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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Hugh G. Radigan Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015 213-765-1206</p> <p>Bar # 94251</p>	<p>Case Number(s):</p> <p>07-O-14091 07-O-14207 08-O-11231 08-O-11894 08-O-13387 09-O-14045(inv) 09-O-17079(inv) 09-O-19214(inv) 10-O-01157(inv) 10-O-04105(inv) 10-O-05872(inv)</p>	<p>For Court use only</p> <div style="text-align: center; padding: 20px;"> <p>FILED</p> <p>JUN 21 2011</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> </div>
<p>Counsel For Respondent</p> <p>David A. Clare 444 West Ocean Blvd., Suite 800 Long Beach, California 90802 562-624-2837</p> <p>Bar # 44971</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:</p> <p>Steven L. Ellman</p> <p>Bar # 135658</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted October 11, 1988.
- (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 (23) 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."

(Effective January 1, 2011)



- (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 92-O-19648 and 92-O-12487
 - (b) Date prior discipline effective December 7, 1993
 - (c) Rules of Professional Conduct/ State Bar Act violations: rules 4-100(A) and 4-100(B)(4) of the Rules of Professional Conduct
 - (d) Degree of prior discipline private reproof
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:

96-O-04883 and 96-O-05379; effective April 4, 1998; violation of sections 6106 and 6104 of the Business and Professions Code resulting in a six month actual suspension, one year stayed suspension and two year probation.
- (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. Within these multiple matters and investigations, Respondent exhibited a pattern of misappropriation, failed responsiveness to the clients and over-reaching with respect to the negotiation and satisfaction of client's medical liens.
- (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. Within these multiple matters and investigations, Respondent failed to account,

misrepresented the status of negotiated liens and misappropriated significant amounts of settlement proceeds.

- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Many of the clients within these matters and investigations have suffered diminished recovery of their proper settlement proceeds and have been confronted with medical lien holders demanding full satisfaction of their medical liens contrary to Respondent's representation that these liens have been satisfactorily resolved.
- (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. Within these multiple matters and investigations, Respondent exhibited a pattern of misappropriation, failed responsiveness to the clients and over-reaching with respect to the negotiation and satisfaction of client's medical liens.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent has been candid and cooperative with the State Bar since the filing of these charges.
- (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

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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:

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 Iliana Gomez in the amount of \$ 3039.00 plus 10 percent interest per year from January 14, 2008. If the Client Security Fund has reimbursed Iliana Gomez 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 90 days from the effective date of the Supreme Court order in this case.
- (3) **Other:** It is recommended that Respondent make restitution to Johnnie Jackson in the amount of \$4,627.36 plus 10% interest per annum from May 9, 2007, (or to the Client Security Fund to the extent of any payment from the fund to Johnnie Jackson, 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).

It is recommended that Respondent make restitution to Diane Wilks in the amount of \$4,150 plus 10% interest per annum from September 1, 2007, (or to the Client Security Fund to the extent of any payment from the fund to Diane Wilks, 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).

It is recommended that Respondent make restitution to Francisco DeZubiria in the amount of \$12,500.00 plus 10% interest per annum from March 10, 2009, (or to the Client Security Fund to the extent of any payment from the fund to Francisco DeZubiria, 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).

It is recommended that Respondent make restitution to Rene Campos in the amount of \$2,306.88 plus 10% interest per annum from June 8, 2006, (or to the Client Security Fund to the extent of any payment from the fund to Rene Campos, 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).

It is recommended that Respondent make restitution to Sira Kimball in the amount of \$19,558.66 plus 10% interest per annum from September 22, 2009, (or to the Client Security Fund to the extent of any payment from the fund to Sira Kimball, 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

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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).

5. In August 2007, Respondent settled an unrelated client matter, and issued check number 7359 for \$1,733.33 from the CTA to himself for attorney fees related to the matter.

6. On August 27, 2007, check numbers 7359 for \$1,733.33, 7366 for \$1,791.80 and 7367 for \$4,740 from the CTA were presented for payment when the balance in the CTA was only \$7,803.10. Wells Fargo paid check number 7359 against insufficient funds, bringing the balance in the CTA to negative \$462.03.

