ORIGINAL

(Do not write above this line.)

State Bar Court of California
Hearing Department
Los Angeles
ACTUAL SUSPENSION

Counsel For The State Bar	Case Number(s):	For Court use only
Jessica A. Lienau Acting Senior Trial Counsel 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1165 Bar # 269753	10-O-06856-PEM Investigation Nos.: 10-O-03708; 10-O-07576; 10-O-09734; 11-O-13813; 11-O-15128; 12-O-15312	PUBLIC MATTER FILED OCT 26 2012 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Paul J. Virgo 9909 Topanga Blvd. #282 Chatsworth, CA 91311 (310) 666-9701 Bar # 67900	Submitted to: **Assigned Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING **ACTUAL SUSPENSION** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: NICOLE ROSIE GALLEGOS Bar # 231744 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted June 30, 2004.

(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.

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

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

(6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
- ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: three (3) billing cycles following the effective date of the Supreme Court Order. (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

(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.

(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. See Stipulation at page 17.

(6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Stipulation at page 17.

(8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

(1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.

(2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.

(3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.

(5) ☐ **Restitution:** Respondent paid $ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.

(6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.

(7) ☐ **Good Faith:** Respondent acted in good faith.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Stipulation at page 17.

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 two (2) 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 nine (9) months.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. ☒ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

(1) ☒ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of

information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

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

(6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

(8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

☐ No Ethics School recommended. Reason: .

(9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

(10) ☒ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☒ Financial Conditions

F. Other Conditions Negotiated by the Parties:

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

☐ No MPRE recommended. Reason: .

(2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension: .

(5) ☐ **Other Conditions:**

In the Matter of:	Case Number(s):
NICOLE ROSIE GALLEGOS	10-O-06856-PEM Investigation Nos.: 10-O-03708; 10-O-07576; 10-O-09734; 11-O-13813; 11-O-15128; 12-O-15312

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
Neil P. Ryan	$3,995.00	July 5, 2009
Michael and Tonya Williams	$2,495.00	May 22, 2009
Gary and Evelyn Stoddard	$2,494.98	February 24, 2010
Jesse Morris III & Christina Begay-Morris	$2,995.00	June 20, 2009

☐ 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 reproval), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

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

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

c. Client Funds Certificate

☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:

a. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

i. A written ledger for each client on whose behalf funds are held that sets forth:
   1. the name of such client;
   2. the date, amount and source of all funds received on behalf of such client;
   3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
   4. the current balance for such client.

ii. a written journal for each client trust fund account that sets forth:
   1. the name of such account;
   2. the date, amount and client affected by each debit and credit; and,
   3. the current balance in such account.

iii. all bank statements and cancelled checks for each client trust account; and,

iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
   i. each item of security and property held;
   ii. the person on whose behalf the security or property is held;
   iii. the date of receipt of the security or property;
   iv. the date of distribution of the security or property; and,
   v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

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

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF:	NICOLE ROSIE GALLEGOS
CASE NUMBER(S):	10-O-06856-PEM; Investigation Nos.: 10-O-03708; 10-O-07576; 10-O-09734; 11-O-13813; 11-O-15128; 12-O-15312

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 10-O-06856 (Complainant: Neil P. Ryan)

FACTS:

1. The laws of the State of Hawaii, including the Hawaii Rules of Professional Conduct, prohibit attorneys not licensed in Hawaii from practicing law in Hawaii subject to several limited exceptions.

2. Respondent is not presently, and never has been, admitted to practice law in the State of Hawaii, and Respondent was not otherwise entitled to practice law in the State of Hawaii during the relevant time period.

3. In June 2009, Neil Ryan ("Ryan"), a Hawaii resident, saw a television commercial where American Law Firm ("ALF") was advertising home loan modification services. Ryan called ALF and spoke to ALF nonattorney employee Joseph Shalaby ("Shalaby") who told Ryan he was the office manager. Shalaby then mailed Ryan an information packet and legal retainer agreement.

4. At all times herein relevant, Respondent owned and operated ALF.

5. On June 30, 2009, Respondent accepted the representation of Ryan, in order to negotiate and obtain for Ryan a home mortgage loan modification for his Hawaii residential property.

