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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>PROGRAM FOR RESPONDENTS WITH SUBSTANCE ABUSE OR MENTAL HEALTH ISSUES</b>		
Counsel For The State Bar  <b>David T. Sauber</b> Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015-2299 Tel: (213)765-1252  Bar # 213039	Case Number (s) 04-O-15581 and 04-O-15814  <div style="text-align: center; font-size: 24px; font-weight: bold;">LODGED</div> <div style="text-align: center; font-size: 18px;">APR 08 2008 <i>KOC</i></div> STATE BAR COURT CLERK'S OFFICE LOS ANGELES	(for Court's use)  <div style="text-align: center; font-size: 24px; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18px;">JAN 14 2011</div> <div style="text-align: center; font-size: 12px;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
Counsel For Respondent  <b>Jonathan I. Arons</b> 101 Howard Street, Suite 310 San Francisco, CA 94105 Tel: (415)957-1818  Bar # 111257	Submitted to: <b>Program Judge</b>  <b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: <b>BEHROUZ SHAFIE</b>  Bar # 108581  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 3, 1983**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, if Respondent is not accepted into the Lawyer Assistance Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (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, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **8** pages, excluding 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".



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- (6) 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.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**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. **Respondent's misconduct involved trust funds of his client Treza Yadegar.**
- (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:**

**None.**

**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:**

**Respondent has no prior record of discipline since his admission to practice law in California on June 3, 1983.**

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

IN THE MATTER OF:       BEHROUZ SHAFIE

CASE NUMBERS:         04-O-15581 and 04-O-15814

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violating the specified statutes and the California Rules of Professional Conduct, which constitute cause for discipline in these matters.

I. Facts.

1. Respondent Behrouz Shafie (Respondent) was admitted to the practice of law in the State of California on June 3, 1983, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

State Bar Court Case Number 04-O-15581

2. During the period from January 1, 2004, to and including December 31, 2004, Respondent maintained a client trust account with Wells Fargo Bank, account number 076-5059704 (CTA).

3. On October 8, 2004, the balance in the CTA was \$3,947.23.

4. On October 12, 2004, Respondent issued a CTA check, number 1884, in the amount of \$4,000.

5. At the time Respondent issued that CTA check number 1884, the balance in the CTA was \$2,947.23.

6. At the time Respondent issued that CTA check number 1884 on October 12, 2004, he knew or was grossly negligent in not knowing that there were insufficient funds in the CTA to pay that check.

7. On October 14, 2004, CTA check number 1884 was presented to Wells Fargo for payment, and it was paid against insufficient funds.

8. After CTA check number 1884 was paid, the balance in Respondent's CTA became negative \$1,052.77 (-\$1,052.77).

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9. On August 28, 2002, Treza Yadegar (Treza) hired Respondent to represent her in a marriage dissolution matter commenced by her spouse, Ashour Yadegar (Ashour), in the Superior Court of California, County of San Mateo (Superior Court or SMSC), titled *In re Marriage of Yadegar*, SMSC Case Number 071696 (*In re Marriage of Yadegar*).

10. On March 9, 2004, from the sale of the Yadegars' community assets, First American Title Company issued a check in the amount of \$55,028.34, which was made payable to "Behrouz Shafie & Associates in Trust Account for Ashour Yadegar and Treza Yadegar."

11. On March 16, 2004, Respondent deposited that \$55,028.34 First American Title Company check into his CTA.

12. On October 25, 2004, Treza terminated Respondent's employment and hired attorney Mark Ressa (Ressa) to represent her in *In re Marriage of Yadegar*.

13. On October 25, 2004, Treza informed Respondent through new counsel, Mr. Ressa, in writing of the following: that she was terminating Respondent's services; that she had hired Ressa in place of Respondent to represent her in *In re Marriage of Yadegar*; that she was enclosing with her letter a Substitution of Attorney for Respondent's signature and requesting that he return it to her or Ressa; that she was requesting her file to be returned to her or Ressa; and that she was requesting all funds still in Respondent's possession to be returned to her or Ressa. Respondent received Ressa's October 25, 2004 letter.

14. Respondent did not turn over Treza's file or take any other action as Treza requested in her October 25, 2004 letter until on or about December 21, 2004, after the substitution of attorney was filed in *In re Marriage of Yadegar* on or about December 20, 2004.