7. On September 5, 2007, AAA sent a letter to Respondent. In the letter, AAA stated that the \$4,535 settlement draft never cleared AAA's account. Respondent received the letter.

8. On September 21, 2007, Respondent withdrew \$3,898 from the CTA. Also on September 21, 2007, check numbers 7190 for \$181.48, 7195 for \$86.79, 7394 for \$400, and 7399 for \$29,806.71 from the CTA were presented for payment when the balance in the CTA was only \$34,255.35. Wells Fargo paid check numbers 7190 and 7195 against insufficient funds, bringing the balance in the CTA to negative \$117.63.

9. Respondent had not reconciled the CTA on a monthly basis from December 2005 through September 2007 and was thus unaware that the \$4,535 settlement draft was not deposited into the CTA and unaware of the amount of available funds in the CTA, which led to the payment of check numbers 7359, 7190 and 7195 against insufficient funds.

10. If Respondent paid the client and the client's medical provider with funds belonging to another client or clients, then due to his gross negligence in handling the CTA, Respondent misappropriated \$2,644.59 from the other client's or clients' funds in the CTA.

11. If Respondent paid the client with his personal funds, then Respondent maintained personal funds in the CTA and did not withdraw funds from the CTA within a reasonable time after his interest in the funds became fixed.

Case No. 08-O-11231:

FACTS:

12. Respondent represented Meliton Arizmendi (“Arizmendi”) for injury and property damage claims arising from an October 8, 2004 automobile accident. Respondent also represented Serafin Arizendi for claims arising from the same accident.

13. In May 2005, Respondent settled Arizmendi’s bodily injury claim for the reasonable value of Arizmendi’s medical expenses, or \$3,000, as Arizmendi was uninsured for the accident. Respondent represented in an accounting provided to Arizmendi at the time of the settlement that he would pay Arizmendi’s medical providers from the \$3,000, as follows: \$175 to Philip A. Sobol, M.D. and \$825 to Adan Velasco, D.C.

14. On May 26, 2005, Respondent deposited a \$3,000 settlement draft payable to Respondent’s law office and Arizmendi from Mercury Insurance Group, dated May 23, 2005, into his client trust account at Wells Fargo Bank, account number xxxxxx7734 (the “CTA”).²

15. Respondent paid \$1,000 to Dr. Velasco’s agent, Account Management Services, Inc. (“AMS”), by check number 7511, dated November 30, 2007, from the CTA. On December 3, 2007, check number 7511 was paid from the CTA.

16. Respondent paid \$175 to Dr. Sobol by check number 7686, dated March 25, 2008, from the CTA. On April 9, 2008, check number 7686 was paid from the CTA.

17. Without paying \$175 to Dr. Sobol and \$825 to Dr. Velasco, the balance in the CTA fell to negative \$462.03, below the \$1,000 that should have remained in the CTA to pay the Arizmendi’s medical expenses, as follows:

<u>Date</u>	<u>Balance</u>
09-15-05	\$ 768.71
12-09-05	\$ 287.76
08-27-07	\$ 462.03 -
09-21-07	\$ 117.63

² The full account number is deleted for privacy purposes.

18. On March 9, 2007, Dr. Velasco's administrator sent a fax to Respondent. Dr. Velasco had rendered treatment to Meliton and Serafin Arizmendi, related to the October 8, 2004 injuries, and to Monserrat Arizmendi, related to a July 14, 2004 injury. In the fax, Dr. Velasco requested the status of the Arizmendi cases. Respondent did not respond to the fax.

19. On March 29, 2007, Dr. Velasco's administrator sent another fax to Respondent. In the fax, Dr. Velasco requested the status of the Arizmendi cases. Dr. Velasco's office received a fax from Respondent's office, dated March 29, 2007, stating "Both Dropped." Respondent failed to adequately supervise his employee in this instance. Not only did Respondent settle Arizmendi's bodily injury claim for \$3,000, but he also settled the bodily injury claim of Serafin Arizmendi for \$4,500 in or about May 2005.

20. On October 8, 2007, Arizmendi received a letter and a bill from Dr. Velasco's administrator for \$4,922.73 (or the principal balance of \$3,850 plus \$1,072.73 in interest) related to the October 8, 2004 injury. In the letter, Dr. Velasco's administrator said that she had been informed that Respondent was no longer representing Arizmendi for the October 4, 2004 injury. On October 8 and 15, 2007, Arizmendi called Respondent's office. Linda at Respondent's office informed Arizmendi that they (Respondent's office) would handle the bill.

