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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>DISBARMENT</b>		
<b>Counsel For The State Bar</b>  Hugh Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015  Bar # 94251	<b>Case Number(s):</b> 07-O-10375 07-O-13560 08-O-10943 08-O-12554	For Court use only  <b>FILED</b> JUN - 8 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
<b>In Pro Per Respondent</b>  Harvey Shalom Doncev 946 South Anza St., Apt. 30 El Cajon, CA 92020  Bar # 231170	<b>PUBLIC MATTER</b>	
<b>In the Matter of:</b> Harvey Shalom Doncev  Bar # 231170  A Member of the State Bar of California (Respondent)	Submitted to: <b>Settlement 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 June 3, 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 resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (18) 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):
- Costs to be awarded to the State Bar.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

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

- (1)  **Prior record of discipline**
- (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If respondent has two or more incidents of prior discipline, use space provided below:
- (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. In the Salvaggio matter, in excess of \$39,000.00 failed to be deposited into Respondent's client trust account and was ultimately misappropriated; In the Wolkenstein matter in excess of \$17,000. was equivalently misappropriated and never made it into Respondent's client trust account.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. In all of these consolidated pending matters each client was victimized, suffering in various degrees misappropriation, failure to perform, misrepresentations concerning the conduct of their

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respective matters, requiring in each instance the retention of replacement counsel to undo the damage done to the clients interest by Respondent's conduct.

- (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.
- (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.

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- (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:**

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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:** Restitution

Respondent must make restitution to Gino Salvaggio in the amount of \$33,000 plus 10% interest per annum from July 6, 2006, (or to the Client Security Fund to the extent of any payment from the fund to Gino Salvaggio, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof thereof to the State Bar's Office of Probation. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

Respondent must make restitution to William Jerjis or his Estate in the amount of \$300 plus 10% interest per annum from February 20, 2007, (or to the Client Security Fund to the extent of any payment from the fund to William Jerjis or his Estate plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof thereof to the State Bar's Office of Probation. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

Respondent must make restitution to Wendy Wolkenstein in the amount of \$9,005 plus 10% interest per annum from January 11, 2006, (or to the Client Security Fund to the extent of any payment from the fund to Wendy Wolkenstein, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnish satisfactory proof thereof to the State Bar's Office of Probation. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: HARVEY SHALOM DONCEV

CASE NUMBERS: 07-O-10375, 07-O-13560, 08-O-10943, 08-O-12554

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 07-O-10375 (Complainant: Gino Salvaggio)

FACTS:

1. In November 2005, the State Bar of California's Office of Finance, Membership Billing Services ("Membership Services") sent Respondent his 2006 membership fee statement indicating that his membership fees for 2006 were due by February 1, 2006.
2. Respondent failed to pay his State Bar of California membership fees by February 1, 2006 as required to maintain his active status with the State Bar.
3. On March 23, 2006, Gino Salvaggio ("Mr. Salvaggio") and Kristin Salinas Salvaggio ("Ms. Salvaggio") hired Respondent to perform the legal services necessary to obtain an annulment of their marriage. Respondent agreed to perform the required legal services for a flat fee of \$2,400.00.
4. On March 23, 2006, Mr. Salvaggio paid Respondent \$700.00 in advanced legal fees for the annulment matter. On or about June 23, 2006, Mr. Salvaggio paid Respondent \$350.00 for legal services in the annulment matter.
5. On March 24, 2006, Ms. Salvaggio paid Respondent \$700.00 in advanced legal fees for the annulment matter. On May 10, 2006, Ms. Salvaggio paid Respondent \$128.00 for the annulment matter. On June 21, 2006, Ms. Salvaggio paid Respondent \$350.00 for legal services in the annulment matter.
6. When Mr. and Ms. Salvaggio hired Respondent, they had already discussed and agreed that Mr. Salvaggio would pay \$30,000 to Ms. Salvaggio and \$10,000 to Ms. Salvaggio's parents once the annulment was complete. They had further agreed that Ms. Salvaggio would assume liability for a USAA credit card with a balance of approximately \$10,000.
7. On March 23, 2006, Respondent prepared a written agreement of little more than one page entitled "Personal Agreement" to memorialize the agreement between Mr. Salvaggio and Ms. Salvaggio. Both signed the agreement on that date.
8. On April 14, 2006, Membership Services sent a second membership fee statement to Respondent notifying him that his 2006 membership fees were past due and that late payment penalties had been added.
9. On May 26, 2006, Membership Services sent a third membership fee statement to Respondent notifying him that his 2006 membership fees were past due and that late penalties had been added. Along with the third membership fee statement, Membership Services sent a final delinquent notice to Respondent notifying him that he had not paid the

required membership fees and that unless he paid the applicable fees and penalties, the Board of Governors would recommend that he be suspended from the practice of law effective September 16, 2006.