6. On July 5, 2009, Ryan paid Respondent $1,997.50 in advance attorney's fees.

7. On August 5, 2009, Ryan paid Respondent $1,997.50 in advance attorney's fees.

8. Respondent entered into an agreement for and charged and collected fees to provide legal services from Ryan, in a jurisdiction, specifically Hawaii, in which she was not admitted to practice law.

9. Between June 2009 and August 2009, Respondent and agents acting on behalf of Respondent negotiated with Ryan's home loan mortgage lender regarding Ryan's home loan mortgage modification.

10. At no point did Respondent associate with an attorney licensed to practice in Hawaii on Ryan's home loan mortgage modification matter.

11. On June 2, 2010, Ryan submitted a complaint about Respondent to the State Bar.

12. On February 1, 2011, a State Bar investigator mailed a letter regarding Ryan's complaint to Respondent's then-current membership records address, 1041 W. 18th Street, Suite A205, Costa Mesa, CA 92627.

13. On March 9, 2011, the letter was returned to the State Bar by the U.S. Postal Service bearing the mark "undeliverable-unable to forward."

14. As of September 19, 2011, the date the Notice of Disciplinary Charges was filed in this matter, Respondent had not updated her membership records address with the State Bar.

CONCLUSIONS OF LAW:

15. By accepting representation of Ryan as a client, collecting an advanced attorney fee and negotiating with Ryan's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Hawaii in wilful violation of rule 1-300(B), Rules of Professional Conduct.

16. By accepting representation of Sepulveda and charging and collecting fees from Ryan, when she was not licensed to practice law in Hawaii, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Ryan in wilful violation of rule 4-200(A), Rules of Professional Conduct.

17. By not updating her membership records address with the State Bar, Respondent wilfully failed to comply with the requirements of § 6002.1, which requires a member of the State Bar to maintain on the official membership records of the State Bar the member's current office address and telephone numbers or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline in wilful violation of section 6068(j), Business and Professions Code.

Investigation No. 10-O-03708 (Complainant: Michael and Tonya Williams)

FACTS:

18. The laws of the State of Missouri, including the Missouri Rules of Professional Conduct, prohibit attorneys not licensed in Missouri from practicing law in Missouri subject to several limited exceptions.

19. Respondent is not presently, and never has been, admitted to practice law in the State of Missouri, and Respondent was not otherwise entitled to practice law in the State of Missouri during the relevant time period.

20. On May 14, 2009, Respondent accepted the representation of Michael and Tonya Williams (collectively "the Williams"), residents of Missouri, in order to negotiate and obtain for the Williams a home mortgage loan modification for their Missouri residential property.

21. On May 22, 2009, the Williams paid Respondent $1,000.00 in advance attorney's fees.

22. On June 19, 2009, the Williams paid Respondent $1,000.00 in advance attorney's fees.

23. On July 10, 2009, the Williams paid Respondent $495.00 in advance attorney's fees.

24. Respondent entered into an agreement for and charged and collected fees to provide legal services from the Williams, in a jurisdiction, specifically Missouri, in which she was not admitted to practice law.

25. Between July 2009 and August 2009, Respondent and agents acting on behalf of Respondent negotiated with the Williams' home loan mortgage lender regarding the Williams' home loan mortgage modification.

26. At no point did Respondent associate with an attorney licensed to practice in Missouri on the Williams' home loan mortgage modification matter.

CONCLUSIONS OF LAW:

27. By accepting representation of the Williams as clients, collecting an advanced attorney fee and negotiating with the Williams' lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Missouri in wilful violation of rule 1-300(B), Rules of Professional Conduct.

28. By accepting representation of the Williams and charging and collecting fees from the Williams, when she was not licensed to practice law in Missouri, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from the Williams in wilful violation of rule 4-200(A), Rules of Professional Conduct.

Investigation No. 10-O-07576 (Complainant: Gary and Evelyn Stoddard)

FACTS:

29. The laws of the State of Washington, including the Washington Rules of Professional Conduct, prohibit attorneys not licensed in Washington from practicing law in Washington subject to several limited exceptions.