21. Between October 26, 2007 and February 28, 2008, Arizmendi directed numerous inquiries regarding Dr. Velasco's unpaid bill to Respondent. Respondent did not respond to Arizmendi's inquiries. Arizmendi ended up resolving the remaining balance owed to Dr. Velasco by paying \$1,800 to AMS with his own funds on or about December 10, 2007.

22. On March 27, 2008, the State Bar of California ("State Bar") received a complaint from Arizmendi regarding Respondent's failure to pay his medical expenses.

23. The State Bar received a letter from Respondent's counsel on behalf of Respondent, dated August 5, 2008, in response to the State Bar's investigation into Arizmendi's complaint. In the letter, Respondent represented to the State Bar, in an attempt to explain the delay in paying Dr. Sobol and Dr. Velasco, that he sent checks from the client trust account to Dr. Sobol and Dr. Velasco in June 2005, namely check number 5636 for \$175 to Dr. Sobol and check number 5631 for \$825 to Dr. Velasco, but neither check was negotiated.

24. However, check number 5636 was not issued to Dr. Sobol for \$175, but issued for \$2,733.33 and paid from the CTA on July 1, 2005; and the check was unrelated to Arizmendi's \$3,000 settlement.

25. If Respondent honestly, but mistakenly, believed that he had paid Dr. Sobol and Dr. Velasco, then Respondent had not reconciled Arizmendi's settlement funds in his CTA for over two years, i.e. from the date of the deposit of the \$3,000 settlement draft on or about May 26, 2005 to the date he issued payment to Dr. Velasco on or about November 30, 2007.

Case No. 08-O-11894

FACTS:

26. In June 2007, Iliana Gomez ("Gomez") employed Respondent to represent her in a personal injury claim related to an automobile accident.

27. During Respondent's representation of Gomez, he received the following medical payment drafts related to the injury claim from Mercury Insurance ("Mercury"), payable to South County Health Services and Gomez c/o Respondent's office, and deposited the drafts into his client trust account at Wells Fargo Bank, account number xxxxxx7734 (the "CTA")³:

<u>Date of Draft</u>	<u>Amount</u>
09-24-07	\$ 1,677.00
10-10-07	\$ 1,249.00
01-14-08	<u>\$ 113.00</u>
Total:	\$ 3,039.00

28. In February 2008, Gomez terminated Respondent's employment, and employed attorney Renee Ayala ("Ayala") to represent her for the injury claim.

29. When Ayala contacted Mercury in February 2008, she was informed that Mercury had issued the three drafts to Respondent.

³ The full account number is deleted for privacy purposes.

30. At no time during Respondent's representation of Gomez did Respondent inform Gomez of his receipt of the three drafts from Mercury.

31. On February 15, 2008, Respondent contacted Gomez. Respondent told Gomez that he received an offer on her claim. Gomez did not accept the offer, but asked Respondent how he could have received an offer since he was no longer her attorney. Respondent did not offer an explanation to Gomez.

32. From February 15 to April 8, 2008 approximately, Ayala and Gomez left several telephone messages for Respondent regarding the medical payment drafts, but received no response to their messages.

33. On February 26, 2008, Ayala sent a letter to Respondent. In the letter, Ayala requested on Gomez's behalf that Respondent send the medical payment drafts to Ayala. Respondent did not respond to the letter or forward the funds to Ayala.

34. On March 15, 2008, when Respondent was no longer authorized to act as Gomez's attorney, Respondent issued check number 7726 for \$2,026 from the CTA to Gomez's medical provider, Richard Abeyta, D.C. Respondent also withdrew \$1,013 from the CTA, or 33-1/3% of the \$3,039 in medical payments, as his attorney fee.

35. Respondent did not inform Ayala or Gomez of his deposit of the medical payment funds into the CTA or his withdrawal of any of the funds from the CTA. Respondent's fee agreement with Ayala provided that in the event his employment was unilaterally terminated by Gomez, he reserved the right to demand payment forthwith for services rendered at an hourly rate of \$150; that Gomez acknowledged that Respondent would spend a minimum of four hours on Gomez's case; and that Respondent may deduct that amount from any and all monies collected on Gomez's behalf. Respondent made no demand for payment of his fees to Ayala or Gomez before withdrawing the medical payment funds from the CTA.