15. In November, 2004, Ressa spoke with Respondent on at least one occasion, during which Ressa requested Respondent to do each of the following: sign and return to Ressa the Substitution of Attorney; return Treza's file; and deliver all funds held in trust on behalf of Treza to Ressa.

16. Regarding Treza's request for the transfer of trust funds to Ressa, Respondent informed Ressa that he needed permission from Ashour's attorney before turning over the funds.

17. On December 21, 2004, a hearing was held by the Superior Court in *In re Marriage of Yadegar*. Just prior to that hearing, Respondent delivered Treza's file to Ressa. Respondent then received permission from Ashour's attorney and the Superior Court to transfer all funds held in trust for Treza and Ashour to Ressa. Respondent then delivered to Rezza a CTA check, number 1915, in the amount of \$55,028.34.

18. Between March 22, 2004, and to and including December 20, 2004, Respondent was required to maintain \$55,028.34 in his CTA on behalf of Treza and Ashour.

19. Between March 22, 2004, and to and including December 20, 2004, Respondent's CTA balance repeatedly fell below the required balance of \$55,028.34. For examples, by July 1, 2004, Respondent's CTA balance was \$41,908.89; by August 3, 2004, Respondent's CTA balance was \$13,057.23; and by October 14, 2004, Respondent's CTA was completely depleted of funds and its balance was negative \$1,052.77 (-\$1,052.77).

20. Respondent, with gross negligence, misappropriated the entire \$55,028.34 during the time he was to have held that money in trust on behalf of the Yadegars.

## II. Conclusions of Law.

### State Bar Court Case Number 04-O-15581

#### Count One

By issuing CTA check number 1884 on October 12, 2004, when he knew or was grossly negligent in not knowing that there were insufficient funds in his CTA to pay that check, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of California Business and Professions Code section 6106.

### State Bar Court Case Number 04-O-15814

#### Count Two

By failing to release Treza's file to her or Ressa for over two months, despite repeated requests that he do so, Respondent failed to release promptly to the client, upon termination of his employment and at the request of the client, all the client's papers and property, in willful violation of rule 3-700(D)(1) of the California Rules of Professional Conduct.

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Count Four

By not maintaining at least \$55,028.34 received on behalf of Treza and Ashour in Respondent's client trust account, Respondent failed to maintain all funds received for the benefit of a client in an account labeled "Trust Account," "Client Funds Account," or words of similar import, in willful violation of rule 4-100(A) of the California Rules of Professional Conduct.

Count Five

By misappropriating \$55,028.34 in funds that Respondent was required to maintain on behalf of Treza and Ashour, Respondent committed an act involving moral turpitude, dishonesty, or corruption, in willful violation of California Business and Professions Code section 6106.

**DISMISSALS:**

The State Bar requests that the State Bar Court dismiss the following count in furtherance of justice:

Case No. 04-O-15814: Count Three

**PENDING PROCEEDINGS.**

The disclosure date referred to, on page two, paragraph A(6), was July 11, 2007.

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

The parties hereby waive any variance between the Notice of Disciplinary Charges filed on June 28, 2006, and the facts and conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges relating to cases which are the subject matters of this stipulation.

(Do not write above this line.)

In the Matter of BEHROUZ SHAFIE	Case number(s): 04-O-15581 and 04-O-15814
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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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, upon Respondent's successful completion of or termination from the Program, this Stipulation will be filed and the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Statement Re: Discipline shall be imposed or recommended to the Supreme Court.

<u>11-1-07</u> Date	 Respondent's Signature	Behrouz Shafie Print Name
<u>                    </u> Date	<u>                    </u> Respondent's Counsel Signature	Jonathan I. Arons Print Name
<u>11-1-07</u> Date	 Deputy Trial Counsel's Signature	David T. Sauber Print Name



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_____	_____	<u>Behrouz Shafie</u>
Date	Respondent's Signature	Print Name
<u>November 1, 2007</u>		<u>Jonathan I. Arons</u>
Date	Respondent's Counsel Signature	Print Name
_____	_____	<u>David T. Sauber</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter Of <b>BEHROUZ SHAFIE</b>	Case Number(s): <b>04-O-15581 and 04-O-15814</b>
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**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 stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- 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; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 135(b) and 802(b), Rules of Procedure.)

04-03-08  
Date

  
\_\_\_\_\_  
Judge of the State Bar Court  
**RICHARD A. PLATEL**