law, will protect the public, the courts, and the legal profession.

## **I. FACTUAL BACKGROUND AND CULPABILITY**

We adopt the hearing judge's factual findings and augment them with evidence from the record.

### **A. Factual Findings**

#### **1. Underlying Discipline Case**

On March 16, 2011, Galland stipulated to three ethical violations in 2009 in a single client matter. A hearing judge approved the stipulation on March 29, 2011, and imposed the agreed-upon discipline of a public reproof with conditions. The court's order took effect April 19, 2011, and required that Galland:

- Submit written quarterly reports to the State Bar Office of Probation (Probation) on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof and state under penalty of perjury whether he complied with all reproof conditions during the preceding calendar quarter;
- Pay restitution to Juli Smith (or the Client Security Fund) according to a payment schedule and provide satisfactory proof to Probation with each quarterly report; and
- Answer fully, promptly and truthfully any inquiries of Probation directed to him personally or in writing relating to whether he was complying or had complied with the reproof conditions.

## 2. Violation of Repeval Conditions

Galland did not comply with his quarterly reporting requirement. Although he submitted his April 10, 2012 report, it was two days late and defective because he failed to state under penalty of perjury whether he complied with all reprovall conditions during the reporting period. Similarly, although his July 10, 2012 report was submitted under penalty of perjury, he did not report whether he had complied with all reprovall conditions. Additionally, the report was a copy and did not contain an original signature. Galland resubmitted the July 2012 report on July 13 with an original signature but failed to correct the other deficiency. Probation received but did not file the three defective reports.

In each instance, Probation notified Galland that his reports were inadequate. It explained that he failed to state under penalty of perjury that he had complied with all of his reprovall conditions for the reporting period, and informed him that his July 13 report failed to specify the reporting period being covered. Also, in each written communication, Probation informed Galland that he had not provided satisfactory proof of his restitution payments to Juli Smith, and requested that he immediately submit corrected April and July 2012 quarterly reports.

Galland did not timely submit his October 10, 2012 quarterly report. On March 22, 2013, he resubmitted quarterly reports for April 10 and July 10, 2012 and submitted a report for October 10, 2012. Probation accepted these reports as "filed late."

During the disciplinary hearing, Galland testified that he did not comply with his reporting requirements because he was consumed with daily life and was in dire financial stress. During the year 2012, his adjusted gross income was less than \$10,000. He was fearful of being incarcerated because he was behind in his child support payments, and he lost his apartment since he could not pay the rent. At the time of the hearing, he had obtained temporary employment earning \$600 per week in Los Angeles, but that ended in the Spring of 2013.

**B. Culpability**

The hearing judge found Galland culpable of violating rule 1-110 of the Rules of Professional Conduct by: (1) submitting defective April 10 and July 10, 2012 quarterly reports; (2) being excessively late in correcting the deficiencies in his reports; (3) filing an untimely October 10, 2012 report; (4) failing to submit satisfactory proof to Probation of his monthly restitution payments to Smith; and (5) not responding to Probation's inquiries about his non-compliance until eight to 10 months later. Neither party challenges the culpability findings, and we adopt them as being supported by the record.

**II. AGGRAVATION AND MITIGATION**

OCTC must establish aggravating circumstances by clear and convincing evidence under standard 1.5.<sup>3</sup> Galland has the same burden to prove mitigation. (Std. 1.6.) The hearing judge found two aggravating circumstances — two prior records of discipline and multiple acts of wrongdoing. He found three mitigating factors — cooperation, recognition of wrongdoing, and extreme financial difficulties. We adopt these findings as modified below.

**A. Aggravation**

**1. Prior Disciplinary Record (Std. 1.5(a))**

***In the Matter of Scott A. Galland (March 29, 2011) (Galland I) – Public Reproval***

On March 29, 2011, Galland was publicly reprovved with conditions after he stipulated to failing to keep his client informed, to competently perform, and to return unearned fees. Galland stipulated to this misconduct before an Notice of Disciplinary Charges (NDC) was filed. His client, Juli Smith, paid him \$36,060 to represent her. He abandoned her in May 2009 and his failure to perform caused Smith to lose a settlement of at least \$15,000. Additionally, the court

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<sup>3</sup> Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

dismissed her wrongful termination and employment discrimination suit. Galland stipulated that he owed Smith \$15,000 in unearned fees. In mitigation, he had no prior record of discipline, and he cooperated; there were no aggravating circumstances. One of Galland's reproof conditions required him to pay \$15,000 in restitution to Smith.