36. On March 25, 2008, Ayala sent a letter to Respondent. In the letter, Ayala requested a reply to her request for the medical payment drafts.

37. On March 28, 2008, Respondent sent a letter to Respondent. In the letter, Respondent asserted a lien against any settlement or judgment related to Gomez's claim.

38. In response to Ayala's March 25, 2008, letter, Respondent informed Ayala that he would check his file and call her back. Respondent did not contact Ayala.

39. On April 9, 2008, Ayala sent a letter to Respondent. In the letter, Ayala requested that Respondent forward the drafts by April 14, 2008. Ayala further stated that Respondent was not authorized to disburse the medical payment funds as he was no longer Gomez's attorney.

40. On April 16, 2008, check number 7726 was paid from the CTA.

41. Respondent unilaterally withdrew the \$3,039 in medical payments from the CTA without Gomez's knowledge after his employment was terminated.

42. By not releasing any of the medical payment funds to Ayala or Gomez after termination of his employment in February 2008, Respondent wilfully failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client was entitled to receive.

Case No. 08-O-13387

FACTS:

43. In July 2006, Johnnie Jackson ("Jackson") employed Respondent to represent her in injury claims arising from a June 25, 2006 automobile accident.

44. In March 2007, Respondent settled Jackson's injury claim for \$13,882.

45. On March 26, 2007, Respondent deposited the \$13,882 settlement draft into his client trust account at Wells Fargo Bank, account number xxxxxx7734 (the "CTA").⁴

46. In April 2007, Respondent provided an accounting to Jackson for the \$13,882 settlement. The accounting provided that from the \$13,882 settlement, Respondent was entitled to \$4,627.33 as fees and \$322.53 as costs; Jackson was entitled to \$4,304.78; Rialto Fire Department ("Rialto") was entitled to \$515.40; Arrowhead Regional Medical Group ("Arrowhead") was entitled to \$1,227.22; and AccuCare Medical Group was entitled to \$2,884.69 ("AccuCare").⁵

47. On May 9, 2007, check number 7145 to Jackson for \$4,304.78 was paid from the CTA.

⁴ The full account number is deleted for privacy purposes.

⁵ Respondent's accounting totals \$13,881.95 not \$13,882.

48. On May 22, 2007, and without paying Rialto, Arrowhead, or AccuCare from the CTA, the balance in the CTA fell to \$1,379.79, or \$3,247.52 below the \$4,627.36 that should have remained in the CTA on their and/or Jackson's behalf.

49. On August 27, 2007, and without paying Rialto, Arrowhead, or AccuCare from the CTA, the balance in the CTA fell to negative \$462.03.

50. Respondent did not pay AccuCare's bill as provided in his accounting.

51. On July 28, 2006, Respondent executed a lien in favor of AccuCare and against any settlement funds collected by him on behalf of Jackson.

52. On May 1 and November 8, 2007, AccuCare contacted Respondent's office for the status of Jackson's claim. AccuCare was informed by Respondent's employee that Jackson's claim was still pending.

53. On May 8, 2008, AccuCare contacted Jackson for the status of her claim. Jackson informed AccuCare that Jackson's claim settled in 2007.

54. On May 12, 2008, AccuCare mailed a letter to Respondent requesting payment of AccuCare's bill for Jackson. Respondent received the letter.

55. On June 2, 2008, AccuCare filed a breach of contract action against Respondent alleging that he had failed to pay AccuCare's bill for Jackson pursuant to the lien agreement.

56. In March 2009, Respondent and Accurate entered into a settlement agreement wherein Respondent paid \$4,000 to satisfy AccuCare's bill for Jackson.

57. In April 2009, Respondent produced a revised accounting for Jackson's settlement to the State Bar of California. The revised accounting reflected that \$138.72 had been paid by Medical to Rialto and that Medical should be reimbursed \$138.72; that no payment to Arrowhead's bill of \$2,033.54 had been made, and that \$4,000 had been paid to AccuCare. In sum, Jackson was entitled to a total of \$4,793.42 instead of \$4,304.78, or an additional \$488.64.