30. Respondent is not presently, and never has been, admitted to practice law in the State of Washington, and Respondent was not otherwise entitled to practice law in the State of Washington during the relevant time period.

31. On May 14, 2009, Respondent accepted the representation of Gary and Evelyn Stoddard (collectively "the Stoddards"), residents of Washington, in order to negotiate and obtain for the Stoddards a home mortgage loan modification for their Washington residential property.

32. On February 24, 2010, the Stoddards paid Respondent $831.66 in advance attorney's fees.

33. On March 22, 2010, the Stoddards paid Respondent $831.66 in advance attorney's fees.

34. On April 26, 2010, the Stoddards paid Respondent $831.66 in advance attorney's fees.

35. Respondent entered into an agreement for and charged and collected fees to provide legal services from the Stoddards, in a jurisdiction, specifically Washington, in which she was not admitted to practice law.

36. Between May 2009 and April 2010, Respondent and agents acting on behalf of Respondent negotiated with the Stoddards' home loan mortgage lender regarding the Stoddards' home loan mortgage modification.

37. At no point did Respondent associate with an attorney licensed to practice in Washington on the Stoddards' home loan mortgage modification matter.

CONCLUSIONS OF LAW:

38. By accepting representation of the Stoddards as clients, collecting an advanced attorney fee and negotiating with the Stoddards' lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Washington in wilful violation of rule 1-300(B), Rules of Professional Conduct.

39. By accepting representation of the Stoddards and charging and collecting fees from the Stoddards, when she was not licensed to practice law in Washington, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from the Stoddards in wilful violation of rule 4-200(A), Rules of Professional Conduct.

Investigation No. 10-O-09734 (Complainant: Jesse Morris III and Christina Begay-Morris)

FACTS:

40. The laws of the State of Arizona, including the Arizona Ethics Rules, prohibit attorneys not licensed in Arizona from practicing law in Arizona subject to several limited exceptions.

41. Respondent is not presently, and never has been, admitted to practice law in the state of Arizona and Respondent was not otherwise entitled to practice law in the State of Arizona during the relevant time period.

42. On June 19, 2009, Respondent accepted the representation of Jesse Morris III ("Morris") and Christina Begay-Morris ("Begay-Morris"), residents of Arizona, in order to negotiate and obtain for Morris and Begay-Morris a home mortgage loan modification for their Arizona residential property.

43. On June 20, 2009, Morris and Begay-Morris paid Respondent $2,995.00 in advance attorney's fees.

44. Respondent entered into an agreement for and charged and collected fees to provide legal services from Morris and Begay-Morris, in a jurisdiction, specifically Arizona, in which she was not admitted to practice law.

45. Between June 2009 and July 2009, Respondent and agents acting on behalf of Respondent negotiated with Morris' and Begay-Morris' home loan mortgage lender regarding Morris' and Begay-Morris' home loan mortgage modification.

46. At no point did Respondent associate with an attorney licensed to practice in Arizona on Morris' and Begay-Morris' home loan mortgage modification matter.

CONCLUSIONS OF LAW:

47. By accepting representation of Morris and Begay-Morris as clients, collecting an advanced attorney fee and negotiating with Morris' and Begay-Morris' lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Arizona in wilful violation of rule 1-300(B), Rules of Professional Conduct.

48. By accepting representation of Morris and Begay-Morris and charging and collecting fees from Morris and Begay-Morris, when she was not licensed to practice law in Arizona, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Morris and Begay-Morris in wilful violation of rule 4-200(A), Rules of Professional Conduct.

Investigation No. 11-O-13813 (Complainant: Masoud and Kelly Jalipour)

FACTS:

49. On February 17, 2010, Masoud and Kelly Jalipour (collectively "the Jalipours") hired Respondent to perform home loan modification services.

50. On February 18, 2010, Respondent charged and collected $1,247.50 in advance attorney's fees from the Jalipours prior to fully performing each and every service she had contracted to perform or represented that she would perform.

51. On April 15, 2010, Respondent charged and collected $1,247.50 in advance attorney's fees from the Jalipours prior to fully performing each and every service she had contracted to perform or represented that she would perform.