10. On June 21, 2006, Respondent filed a form Petition for Nullity of Marriage in the San Diego County Superior Court, East County Division, case number ED67984. In the petition, Respondent indicated that he represented the petitioner, Mr. Salvaggio. Ms. Salvaggio was named as the respondent. Although the Petition for Nullity of Marriage contained a space for Mr. Salvaggio to sign averring under penalty of perjury that the information in the petition was true and correct, Respondent failed to obtain Mr. Salvaggio's signature and filed the petition without it.
11. When he filed the Petition for Nullity of Marriage on or about June 21, 2006, Respondent paid the filing fee in the amount of \$320.10 with his personal check number 1010 drawn on an account at Bank of America that was closed. The check was returned to the San Diego Superior Court unpaid.
12. On July 6, 2006, the court properly served Respondent by mail with notice that check number 1010 had been returned unpaid and that he must pay \$345.10 in cash, certified check or money order by July 27, 2006 or prior to the hearing date; otherwise, the filing would be voided or the hearing cancelled. Respondent received the notice and paid \$345.10 in cash on or about July 24, 2006.
13. On June 23, 2006, Ms. Salvaggio was served with the Petition for Nullity of Marriage.
14. On July 3, 2006, Respondent contacted Mr. Salvaggio and represented to him that the court in the annulment matter had issued an order that Mr. Salvaggio deposit \$10,000 into Respondent's client trust account. Respondent's representations were false. The court in the annulment matter had made no such order.
15. On July 3, 2006, in reliance on Respondent's representations about the court order, Mr. Salvaggio issued a check to Respondent in the amount of \$10,000.00. Respondent represented to Mr. Salvaggio that he would hold the funds in his client trust account on behalf of Mr. Salvaggio and that when the annulment was final, he would turn the funds over to Ms. Salvaggio pursuant to the agreement between the parties that Mr. Salvaggio would pay \$30,000.00 to Ms. Salvaggio and \$10,000.00 to her parents once the annulment was final. Respondent's representations were false.
16. On July 3, 2006, Respondent cashed the check in the amount of \$10,000.00 from Mr. Salvaggio.
17. On July 6, 2006, Respondent contacted Mr. Salvaggio again and represented to him that the court in the annulment matter had ordered that the amount to be deposited and held in Respondent's trust account was to be \$15,000.00 rather than \$10,000.00. The court in the annulment matter had made no such order.
18. Mr. Salvaggio issued a check to Respondent for an additional \$5,000.00.
19. On July 6, 2006, Respondent cashed the check in the amount of \$5,000.00 from Mr. Salvaggio. Respondent did not hold the funds for Mr. Salvaggio in trust or in any other manner.
20. Between July 9, 2006 through July 13, 2006, Respondent sent Mr. Salvaggio two text messages indicating that he needed to borrow more money. Because Mr. Salvaggio trusted Respondent, Mr. Salvaggio wired Respondent \$6,500.00 via Western Union. Respondent received the money.