58. Respondent did not pay \$138.72 to Medical or to Jackson, and did not pay the difference of \$488.64 to Jackson.

59. By not satisfying AccuCare's bill for Jackson until March 2009, after representing to Jackson in his accounting that AccuCare's bill would be paid, Respondent wilfully failed to pay

promptly, as requested by his client and his client's medical provider, any funds in Respondent's possession which Jackson's medical provider was entitled to receive.

60. Respondent intentionally or with gross negligence, misappropriated \$4,627.36 from Jackson's settlement funds.

Case No. 09-O-14045 (Complainant: Diane Wilks)

FACTS:

61. In July 2004, Respondent was retained by Douglas and Diane Wilks, (hereinafter "Wilks"), to represent them within a personal injury claim arising out of a vehicular accident occurring on July 6, 2004.

62. In September 2007, Respondent settled the Wilks' claims. Respondent represented to the clients at that time that he had satisfied the medical lien of Mercury Imaging, a medical facility responsible for obtaining MRI films depicting the extent of Ms. Wilk's injuries. The medical lien was in the amount of \$4150.00. To date, the medical lien of Mercury Imaging remains unsatisfied and has gone to collection.

Case No. 09-O-17079 (Complainant: Nada Salloum)

FACTS:

63. On April 2, 2007, Respondent was retained by Nada Salloum, (hereinafter "Salloum"), to represent her within a personal injury claim arising out of an accident occurring March 8, 2007.

64. At the direction of Respondent, Salloum presented for chiropractic care and treatment at Dr. Pirritano's office where she accumulated a medical bill of \$2,150.00 for treatments incurred between May 17, 2007 through July 25, 2007.

65. On February 29, 2008, Respondent negotiated a settlement on behalf of Salloum in the amount of \$15,000.00. On March 20, 2008, Respondent negotiated a reduction of Pirritano's lien from \$2,150.00 to \$930.00.

66. Respondent failed to honor the terms of the reduced lien agreement instead paying to Pirritano's office the amount of \$586.75.

67. As a result of Respondent's failure to honor the lien terms, Salloum is being pursued by collection agents for the original full amount of the lien plus interest.

Case No. 09-O-19214 (Complainant: Francisco DeZubiria)

FACTS:

68. On May 13, 2008, Respondent was retained by Francisco DeZubiria, (hereinafter "Francisco"), to represent him within a personal injury claim arising out of a vehicular accident occurring April 4, 2008.

69. Francisco was in regular contact with Respondent's office with respect to this claim from the date he signed his retainer on May 13, 2008 through February 10, 2009, at which time responsive contact from Respondent's office to Francisco ceased.

70. In the summer of 2009, Francisco relocated to Utah. When he again attempted contact with Respondent's office from Utah, Respondent's phone had been disconnected.

71. Francisco retained replacement counsel, Peter Martin, Esq. who was unsuccessful in securing cooperation from Respondent's office in his efforts to substitute himself into this matter on behalf of Francisco.

72. Replacement counsel Martin thereafter contacted the insurance adjustor from the defendant's carrier to determine the status of Francisco's claim, at which time he was advised that unbeknownst to Francisco, Respondent had settled the claim for \$12,500.00 on March 10, 2009.

Case No. 10-O-01157 (Complainant: Rene Campos)

FACTS:

73. Respondent was retained by Rene Campos (hereinafter "Campos") to pursue a personal injury claim arising out of a vehicular accident occurring on August 31, 2005.

74. On June 8, 2006, Respondent advised Campos that his case had been resolved for \$17,500.00 and in conjunction with that settlement, all of Campos' existent medical bills and liens had been satisfied. Campos received his settlement share from the settlement draft.

75. Campos was contacted by one of his treating physicians, Dr. Ali Adini, on December 28, 2009, who advised Campos that there still remained an unsatisfied lien for medical care and treatment in the amount of \$2,306.88 with his office.

Case No. 10-O-04105 (Complainant: Elva Carrillo)

FACTS:

76. Respondent was retained on December 18, 2007, by Elva Carrillo to pursue a personal injury claim arising out of a vehicular accident occurring on December 14, 2007.