***In re Scott Anthony Galland on Discipline (Aug. 16, 2012) (Galland II) – One-Year Actual Suspension***

On August 16, 2012, the Supreme Court ordered Galland suspended from the practice of law for two years, stayed, and placed him on probation for two years subject to conditions, including a one-year actual suspension and restitution. Before an NDC was filed, Galland stipulated to misconduct in five matters, three of them involving clients. His misconduct arose when he abandoned three clients in October 2009, April 2010, and December 2010, which occurred before the public reproof was issued in *Galland I*. In all three matters in *Galland II*, he failed to perform with competence, which resulted in the dismissal of two of his clients' complaints.<sup>4</sup> He also failed to keep his clients informed and failed to return unearned fees to each client totaling \$11,030. Other misconduct included improper withdrawal from employment, failure to obey a court order, failure to render an accounting, and failure to return a client's file.

In the remaining two matters, Galland failed to report a \$1,000 sanction order to the State Bar, failed to obey that order, and failed to comply with the reproof conditions in *Galland I*. In the reproof violation matter, Galland filed an untimely October 2010 report and defective January and March 2012 reports, and failed to submit proof of passage of the Multistate Professional Responsibility Examination (MPRE) or that he attended Ethics School. Furthermore, he ceased making monthly restitution payments to Smith after September 2011.

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<sup>4</sup> One client's dismissal was vacated after Galland filed a motion and admitted attorney neglect pursuant to Code of Civil Procedure section 473, subdivision (b). He took this action after his client retained new counsel and incurred additional attorney fees totaling \$21,520.08.

Between 2009 and 2010, Galland went through a contentious divorce. Additionally, his home was foreclosed due to his ex-wife's failure to pay the mortgage. Galland received mitigation credit for his family problems and for cooperation, while his prior discipline record, significant client harm, and multiple acts of wrongdoing were aggravating circumstances.

**2. Multiple Acts of Wrongdoing (Std. 1.5(b))**

Galland submitted two defective quarterly reports; failed to promptly correct the deficiencies in those reports, resulting in their untimeliness; filed a third report late; failed to submit satisfactory proof to Probation that he made the monthly restitution payments to Smith; and did not promptly respond to Probation's inquiries about his compliance with the reprobation conditions. These numerous instances of non-compliance support an aggravating factor for multiple acts under standard 1.5(b). (See *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 76 [violating three separate conditions of probation constituted multiple acts of wrongdoing].)

**B. Mitigation**

**1. Credit for Cooperation (Std. 1.6(e))**

The hearing judge afforded mitigation credit for Galland's cooperation with OCTC. We agree and assign it significant weight. Galland entered into a stipulation of facts that established his culpability. The stipulation conserved judicial resources and eliminated the need for the probation deputy to testify. In addition, Galland does not dispute any culpability findings on review, and candidly admitted his wrongdoing at the hearing below. (See *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [extensive weight in mitigation for those who admit culpability and facts].)

## **2. Recognition of Wrongdoing (Std. 1.6(g))**

Standard 1.6(g) provides mitigation credit where an attorney takes prompt objective steps that demonstrate spontaneous remorse and recognition of wrongdoing, and timely atones for the misconduct. During the hearing, Galland acknowledged that he “should have corrected [the defective reports] earlier or promptly.” He has started to understand and deal with his restitution responsibilities, particularly “as a condition of, you know, showing . . . rehabilitation.” We afford modest weight for Galland’s recognition of wrongdoing because he began to address his restitution payments, albeit only after OCTC interceded.

## **3. Financial Difficulties**

Financial difficulties may be considered in mitigation for professional misconduct. (See *Bradpiece v. State Bar* (1974) 10 Cal.3d 742, 747-748.) Pursuant to the reproof conditions, Galland paid Smith \$200 monthly from April through September 2011. When the monthly payments increased to \$760, he was unable to comply with his restitution obligations. He testified that he was experiencing severe financial pressures when he violated his reproof conditions.