21. On July 25, 2006, Respondent telephoned Mr. Salvaggio and represented to him that the entry of annulment had been filed and that the annulment matter was concluded. Respondent requested to come to Mr. Salvaggio's house to get the rest of the money to be paid to Ms. Salvaggio and her parents. Respondent's representations were false. The annulment matter had not concluded and no court order had been entered rendering the marriage between Mr. Salvaggio and Ms. Salvaggio annulled.
22. On July 25, 2006, Respondent went to Mr. Salvaggio's house to obtain the remaining funds to be paid to Ms. Salvaggio and her parents. Respondent gave Mr. Salvaggio a document which purported to be a Notice of Entry of Judgment in the annulment matter. The document indicated that a judgment for nullity of the marriage had been entered on July 20, 2006. This was not a real court document. The official court file in the annulment matter does not include this document, nor does the case summary for the annulment matter mention such a document.
23. Mr. Salvaggio issued a check to Respondent in the amount of \$18,000.
24. On July 25, 2006, Respondent cashed the check in the amount of \$18,000.00 from Mr. Salvaggio. Respondent purchased a cashier's check with the proceeds. Respondent did not deposit the \$18,000.00 check from Mr. Salvaggio into a client trust account at any time.
25. On July 31, 2006, Respondent filed a Request to Enter Default against Ms. Salvaggio in the annulment matter. The court entered the default as requested on July 31, 2006.
26. On September 21, 2006, the court in the annulment matter issued a notice to appear for a case classification conference on November 29, 2006. The notice to appear was properly served by mail on Respondent. Respondent received the notice.
27. By order filed on August 22, 2006, the Supreme Court suspended Respondent from the practice of law effective September 18, 2006 and until payment of all current fees and penalties.
28. On August 25, 2006, Membership Services sent Respondent a Notice of Entry of Order of Suspension for Nonpayment of Fees and enclosed a copy of the August 22, 2006 Supreme Court order. The notice specifically notified Respondent that he would be suspended from the practice of law effective September 18, 2006 if he didn't pay the required membership fees and penalties.
29. The August 25, 2006 Notice of Entry of Order of Suspension for Nonpayment of Fees and enclosed copy of the August 22, 2006 Supreme Court order were properly mailed to Respondent via the United States Postal Service.
30. As a result of his failure to pay the State Bar membership fees required for 2006, Respondent was suspended from the practice of law effective September 18, 2006.
31. Respondent remained suspended for failure to pay required membership fees and penalties through November 6, 2006. Respondent paid the required fees and penalties on November 7, 2006 and was returned to active status as of that date.
32. Respondent remained the attorney of record for Mr. Salvaggio in the annulment matter during the period that he was suspended from the practice of law for failure to pay State Bar membership fees. At no time did Respondent notify the court or the Salvaggios that he was not entitled to practice from September 18, 2006 through November 7, 2006. Rather, Ms. Salvaggio discovered the fact that Respondent was suspended upon review of information available about Respondent on the State Bar website.
33. In November 2006, Mr. Salvaggio retained attorney Jeffrey C. Fritz of Basie & Fritz to take over the handling of the annulment matter and find out what was going on.



34. On November 29, 2006, a substitution of attorney was filed in the annulment matter substituting attorney Fritz in place of Respondent as attorney for Mr. Salvaggio. When attorney Fritz took over the handling of the annulment matter, he had to file an amended petition with Mr. Salvaggio's signature. He also included additional necessary information in the amended petition. Essentially, the entire annulment process had to start over again. Other than preparing the "Personal Agreement" of little more than one page to memorialize the agreement already made between Mr. and Ms. Salvaggio, Respondent performed no legal services of value to either Mr. or Ms. Salvaggio in the annulment matter.

#### CONCLUSIONS OF LAW:

By representing to Mr. Salvaggio that the court had ordered Mr. Salvaggio to deposit first \$10,000.00 and then \$15,000.00 into Respondent's client trust account; by representing to Mr. Salvaggio that he would maintain the \$15,000.00 in his client trust account until the annulment was final and the funds paid out to Ms. Salvaggio and her parents; by representing to Mr. Salvaggio that he would deposit into his client trust account on behalf of Mr. Salvaggio the amount required to repay the loans totaling \$6,500.00 that Mr. Salvaggio made to Respondent while he was in Las Vegas; by representing to Mr. Salvaggio that the annulment was final and by preparing and providing Mr. Salvaggio with a fraudulent document purporting to be a notice of entry of a judgment of nullity of marriage; by representing to Mr. Salvaggio and Ms. Salvaggio that he had a client trust account and that he was maintaining the funds Mr. Salvaggio had given to him in the client trust account; by representing to both Mr. Salvaggio and Ms. Salvaggio that the State Bar had placed a "hold" or "freeze" on his trust account; and by knowingly issuing and presenting his personal check number 1010 drawn on a closed account to pay the filing fee in the annulment matter, Respondent made material misrepresentations to his clients, prepared and presented a fraudulent court document to his client, and knowingly issued and presented a bad check for payment of filing fees, and thereby committed acts of moral turpitude, dishonesty or corruption in wilful violation of Business & Professions Code section 6106.

By failing to deposit the checks from Mr. Salvaggio to Respondent in the amounts of \$10,000.00, \$5,000.00 and \$18,000.00 into a client trust account, Respondent failed to deposit funds received for the benefit of a client in a client trust account in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

By misappropriating the funds from the checks from Mr. Salvaggio to Respondent in the amounts of \$10,000.00, \$5,000.00 and \$18,000.00 that were to be held in trust by Respondent to be paid to Ms. Salvaggio and her parents at the conclusion of the annulment matter, Respondent committed acts of moral turpitude, dishonesty or corruption in wilful violation of Business & Professions Code section 6106.

By failing to pay out any portion of the \$33,000 provided by Mr. Salvaggio to Respondent to be held in trust, despite repeated demands from both Mr. Salvaggio and Ms. Salvaggio, Respondent failed to pay promptly, as requested by his clients, funds in Respondent's possession which the clients were entitled to receive in wilful violation of rule 4-100(B)(4) of the Rules of Professional Conduct.