52. Respondent did not provide the Jalipours, prior to entering into a fee agreement for loan modification or loan forbearance services, with the following written statement:

> It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

CONCLUSIONS OF LAW:

53. By negotiating, arranging and offering to perform a mortgage loan modification for a fee paid by the Jalipours, and demanding, charging, collecting and receiving $2,495.00 from the Jalipours prior to fully performing each and every service she had contracted to perform or represented that she would perform, in violation of Section 2944.7(a)(1) of the Civil Code, Respondent wilfully violated Business and Professions Code section 6106.3.

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

Investigation No. 11-O-15128 (Complainant: Stephen Roberson)

FACTS:

55. The laws of the State of New Jersey, including the New Jersey Disciplinary Rules of Professional Conduct, prohibit attorneys not licensed in New Jersey from practicing law in New Jersey subject to several limited exceptions.

56. Respondent is not presently, and never has been, admitted to practice law in the state of New Jersey and Respondent was not otherwise entitled to practice law in the State of New Jersey during the relevant time period.

57. On January 8, 2010, Respondent accepted the representation of Stephen Roberson ("Roberson"), a resident of New Jersey, in order to negotiate and obtain for Roberson a home mortgage loan modification for his New Jersey residential property.

58. On January 20, 2010, Roberson paid Respondent $1,750.00 in advance attorney's fees.

59. On February 20, 2010, Roberson paid Respondent $1,750.00 in advance attorney's fees.

60. Respondent entered into an agreement for and charged and collected fees to provide legal services from Roberson, in a jurisdiction, specifically New Jersey, in which she was not admitted to practice law.

61. Between February 2010 and October 2010, Respondent and agents acting on behalf of Respondent negotiated with Roberson's home loan mortgage lender regarding Roberson's home loan mortgage modification.

62. At no point did Respondent associate with an attorney licensed to practice in New Jersey on Roberson's home loan mortgage modification matter.

CONCLUSIONS OF LAW:

63. By accepting representation of Roberson as a client, collecting an advanced attorney fee and negotiating with Roberson's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in New Jersey in wilful violation of rule 1-300(B), Rules of Professional Conduct.

64. By accepting representation of Roberson and charging and collecting fees from Roberson, when she was not licensed to practice law in New Jersey, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Roberson in wilful violation of rule 4-200(A), Rules of Professional Conduct.

Investigation No. 12-O-15312 (Complainant: Sherri Agnifili)

FACTS:

65. The laws of the State of Nevada, including the Nevada Rules of Professional Conduct, prohibit attorneys not licensed in Nevada from practicing law in Nevada subject to several limited exceptions.

66. Respondent is not presently, and never has been, admitted to practice law in the state of Nevada and Respondent was not otherwise entitled to practice law in the State of Nevada during the relevant time period.

67. At all time herein relevant, Respondent owned and operated Prosper.

68. In April 2009, Agnifili hired Prosper to obtain a loan modification for her Nevada residential property.

69. On May 29, 2009, Respondent accepted the representation of Agnifili, a resident of Nevada, in order to negotiate and obtain for Agnifili a home mortgage loan modification for her Nevada residential property. Respondent signed the Legal Retainer Agreement on June 12, 2009.

70. On June 1, 2009, Agnifili paid Respondent $625.00 in advance attorney's fees.

71. On June 30, 2009, Agnifili paid Respondent $625.00 in advance attorney's fees.

72. On July 31, 2009, Agnifili paid Respondent $625.00 in advance attorney's fees.

73. Respondent entered into an agreement for and charged and collected fees to provide legal services from Agnifili, in a jurisdiction, specifically Nevada, in which she was not admitted to practice law.

74. Between April 2009 and July 2009, Respondent and agents acting on behalf of Respondent negotiated with Agnifili's home loan mortgage lender regarding Agnifili's home loan mortgage modification.

75. At no point did Respondent associate with an attorney licensed to practice in Nevada on Agnifili's home loan mortgage modification matter.

CONCLUSIONS OF LAW:

76. By accepting representation of Agnifili as a client, collecting an advanced attorney fee and negotiating with Agnifili's lender, Respondent willfully engaged in the unauthorized practice of law in violation of the regulations of the profession in Nevada in wilful violation of rule 1-300(B), Rules of Professional Conduct.