In 2012, Galland’s adjusted gross income was less than \$10,000, he had difficulty securing employment, and was unable to make his child support payments, which prompted worry that he would be incarcerated for nonpayment. Also, Galland had to vacate his apartment because he could not afford the rent. Galland testified that these circumstances caused him to neglect his professional duty to comply with his reproof conditions, including making restitution payments to Smith. The hearing judge found Galland’s testimony credible, and we give great weight to that finding. (Rules Proc. of State Bar, rule 5.155(A).) Although Galland found a job at the time of the hearing, it was temporary, and he was not current with his restitution obligations. We afford minimal weight to this factor since there is no evidence that he

has overcome his financial difficulties. (Cf. *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678, 684 [attorney with prolonged financial hardship given mitigation credit for difficulties where evidence of good faith effort to comply with restitution obligations].)

### III. DISBARMENT IS NOT WARRANTED

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession, to preserve public confidence in the profession, and to maintain high professional standards for attorneys. (Std. 1.1.) We begin with the standards, which the Supreme Court instructs us to follow whenever possible. (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) But the standards do not mandate a particular discipline (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994), nor must they be followed in “talismanic fashion.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Instead, we balance all relevant factors, including aggravation and mitigation, on an individual case basis. (*Sugarman v. State Bar* (1990) 51 Cal.3d 609, 618.)

The most relevant standard is 1.8(b), which applies to an attorney who has been disciplined twice. In part, standard 1.8(b) provides that unless the most compelling mitigating circumstances clearly predominate “or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct,” disbarment is appropriate where: (1) actual suspension was ordered as a prior discipline; (2) the prior disciplines, coupled with the current matter, demonstrate a pattern of misconduct; or (3) the prior discipline together with the current misconduct “demonstrate the member’s unwillingness or inability to conform to ethical responsibilities.”

The hearing judge did not recommend disbarment because of Galland’s “compelling” mitigation. We do not find Galland’s mitigating circumstances compelling nor do they clearly predominate over his misconduct and the aggravation of his two prior disciplines. But we also



do not recommend disbarment, albeit for a different reason. Although Galland's two priors were serious and involved client abandonment and the failure to perform, the misconduct occurred during the same time period, diminishing their aggravating weight. Thus, Galland did not have an opportunity to appreciate or heed the import of the earlier discipline. (See *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602.) Accordingly, we do not strictly apply standard 1.8(b). (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136 [court did not apply former std. 1.7(b) where prior discipline given less weight because it was imposed after commencement of second disciplinary proceeding].)<sup>5</sup>

We do, however, find guidance in standard 1.8(a), which provides that discipline should be progressive. Since Galland previously received a one-year suspension, he should now receive more serious discipline.

We examine comparable precedent to ensure consistency among discipline cases. *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.) In requesting that Galland be disbarred, OCTC cites *In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, and *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439. We do not find these cases persuasive because the attorney in *Rose* had four priors, and in *Grueneich*, the probation violations were more extensive than in the present case. More importantly, both cases involve probation violations rather than violations of reproof conditions. Therefore, we seek guidance from cases specific to reproof violations. In these cases, discipline ranges from a further reproof to 90 days' actual suspension, depending on mitigation, aggravation, and level of

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<sup>5</sup> Under the Supreme Court's guidance, we have not reflexively applied the standard in every case but rather have done so "with an eye to the nature and extent of the prior record. [Citations.]" (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 217.) "Merely declaring that an attorney has [two prior] impositions of discipline, without more analysis, may not adequately justify disbarment in every case." (*In the Matter of Miller, supra*, 1 Cal. State Bar Ct. Rptr. 131, 136.) Rather, "we must examine the nature and chronology of the respondent's record of discipline." (*Ibid.*)

cooperation in the proceedings.<sup>6</sup> In fact, reproof cases have called for no more than 90 days' actual suspension even where mitigation was absent or nominal and where failure to cooperate resulted in a default.

We adopt the hearing judge's three-year suspension recommendation and the requirement that Galland remain suspended until he proves his rehabilitation and fitness to practice. Even though the reproof violation cases provide for no more than a 90-day suspension, Galland had more priors than in two of those cases and his prior misconduct was much more serious than in the third. Additionally, Galland's suspension must be greater than the one-year suspension he received in *Galland II*. Moreover, his restitution payments remain delinquent despite his expressed intention to address them. Finally, during his closing argument, Galland conceded that "an extended actual suspension would be appropriate" and he "would expect for the full three years' suspension." Weighing all factors, we conclude that a three-year actual suspension and until he proves his rehabilitation and fitness to practice law best serves the purposes of attorney discipline.