77. Respondent provided Carrillo with a \$1,000.00 draft from Safeco Insurance to compensate her for the deductible on her damaged vehicle on March 4, 2008. Thereafter, Respondent performed no services on Carrillo's behalf in pursuit of her claim, effectively abandoning the file.

Case No. 10-O-05872 (Complainant: Sira Kimball)

FACTS:

78. Respondent was retained by Sira Kimball (hereinafter "Kimball"), in May 2006, to pursue a personal injury claim on her behalf.

79. In August 2009, Respondent advised Kimball of a settlement offer in the amount of \$63,462.00 in her case and informed her that her medical liens totaling \$24,688.66 had been successfully negotiated and reduced to \$16,074.15. Kimball received her settlement share from the settlement draft. In fact, the only medical lien addressed by Respondent and successfully negotiated to a reduced amount was that of Dr. Miller whose original lien of \$5,130.00 was reduced and paid in the amount of \$2,060.00. Kimball is now being pursued by the remaining unsatisfied lien holders for payment in the amount of \$19,558.66 plus interest.

CONCLUSIONS OF LAW:

80. Respondent was grossly negligent in not reconciling the CTA from December 2005 through September 2007, pursuant to the standards adopted by the Board of Governors rule 4-100(c), Rules of Professional Conduct, which led to the insufficient funds activity in the CTA. By acting with gross negligence in the handling of the CTA, Respondent committed an act of moral turpitude in willful violation of Business and Professions Code section 6106.

81. By maintaining his personal funds in the CTA and not withdrawing funds from the CTA within a reasonable time after his interest in the funds became fixed, Respondent wilfully commingled funds belonging to Respondent in a bank account labeled "Trust Account", "Client Funds Account" or words of similar import in willful violation of Rules of Professional Conduct, rule 4-100(A).

82. By not paying Dr. Velasco until November 2007 and Dr. Sobol until March 2008, 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 willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

83. By not maintaining at least \$1,000 in the CTA between September 15, 2005 and September 21, 2007 for Dr. Sobol and Dr. Velasco, 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 willful violation of Rules of Professional Conduct, rule 4-100(A).

84. By not responding to Arizmendi's numerous inquiries regarding Dr. Velasco's unpaid bill, Respondent wilfully failed to respond promptly to reasonable status inquiries of a client in willful violation of Business and Professions Code section 6068(m).

85. By not reconciling Arizmendi's settlement funds in the CTA for over two years, Respondent acted with gross negligence. By acting with gross negligence in not reconciling Arizmendi's settlement funds in his CTA for over two years and by misappropriating \$1,000, Respondent wilfully committed acts involving moral turpitude. By misleading Dr. Velasco's administrator about the status of Arizmendi's injury claim to conceal the fact that Respondent had

received settlement funds related to the claim, Respondent committed an act involving moral turpitude and dishonesty in willful violation of Business and Professions Code section 6106.

86. By not informing Gomez of his receipt of the three drafts from Mercury, Respondent wilfully failed to notify a client promptly of the receipt of the client's funds in willful violation of Rules of Professional Conduct, rule 4-100(B)(1).

87. By unilaterally withdrawing the \$3,039 in medical payments from the CTA without Gomez's knowledge, Respondent wilfully withdrew client funds from a client trust account prior to the resolution of a dispute with the client over Respondent's right to receive those funds in willful violation of Rules of Professional Conduct, rule 4-100(A).

88. By not releasing any of the medical payment funds to Ayala or Gomez after termination of his employment in February 2008, 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 willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

89. By not maintaining at least \$4,627.36 in the CTA for Rialto, Arrowhead, AccuCare, and Jackson, 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 willful violation of Rules of Professional Conduct, rule 4-100(A).