By entering into the loan transactions with Mr. Salvaggio without complying with the requirements of rule 3-300, Respondent violated rule 3-300 of the Rules of Professions Conduct.

By failing to obtain the informed written consent of both Mr. Salvaggio and Ms. Salvaggio regarding the potential conflict of interest inherent in the joint representation Respondent violated rule 3-310(C)(1) of the Rules of Professional Conduct.

By failing to refund any portion of the legal fees paid by Mr. Salvaggio and Ms. Salvaggio, Respondent wilfully failed, upon termination of employment, to refund promptly any part of a fee paid in advance that had not been earned in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

By holding himself out as entitled to practice law and by actually engaging in the practice of law on behalf of the Salvaggios as well as other clients that Ms. Salvaggio had referred to Respondent, and by leaving undisturbed the court's mistaken impression in the annulment matter that Respondent was entitled to practice law when Respondent was suspended for failure to pay required State Bar membership fees, Respondent engaged in the unauthorized practice of law in wilful violation of Business and Professions Code sections 6125 and 6126 and thereby failed to uphold the laws of this State in wilful violation of Business and Professions Code section 6068(a).

By failing to notify the State Bar within 30 days after he changed his office address or address to be used for State Bar purposes as required by Business and Professions Code section 6002.1, Respondent wilfully violated Business and Professions Code section 6068(j).

Case No. 07-O-13560 (Complainant: William Jerjis)

FACTS:

1. In 1992, while working at Chapparone Auto Body, William Jerjis was assaulted by another employee. Mr. Jerjis attempted to pursue a workers' compensation matter himself, but was unsuccessful. Mr. Jerjis believed that the assault was a hate crime and wanted to pursue a civil matter. He consulted with several attorneys, none of whom were interested in taking his case.
2. In December 2005, Respondent and Eli Levy, a mutual friend of both Respondent and Mr. Jerjis, visited Mr. Jerjis at his auto repair shop because the leased automobile that Respondent drove had been in an accident and needed repairs. During this visit, Mr. Jerjis and Respondent discussed a traffic ticket that Mr. Jerjis had received and also discussed the assault matter. Mr. Jerjis explained to Respondent what had happened and expressed his desire to pursue the matter and get it before a jury.
3. In April 2006, Respondent agreed to represent Mr. Jerjis in the assault matter. Respondent represented to Mr. Jerjis that he would file a lawsuit on behalf of Mr. Jerjis and get the case before the court.
4. In June 2006, Respondent visited Mr. Jerjis again and informed him that he would charge Mr. Jerjis \$5,000.00 to represent him in the assault matter. Respondent requested that Mr.

- Jerjis pay the fee in advance. Mr. Jerjis refused to pay the entire fee at once, but agreed to make installment payments to Respondent.
5. On June 30, 2006, Mr. Jerjis paid Respondent \$1,000.00 in advanced attorney fees for the assault matter.
  6. On July 19, 2006, Respondent prepared and executed a written legal services agreement regarding Mr. Jerjis's matter. In the agreement, Respondent acknowledged receipt of Mr. Jerjis's payment in the amount of \$1,000.00 on June 30, 2006. The agreement provided for additional payments of \$500.00 on July 19, 2006, September 15, 2006, November 15, 2006, January 15, 2006 [sic], March 15, 2006 [sic], and May 15, 2006 [sic], as well as a payment of \$1,000.00 when the complaint was filed. The agreement further provided for Respondent to receive a contingency fee on any net recovery in the matter.
  7. On July 19, 2006, Mr. Jerjis paid Respondent an additional \$500.00 for attorney fees for the assault matter.
  8. On September 9, 2006, Respondent requested Mr. Levy, the mutual friend, to pick up the \$500.00 payment due on September 15, 2006 from Mr. Jerjis. Mr. Levy visited Mr. Jerjis at his auto repair shop and Mr. Jerjis gave Mr. Levy \$500.00 in cash, representing the September payment to Respondent. Mr. Levy delivered the \$500.00 in cash to Respondent on or about the same day.
  9. From in November 2006 through January 2007, Mr. Jerjis attempted to obtain a status report from Respondent; however, Mr. Jerjis was unable to get a satisfactory answer to his inquiries.
  10. In February 2007, Mr. Jerjis decided to consult another attorney and sought the assistance of attorney Dan Zeidman. Mr. Zeidman informed Mr. Jerjis that the statute of limitations had run on any civil claims that may have arisen from the 1992 assault incident. Mr. Zeidman agreed to contact Respondent on behalf of Mr. Jerjis to attempt to obtain a refund of the \$2,000.00 that Mr. Jerjis had paid to Respondent.
  11. On February 12, 2007, Mr. Zeidman wrote a letter to Respondent in which he notified Respondent that Mr. Jerjis had requested him to assist him to obtain a refund of the \$2,000.00 that Mr. Jerjis paid to Respondent.
  12. On February 20, 2007, a conference call was held between Mr. Zeidman, Mr. Jerjis and Respondent in which Respondent agreed to refund \$1,500.00 to Mr. Jerjis within two weeks.
  13. On September 24, 2007, a State Bar Investigator sent a letter to Respondent regarding the Jerjis matter and requesting Respondent's written response to the allegations of misconduct being investigated in that matter. Respondent received the letter.
  14. On October 4, 2007, Respondent finally refunded \$250.00 via a money order made payable to The Law Office of Dan Zeidman and agreed to make additional installment payments.
  15. On October 31, 2007, Respondent refunded \$300.00 via a money order made payable to The Law Offices of Dan Zeidman and agreed to make additional installment payments.
  16. On November 16, 2007, Respondent refunded \$300.00 via a money order made payable to The Law Offices of Dan Zeidman and agreed to make additional installment payments.
  17. On January 18, 2008 Respondent refunded \$350.00 via a money order made payable to The Law Offices of Dan Zeidman and agreed to make additional installment payments.