#### IV. RECOMMENDATION

For the foregoing reasons, we recommend that Scott Anthony Galland be suspended from the practice of law for four years, that execution of that suspension be stayed, and that he be placed on probation for four years on the following conditions:

1. He must be suspended from the practice of law for a minimum of the first three years of his probation, and remain suspended until the following conditions are satisfied:

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<sup>6</sup> *Conroy v. State Bar* (1990) 51 Cal.3d 799 (60-day actual suspension in default proceeding for failing to pass MPRE with one factor in mitigation and three in aggravation including prior record of discipline, failure to participate, and lack of remorse); *In the Matter of Posthuma* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813 (further reproof for failing to pass MPRE with no mitigation and one aggravating factor of prior discipline); *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 (90-day actual suspension in default proceeding for failing to submit quarterly reports and to complete CLE hours with no mitigation and four aggravating factors including two prior discipline records, multiple acts of wrongdoing, indifference, and failure to cooperate).

- a. He makes restitution to Juli Smith in the amount of \$15,000 plus 10 percent interest per annum from April 1, 2011, (or reimburses the Client Security Fund to the extent of any payment from the Fund to Juli Smith, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar Office of Probation in Los Angeles; and,
  - b. He provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.
4. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request
5. He 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, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.
7. Within one year after the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if he has

complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### V. PROFESSIONAL RESPONSIBILITY EXAMINATION

Pursuant to Evidence Code section 452, subdivision (d), we take judicial notice of Scott Anthony Galland's passage of the Multistate Professional Responsibility Examination given on November 2, 2013. We do not recommend that he be ordered to take and pass the MPRE since he submitted proof of passage to Probation in *In re Galland on Discipline* (Aug. 16, 2012, S203069) Cal. State Bar Ct. no. 11-O-12629.

#### VI. RULE 9.20

We further recommend that Scott Anthony Galland be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

#### VII. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

HONN, J.

WE CONCUR:

PURCELL, P. J.

EPSTEIN, J.

**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. 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 October 31, 2014, I deposited a true copy of the following document(s):

**OPINION FILED OCTOBER 31, 2014**

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

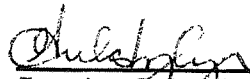
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SCOTT A. GALLAND  
6800 QUAILWOOD DR  
BAKERSFIELD, CA 93309**

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

**DONALD R. STEEDMAN, Enforcement, San Francisco**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 31, 2014.

  
\_\_\_\_\_  
**Jasmine Guladzhyan**  
Case Administrator  
State Bar Court

**SUPREME COURT  
FILED**

(State Bar Court No. 12-H-15804)

**FEB 23 2015**

S223211

**Frank A. McGuire Clerk**

**Deputy**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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**In re SCOTT ANTHONY GALLAND on Discipline**

---

The court orders that Scott Anthony Galland, State Bar Number 211330, is suspended from the practice of law in California for four years, execution of that period of suspension is stayed, and he is placed on probation for four years subject to the following conditions:

1. Scott Anthony Galland is suspended from the practice of law for a minimum of three years of probation and he will remain suspended until the following conditions are satisfied:
  - i. He makes restitution to Juli Smith in the amount of \$15,000 plus 10 percent interest per year from April 1, 2011 (or reimburses the Client Security Fund, to the extent of any payment from the Fund to Juli Smith, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
  - ii. Scott Anthony Galland provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
2. Scott Anthony Galland must comply with the other conditions of probation recommended by the Review Department of the State Bar Court in its Opinion filed on October 31, 2014.
3. At the expiration of the period of probation, if Galland has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Scott Anthony Galland must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

23 day of February 2015

Clerk

By: 

Deputy

**CANTIL-SAKAUYE**

*Chief Justice*



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST April 19, 2018  
State Bar Court, State Bar of California,  
Los Angeles

By *Jan H. [Signature]*  
Clerk



## CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 16, 2018, 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:

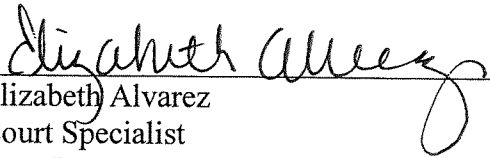
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SCOTT A. GALLAND  
6800 QUAILWOOD DR  
BAKERSFIELD, CA 93309

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

Cindy W.Y. Chan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 16, 2018.

  
\_\_\_\_\_  
Elizabeth Alvarez  
Court Specialist  
State Bar Court