77. By accepting representation of Agnifili and charging and collecting fees from Agnifili, when she was not licensed to practice law in Nevada, Respondent willfully entered into an agreement for, charged, and collected an illegal fee from Agnifili in wilful violation of rule 4-200(A), Rules of Professional Conduct.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Indifference: Respondent has failed to make any restitution to these seven clients over a multiple year period, even though Respondent was not entitled to accept advanced legal fees from these clients. The failure to make restitution demonstrates indifference toward rectification and atonement for misconduct. (*In the Matter of McKiernan* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420, 427.)

Multiple Acts of Wrongdoing: Respondent's misconduct evidences 15 violations in seven client matters, six of which involve illegal fees from out-of-state clients, all occurring between April 2009 and February 2010, but does not evidence a pattern of misconduct, which is reserved for serious misconduct that occurs over a prolonged period of time. (Standard 1.2(b)(ii); *Young v. State Bar* (1990) 50 Cal. 3d 1204, 1216-17.)

ADDITIONAL MITIGATING CIRCUMSTANCES.

Cooperation: Respondent acknowledged her wrongdoing and cooperated with the State Bar in these proceedings by entering into a stipulation of facts, conclusions of law, and disposition without the necessity of having a trial on this matter. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (*See*, Introduction to the Standards, Rules Proc. of State Bar, Title IV, Stds. for Prof. Misconduct.) The primary purposes of disciplinary proceedings and of the sanctions imposed are the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession. (*In re Morse* (1995) 11 Cal.4th 184, 206, *see also* Std. 1.3.)

Although not binding, the standards 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.) Any discipline recommendation

different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing 15 acts of professional misconduct in seven client matters over a one and on-half year period. Standard 1.6(a) requires that where a respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in Standard 2.6(a), which applies to Respondent's violation of § 6068(j).

Standard 2.6(a) states that violations of § 6068(j), Business and Professions Code, shall result in discipline ranging from suspension to disbarment depending on the gravity of the offense or the harm to the victim. Here, Respondent violated § 6068(j) in Case No. 10-O-06856-PEM, by failing to update her membership records address with the State Bar. This offense is not grave and did not cause harm to a specific victim. However, Respondent's failure to keep an updated membership records address hindered the State Bar in its investigation. This offense warrants discipline at the lower end of the range enumerated in Standard 2.6(a).

Standard 2.10 states that a violation of rules 4-200(A) and 1-300(B), Rules of Professional Conduct, as well as a violation of § 6106.3, Business and Professions Code, shall result in discipline ranging from reproval to suspension depending on the gravity of the offense or the harm to the victim. Here, Respondent has stipulated to six instances of accepting an illegal fee and six instances of engaging in the unauthorized practice of law ("UPL") (Case No. 10-O-06856-PEM; Investigation Nos. 10-O-03708; 10-O-07576; 10-O-09734; 11-O-15128; 12-O-15312). Harm to the public and to the administration of justice, as well as the risk of harm to the client is inherent in UPL violations. (*In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, 240.) The number of instances that Respondent accepted an illegal fee constitutes an aggravating factor, as discussed *supra.*, and makes the offense serious. Further, Respondent stipulated to one violation of § 6106.3 in Investigation No. 11-O-13813, by charging the Jalipours advanced fees for loan modification services and for failing to provide the Jalipours with the HUD notice, in violation of SB 94. A violation of SB 94 is a technical violation. Respondent's violation of SB 94 did not harm the Jalipours in a significant way. Based on the above, discipline toward the higher end of the range enumerated in Standard 2.10 is warranted.

In *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, the Review Department recommended that the respondent be suspended for two years, stayed, with six months of actual suspension. In *Wells*, the respondent was found to have engaged in the unauthorized practice of law in South Carolina on two occasions. The respondent was also found to have held herself out as entitled to practice in South Carolina when she was not. The respondent charged not only illegal fees, but her fees were found to be excessive and unconscionable. The respondent was found culpable of moral turpitude by lying to both the State Bar and to the South Carolina Solicitor's Office during the course of the investigation of her conduct. In aggravation, the respondent had a prior record of discipline, was found to have engaged in multiple acts of wrongdoing, was found to have harmed the public, the administration of justice, and her clients, and was found to have demonstrated indifference to the consequences of her misconduct.