## CONCLUSIONS OF LAW:

By failing to promptly refund to Mr. Jerjis any portion of the \$2,000.00 that he paid to Respondent in legal fees, and by continuing to fail to make a full refund to Mr. Jerjis, Respondent wilfully failed, upon termination of employment, to refund promptly any part of a fee paid in advance that had not been earned in wilful violation of rule 3-700(D)(2) of the Rules of Professional Conduct.

Case No. 08-O-10943 (Complainant: Wendy Wolkenstein)

## FACTS:

1. In October 2005, Ms. Wolkenstein met with Respondent and hired him to assist her in finalizing the sale of her Postal Annex business and to negotiate a buy-out of her copy machine lease with GE Capital. In October 2005, Ms. Wolkenstein paid Respondent \$1,500 in cash in advanced attorney fees. She also provided Respondent with a copy of her lease agreement with GE Capital as well as other information needed to finalize the sale of her business.
2. The sale of Ms. Wolkenstein's business was finalized and escrow closed in or about November 2005.
3. In October, November and December 2005 and January 2006, Respondent repeatedly represented to Ms. Wolkenstein that he was negotiating with GE Capital and eventually represented that a settlement had been reached with GE Capital as discussed below.
4. In December 2005, Respondent contacted Ms. Wolkenstein and represented to her that GE Capital was ready to settle the outstanding copy machine lease agreement for \$8,000 if payment was made within 24 hours. On Respondent's advice, Ms. Wolkenstein agreed to the settlement amount and gave Respondent \$8,000 in cash. Respondent assured Ms. Wolkenstein that he would deposit the cash into his bank account and would then have a cashier's check drawn on his account sent via overnight delivery to GE Capital.
5. Respondent did not deposit the \$8,000 in cash that he received from Ms. Wolkenstein into a client trust bank account or any other bank account. Nor did Respondent purchase a cashier's check with the cash. At no time did Respondent turn over any portion of the \$8,000 to GE Capital on behalf of Ms. Wolkenstein.
6. In January 2006, Respondent contacted Ms. Wolkenstein and represented to her that he had received a call from a representative of GE Capital stating that the three copy machines were in such poor condition that they would not settle the lease buy-out unless Ms. Wolkenstein paid an additional \$9,000 immediately.
7. On January 11, 2006, Ms. Wolkenstein gave Respondent a cashier's check in the amount of \$9,005 made payable to Respondent to be used to pay GE Capital to finalize the copy machine lease buy-out.
8. Respondent did not deposit the cashier's check in the amount of \$9,005 that he received from Ms. Wolkenstein into a client trust bank account or any other bank account. Nor did Respondent use the cashier's check to purchase a cashier's check payable to GE Capital. At no time did Respondent turn over any portion of the \$9,005 to GE Capital on behalf of Ms. Wolkenstein.