90. By not paying \$138.72 to Medical or Jackson or an additional \$488.64 to Jackson from the settlement funds, Respondent wilfully failed to pay promptly, as requested by his client, any funds in Respondent's possession which Jackson was entitled to receive in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

91. By misappropriating \$4,627.36 from Jackson's settlement funds, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

92. By misappropriating \$4,150.00 from Wilks's settlement funds, otherwise earmarked for satisfaction of the Mercury Imaging lien, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

93. By not paying the agreed medical lien reduced amount of \$930.00 to Pirritano's office or Salloum or an additional \$343.25 to Salloum from the settlement funds, Respondent wilfully failed to pay promptly, as requested by his client, any funds in Respondent's possession which Jackson was entitled to receive in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

94. By misappropriating \$12,500.00 from Francisco's settlement funds, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

95. By not paying \$2,306.88 to Dr Adini or Campos or an additional \$2,306.88 to Campos from the settlement funds, Respondent wilfully failed to pay promptly, as requested by his client, any funds in Respondent's possession which Campos was entitled to receive in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

96. By misappropriating \$2,306.88 from Campos' settlement funds, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

97. By failing to respond in any way to Carrillo after securing the deductible compensation, by failing to take any action to pursue Carrillo's claim thereafter, and by failing to perform any legal services on behalf of Carrillo after March 4, 2008, Respondent intentionally, recklessly and repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

98. By not paying \$19,558.66 to satisfy the medical liens accumulated with respect to medical services performed on behalf of Kimball or Kimball or an additional \$19,558.66 to Kimball from the settlement funds, Respondent wilfully failed to pay promptly, as requested by his client, any funds in Respondent's possession which Kimball was entitled to receive in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

99. By misappropriating \$19,558.66 from Kimball's settlement funds, Respondent wilfully committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was June 3, 2011.

AUTHORITIES SUPPORTING DISCIPLINE.

In the instant case, disbarment is warranted.

Standards for Attorney Sanctions for Professional Misconduct (“Standards”), Standard 1.7(b) provides that, “If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.”

Standard 1.6 provides that, “The appropriate sanction for an act of professional misconduct shall be that set forth in the following standards for the particular act of misconduct found or acknowledged. If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.”

Standard 2.2(a) provides that, “Culpability of a member of willful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.”

Standard 2.2(b) provides that, “Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, ...none of which result in willful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

Standard 2.3 provides that “Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member’s acts within the practice of law.”

Standard 2.6 provides for disbarment or suspension depending upon the gravity of the offense or harm associated with a violation of Business and Professions Code sections 6068(m).

The Standards should be followed whenever possible. *In re Silvertown* (2005) 36 Cal. 4th 81, 92.

Moral turpitude has been defined as “an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man [citation]. The concept of moral turpitude depends upon the state of public morals, and may vary according to the community or the times, [citations] as well as on the degree of public harm produced by the act in question.” *In re Fahey* (1973) 3 Cal. 3d 842, 849.

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.



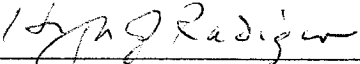
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of June 3, 2011, the prosecution costs in this matter are \$9866.93. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: STEVEN L. ELLMAN BAR #135658	Case number(s): 07-O-14091, 07-O-14207, 08-O-11231, 08-O-11894, 08-O-13387, 09-O-14045(inv), 09-O-17079(inv), 09-O-19214(inv), 10-O-01157(inv), 10-O-04105(inv), and 10-O-05872(inv)
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SIGNATURE OF THE PARTIES

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

<u>6/3/11</u> Date	 Respondent's Signature	STEVEN L. ELLMAN Print Name
<u>June 3, 2011</u> Date	 Respondent's Counsel Signature	DAVID A. CLARE Print Name
<u>June 3 '11</u> Date	 Deputy Trial Counsel's Signature	HUGH G. RADIGAN Print Name

(Do not write above this line.)

In the Matter of: STEVEN L. ELLMAN BAR #135658	Case Number(s): 07-O-14091, 07-O-14207, 08-O-11231, 08-O-11894, 08-O-13387, 09-O-14045(inv), 09-O-17079(inv), 09-O-19214(inv), 10-O-01157(inv), 10-O-04105(inv), and 10-O-05872(inv)
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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.

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 Steven L. Ellman 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.

06-21-11
Date


Judge of the State Bar Court
RICHARD A. PLATEL

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 21, 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:

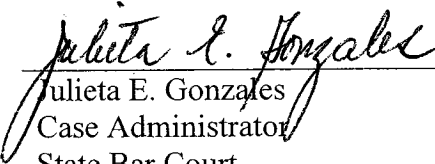
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID ALAN CLARE ESQ
444 W OCEAN BLVD STE 800
LONG BEACH, CA 90802

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

Hugh G. Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 21, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court