Although Respondent here has engaged in more instances of the unauthorized practice of law, Respondent has not engaged in any conduct involving moral turpitude. Respondent here did not charge

excessive and unconscionable fees and has agreed to fully refund each client. Although the respondent in *Wells*, *supra.*, had a prior record of discipline, whereas Respondent does not. However, Respondent here has engaged in 15 acts of misconduct. Discipline greater than that imposed on the respondent in *Wells* is necessary to accomplish the purposes of attorney discipline, especially public protection. A discipline consisting of two years suspension, with nine months actual suspension and until Respondent makes full restitution, is an appropriate discipline.

FURTHER RESTITUTION.

In addition to the restitution amounts set forth on the Financial Conditions pages of this stipulation, Respondent must pay the following additional restitution on the same terms as set forth on the Financial Conditions page.

Respondent must pay Masoud and Kelly Jalipour the principal amount of $2,495.00 plus interest of 10% per annum from February 18, 2010, or reimburse CSF for any portion of the principal which it has paid, plus applicable interest and costs.

Respondent must pay Stephen Roberson the principal amount of $3,500.00 plus interest of 10% per annum from January 20, 2010, or reimburse CSF for any portion of the principal which it has paid, plus applicable interest and costs.

Respondent must pay Sherri Agnifili the principal amount of $1,875.00 plus interest of 10% per annum from June 1, 2009, or reimburse CSF for any portion of the principal which it has paid, plus applicable interest and costs.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 28, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 28, 2012, the prosecution costs in this matter are $10,534.00. 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.

EXCLUSION FROM MCLE CREDIT.

Pursuant to rule 3201, Respondent may <u>not</u> receive MCLE credit for passage of the State bar Client Trust Accounting School or the passage of the Multistate Professional Responsibility Examination that are to be ordered as conditions of Respondent's suspension. (Rules Proc. of State Bar, rule 3201.)

In the Matter of:	Case number(s):
NICOLE ROSIE GALLEGOS	10-O-06856-PEM Investigation Nos.: 10-O-03708; 10-O-07576; 10-O-09734; 11-O-13813; 11-O-15128; 12-O-15312

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.

Date	Respondent's Signature	Print Name
October 10, 2012		Nicole Rosie Gallegos
10/15/2012		Paul J. Virgo
October 15, 2012		Jessica A. Lienau

Date	Respondent's Counsel Signature	Print Name

Date	Deputy Trial Counsel's Signature	Print Name

In the Matter of:	Case Number(s):
NICOLE ROSIE GALLEGOS	10-O-06856-PEM Investigation Nos: 10-O-03708; 10-O-07576;10-O-09734;11-O-13813; 11-15128; 12-O-15312

ACTUAL SUSPENSION ORDER

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

☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.

☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

☐ All Hearing dates are vacated.

1. On page 16 of the stipulation, numbered paragraph 68, "Agnifili" is deleted and in its place is inserted "Sherri Agnifili (Agnifili)."

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.)**

October 26, 2012
Date

Pat McElroy
Judge of the State Bar Court

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **10-O-06856-PEM**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

STIPULATION; ACTUAL SUSPENSION

☒ **By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))** ☐ **By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County
- of Los Angeles.

☐ **By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

☐ **By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐ **By Electronic Service: (CCP § 1010.6)**
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ *(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☐ *(for Certified Mail)* in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: ..... at Los Angeles, addressed to: *(see below)*

☐ *(for Overnight Delivery)* together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: ..... addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
PAUL J. VIRGO	9909 TOPANGA BLVD. #282 CHATSWORTH, CA 91311	Electronic Address	

☐ **via inter-office mail regularly processed and maintained by the State Bar of California addressed to:**

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: October 18, 2012

SIGNED: _____
Lupe Pacheco
Declarant

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 October 26, 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:

PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311

☐ 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:

Jessica Lienau, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 26, 2012.

George Hue
Case Administrator
State Bar Court