9. In May 2006, Ms. Wolkenstein received a letter dated May 10, 2006 from D&S, Ltd., a debt collection agency, seeking to collect on the GE Capital copy machine lease. Ms. Wolkenstein notified Respondent about receipt of the collection notice from D&S, Ltd. Ms. Wolkenstein also notified D&S, Ltd. that the lease matter had been settled by Respondent and that they should contact Respondent. Respondent assured Ms. Wolkenstein that the GE Capital copy machine lease matter had been settled and that he would take care of it.
10. In December 2006, the GE Capital lease collection matter was turned over to United Portfolio Management, Inc. ("United Portfolio"). Ms. Wolkenstein notified Respondent and notified United Portfolio that the lease matter had been settled by Respondent and that they should contact Respondent.
11. Representatives of United Portfolio communicated with Respondent regarding the GE Capital lease collection matter from January 2007 until July 2007. Respondent repeatedly represented to United Portfolio that the GE Capital copy machine lease matter had been settled on behalf of Ms. Wolkenstein. When asked to provide documentation of the settlement, Respondent repeatedly agreed to do so. However, Respondent never provided documentation of any kind to United Portfolio to substantiate his claim that the lease matter had previously been settled.
12. In July 2007, Ms. Wolkenstein requested attorney Richard J. Lewis to contact Respondent on her behalf. On July 2, 2007, Mr. Lewis called Respondent on behalf of Ms. Wolkenstein. Respondent acknowledged to Mr. Lewis that Ms. Wolkenstein and given him funds to settle the GE Capital lease matter. Respondent represented to Mr. Lewis that he had paid all of the funds to GE Capital. Respondent stated that he would take care of the matter with United Portfolio right away.
13. Respondent had not settled the matter with GE Capital and had not paid over to GE Capital any of the funds that she had given Respondent to pay to GE Capital.
14. In September 2007, Ms. Wolkenstein negotiated a settlement with United Portfolio in which she agreed to pay \$5,400 to resolve the GE Capital copy machine lease matter. She subsequently paid the \$5,400 in installments.
15. On February 28, 2008, the State Bar of California opened an investigation, case number 08-O-10943, pursuant to a complaint filed by Ms. Wolkenstein (the "Wolkenstein matter").
16. On April 8, 2008, a State Bar Investigator wrote to Respondent regarding the Wolkenstein matter and requested a written response by April 22, 2008 to specified allegations of misconduct being investigated by the State Bar in that matter.
17. On April 18, 2008, Respondent wrote a letter to the Investigator requesting an extension until May 6, 2008 so that he could "fashion a comprehensive response" to the Investigator's April 8, 2008 letter.
18. On May 8, 2008, the Investigator received a letter from Respondent dated May 5, 2008 in response to the Investigator's April 8, 2008 letter. In his May 5, 2008 letter, Respondent represented to the Investigator that he had only helped Ms. Wolkenstein as a friend and that he attempted to help her resolve the copy machine lease issue with GE Capital. Respondent acknowledged receipt of a money order [sic] from Ms. Wolkenstein in the amount of approximately \$9,000. He also acknowledged that he received an additional sum from Ms. Wolkenstein that he believed was approximately \$4,000. In his letter, Respondent represented that it was then that GE Capital stated that because of damage to the copy machine [sic], they wanted the full amount of approximately \$20,000 that was due pursuant to the copy machine lease. Respondent represented that when GE Capital demanded more

money, Ms. Wolkenstein became upset and said that she wanted her money back. Respondent represented in his letter that he returned all the money that Ms. Wolkenstein had given him to Ms. Wolkenstein. He represented that Ms. Wolkenstein signed a receipt stating that she had received a full refund.

#### CONCLUSIONS OF LAW:

By failing to deposit and maintain in a client trust bank account the \$8,000 in cash and the \$9,005 cashier's check that Ms. Wolkenstein gave him, Respondent wilfully failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in violation of Rules of Professional Conduct, rule 4-100(A).

By failing to pay the \$9,005 belonging to Ms. Wolkenstein to GE Capital to resolve the copy machine lease buy-out matter as requested by Ms. Wolkenstein and by failing to return the \$9,005 to Ms. Wolkenstein, Respondent wilfully failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client was entitled to receive in violation of Rules of Professional Conduct, rule 4-100(B)(4).

By misappropriating the \$9,005 belonging to Ms. Wolkenstein and intended as payment for GE Capital to resolve the copy machine lease buy-out matter, Respondent wilfully committed acts involving moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

By knowingly making material misrepresentations to Ms. Wolkenstein, United Portfolio representatives, and Mr. Lewis, Respondent wilfully committed acts involving moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

By failing to negotiate and finalize a buy-out of the GE Capital copy machine lease, Respondent failed to perform the legal services for which he was hired and intentionally, recklessly or repeatedly failed to perform legal services with competence in wilful violation of Rules of Professional Conduct, rule 3-110(A).

By knowingly making material misrepresentations to the State Bar during the disciplinary investigation, Respondent wilfully committed acts involving moral turpitude, dishonesty and corruption in violation of Business and Professions Code section 6106.

Case No. 08-O-12554 (Complainant: Edna Satterwhite)

#### FACTS:

1. On June 7, 2007, Edna Satterwhite (hereinafter "Satterwhite") filed a petition for dissolution of marriage in the Superior Court of California, County of San Diego, East County Division, styled Edna Satterwhite v. Dexter Satterwhite, case no. ED71087 (the "dissolution case"). At the time of the filing of the petition, Satterwhite was represented by Garrison Klueck, Esq.

2. On July 25, 2007, Dexter Satterwhite filed a response to the petition and requested dissolution of the marriage. At the time of this filing, Dexter Satterwhite was represented by Respondent as attorney of record in the dissolution case.
3. On December 11, 2007, Satterwhite filed with the court a substitution of attorney replacing attorney Klueck on her behalf and entering her appearance in a pro per capacity in the dissolution case.
4. In December 2007, Satterwhite and Respondent participated in a series of telephone conversations concerning the dissolution case, during the course of which Satterwhite informed Respondent she wanted to move on with her life, finalize the divorce and have her maiden name restored. Respondent offered to prepare a stipulation to accomplish these concerns in exchange for the payment of \$1,500.00 from Satterwhite. Respondent continued to be attorney of record on behalf of Dexter Satterwhite in the pending dissolution case.
5. In February 2008, Satterwhite and Respondent again met, at which time both executed the stipulation prepared by Respondent in the dissolution case.
6. On February 20, 2008, Satterwhite met with Respondent and Respondent handed to Satterwhite a copy of the two-page stipulation prepared by Respondent. The stipulation was entitled "Stipulation Granting Petitioners [sic] request to change status of marriage as divorced; restore Petitioners [sic] maiden name." The second page of the stipulation reflected an illegible scribbled signature on the line designated for the Superior Court Judge. Respondent represented to Satterwhite that the stipulation had been filed in the dissolution case. The stipulation purported to grant the divorce and restore Satterwhite's maiden name. Based on Respondent's representations and the stipulation, Satterwhite believed she was divorced and that her maiden name had been restored.
7. The stipulation was never filed with the court in the dissolution case. Nor did the judge in the dissolution case or any other San Diego County Superior Court judge sign the stipulation.
8. In March 2008, Satterwhite examined the stipulation and became concerned that the Judge's signature was not legible. Unable to secure any assistance from the Clerk's office of the El Cajon courthouse, Satterwhite contacted Respondent and questioned Respondent as to the identity of the Judge who allegedly had signed the stipulation. Respondent advised Satterwhite that he could neither recall the gender nor the name of the signing Judge.
9. In April 2008, Satterwhite hired attorney Daniel P. Larkin to represent her in the dissolution case. Attorney Larkin brought to the attention of Judge Christine K. Goldsmith, the judge in the dissolution case, the purported stipulation that Respondent had provided to Satterwhite. Judge Goldsmith then referred the matter to the State Bar for investigation.

#### CONCLUSIONS OF LAW:

By preparing and tendering to Satterwhite the false stipulation purporting to have been filed with the court in the dissolution matter, purporting to have been signed by a Judge, and purporting to grant the divorce and restore Satterwhite's maiden name; by representing to Satterwhite that the stipulation had been filed with the court in the dissolution case, when Respondent knew that the stipulation had never been filed in the dissolution case and that neither the judge in the dissolution case nor any other judge had signed the stipulation; and by leading Satterwhite to believe that she was divorced and that her maiden name had been restored when he knew that neither event had occurred, Respondent willfully and knowingly committed acts involving moral turpitude, dishonesty or corruption in violation of Business and Professions Code section 6106.

By failing to perform any legal services of value to Satterwhite; by preparing the stipulation but failing to file it with the court in the dissolution case or take any further legitimate action with respect to the stipulation; by preparing and providing to Satterwhite the false stipulation purporting to have been filed with the court in the dissolution matter, purporting to have been signed by a Judge, and purporting to grant the divorce and restore Satterwhite's maiden name; and by leading Satterwhite to believe that she was divorced and that her maiden name had been restored when neither event had occurred, Respondent intentionally, recklessly or repeatedly failed to perform legal services competently in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

By failing to secure the informed written consent of both Satterwhite and Dexter Satterwhite prior to negotiating, preparing, and obtaining signatures on the stipulation to grant the divorce and restore Satterwhite's maiden name, Respondent improperly accepted representation of more than one client in a matter in which the interests of the clients potentially conflicted, in wilful violation rule 3-310(C)(1) of the Rules of Professional Conduct.

#### PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was May 23, 2011

#### AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2 (a) provides for one year actual suspension to disbarment, depending on the amount of funds or property misappropriated.

Standard 2.2 (b) provides for at least a three month actual suspension, irrespective of mitigating circumstances.

Standard 2.3 provides for actual suspension or disbarment.

Standard 2.4 provides for reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

Standard 2.6 provides for disbarment or suspension depending upon the gravity of the offense for violation of section 6068(a), 6125, 6068(j) or 6126.

Standard 2.8 provides for suspension unless the extent of the member's misconduct and the harm to the client are minimal.

Standard 2.10 provides for reproof or suspension depending upon the gravity of the harm for violation of rule 3-310(C) (1) and rule 3-700(D)(2).

In *Kaplan v. State Bar* (1991) 52 Cal.3d. 1067, Respondent stole \$29,000 in funds belonging to the law partnership of which he was a partner. The court imposed discipline consisting of disbarment. Respondent lied to the State Bar during its investigation and to his partners when



they confronted him with his thefts. In mitigation, Respondent had no prior record of discipline and was suffering from extreme stress at the time of the misconduct. However, Respondent failed to show that he had fully recovered from the effects of the stresses. Respondent's acts involved intentional dishonesty and concealment and was designed to defraud his partners. In aggravation, there was no indication that Respondent would have stopped his misconduct if his thefts had not been discovered by his partners.

In *Kelly v. State Bar* (1988) 45 Cal. 3d. 649, Respondent misappropriated \$19,597.05 of funds being in trust for one client. Respondent subsequently contacted the client, whom he knew was then represented by another attorney, without the consent of their attorney and coerced the client into signing a statement that the client had loaned misappropriated money to the Respondent. The court imposed discipline consisting of disbarment. The court noted that there was no evidence suggesting that Respondent's behavior was an isolated act. The court also noted that Respondent's lack of a prior record of discipline was not especially commendable. In this regard, Respondent had been practicing seven and one years, which was long enough to know that his conduct was wrong, but not so long as to make his blemish free record surprising.

In *Weber v. State Bar* (1988) 47 Cal. 3d. 492, in a probate matter, Respondent had misappropriated \$25,000 entrusted to him, knowingly made false misrepresentations to the probate court regarding a tax audit and the cash balance of the estate trust account, twice failed to comply with lawful court orders to distribute portions of the estate, and had knowingly written a check, in response to a superior court order, on an account that held funds insufficient to cover the payment. The court imposed discipline consisting of disbarment. In aggravation, the court found that Respondent's filing of lawsuits against the judges, attorneys, who opposed him regarding his handling of the probate proceedings, the Stat Bar and its representatives provided a basis for a finding of aggravation. The court reasoned that the aforementioned lawsuits were highly probative on the question of the Respondent's acceptance of responsibility for his actions and his contemptuous attitude toward disciplinary proceedings.

#### COSTS OF DISCIPLINARY PROCEEDINGS.


Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 23, 2011, the prosecution costs in this matter are \$11,255.50. Respondent further acknowledges that this is an estimate and 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: Harvey S. Doncev	Case number(s): 07-O-10375, 07-O-13560, 08-O-10943, 08-O-12554
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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.

5/25/11            Harvey Doncev  
Date      Respondent's Signature      Print Name

                                      
Date      Respondent's Counsel Signature      Print Name

June 1 '11            Hugh Radigan  
Date      Deputy Trial Counsel's Signature      Print Name

(Do not write above this line)

In the Matter of: Harvey S. Doncev	Case Number(s): 07-O-10375,-07-O-13560, 08-O-10943, 08-O-12554
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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.

Pages 6 and 14: The heading "FACTS" is deleted.

Pages 9 and 15: The heading "CONCLUSIONS OF LAW" is deleted.

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 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.

Date

6/8/11



Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 8, 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:

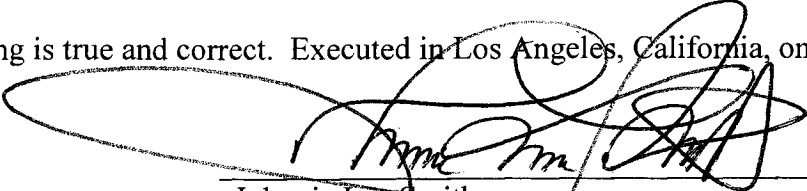
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

HARVEY S. DONCEV  
HARVEY S. DONCEV  
946 S ANZA ST APT 30  
EL CAJON, CA 92020

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 8, 2011.



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Johnnie Lee Smith  
Case Administrator  
State Bar Court