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**State Bar Court of California  
Hearing Department  
Los Angeles  
DISBARMENT**

<b>Counsel For The State Bar</b>  Joseph R. Carlucci Supervising Trial Counsel 1149 South Hills Street Los Angeles, CA 90015 (213) 765-1000  Bar # 172309	<b>Case Number(s):</b> 10-O-08547	<b>For Court use only</b> <b>PUBLIC MATTER</b>  <b>FILED</b> <i>llc</i>  APR 13 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  Eric J. Siegler 28475 Old Town Front St. Suite D Temecula, CA 92590  Bar # 179602	<b>Submitted to: Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> ERIC J. SIEGLER  Bar # 179602  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted December 6, 1995.
- (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 (10) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

(Effective January 1, 2011)



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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. See page 7 for further discussion re: Trust Violation
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 7 for further discussion re: Harm.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

None.

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

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious. See pages 7-8 for further discussion re: No Prior Discipline.
- (2)  **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See page 8 for further discussion re: Candor/Cooperation
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted in good faith.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and respondent no longer suffers from such difficulties or disabilities.
- (9)  **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(Effective January 1, 2011)

Disbarment

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(13)  No mitigating circumstances are involved.

**Additional mitigating circumstances:**

None.

**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 Evelyn Brooks in the amount of \$ 143,581.45 plus 10 percent interest per year from December 31, 2007. If the Client Security Fund has reimbursed Evelyn Brooks 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:**

**ATTACHMENT TO**

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

**IN THE MATTER OF:**                      **ERIC J. SIEGLER (no. 179602)**

**CASE NUMBER:**                         **10-O-08547**

**FACTS AND CONCLUSIONS OF LAW.**

Respondent Eric Siegler (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. 10-O-084547 (Complainant: Evelyn Brooks)**

**Facts**

1.     In April 2007, Evelyn Brooks (Brooks) hired Respondent to represent her in her beneficiary capacity in connection with the administration of her deceased mother's (Emma Franklin) estate.

2.     On April 11, 2007, Brooks and her sister, Gladys Kirkendall (Kirkendall), who was the administrator of the estate and the other beneficiary, entered into a "Stipulation by Heirs at Law and Settlement for Distribution" that was filed in *In the Estate of Emma Franklin*, San Diego County Superior Court, case no. P181530.

3.     Pursuant to the stipulation, Kirkendall was to pay the sum of \$200,000 to Brooks in settlement of Brooks's interest in a piece of real property belonging to the estate. Pursuant to the stipulation, Kirkendall was to pay Brooks' the \$200,000 in the form of a cashier's check that was to be deposited directly into Respondent's client trust account for Brooks's benefit.

4.     On April 11, 2007, Kirkendall obtained the \$200,000 cashier's check, endorsed it over to the client trust account of Respondent, and gave the check to Respondent.

5.     On April 11, 2007, Respondent deposited the \$200,000 check into his client trust account at Union Bank, account no. xxxxxx21-3 (Union bank CTA).<sup>1</sup>

6.     On April 20, 2007, Respondent paid \$30,000 to Brooks by a check drawn from his Union Bank CTA. Thereafter, Respondent was required at all times to maintain a balance of \$170,000 in his Union Bank CTA on behalf of Brooks until the remaining \$170,000 was paid to her.

7.     Between April 20, 2007 and December 31, 2007, Respondent made no disbursements of Brooks's funds to her.

8.     Between April 20, 2007 and December 31, 2007, the balance in Respondent's Union Bank CTA consistently fell below \$170,000 until it reached a low of \$383.54 on December 31, 2007.

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<sup>1</sup> The complete account number has been omitted due to privacy concerns.

9. Between April 20, 2007 and December 31, 2007, Respondent dishonestly misappropriated \$169,616.46 of Brooks's funds for his own use through numerous cash withdrawals and checks written from his Union Bank CTA.

10. After December 31, 2007, Respondent replenished some of the funds misappropriated from Brooks and thereafter disbursed a total of \$26,035.01 to her from his Union Bank CTA and another client trust account he held at Bank of America as follows:

February 5, 2008	\$2,000.00
April 14, 2008	\$2,000.00
June 8, 2008	\$2,000.00
July 16, 2008	\$2,000.00
August 25, 2008	\$2,000.00
September 10, 2009	\$1,500.00
September 28, 2009	\$3,758.23
September 28, 2009	\$1,166.57
September 29, 2009	\$2,684.81
December 8, 2009	\$3,000.00
March 29, 2010	<u>\$3,925.40</u>
<b>TOTAL</b>	<b>\$26,035.01</b>

11. Since March 29, 2009, Respondent has not paid Brooks any portion of the remaining \$143,581.45 (\$169,616.46 - \$26,035.01) that he misappropriated from her.

#### **Conclusions of Law**

By not maintaining \$170,000 received on behalf of Brooks in his Union Bank from April 20, 2007 until those funds were properly disbursed to Brooks, Respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

By misappropriating \$169,616.46 of Brooks's funds, Respondent committed an act of moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

#### **AGGRAVATING CIRCUMSTANCES.**

##### **1. Trust Violation (Standard 1.2(b)(iii))**

Respondent's refusal or inability to account for Evelyn Brooks's funds is a serious aggravating circumstance given that Respondent misappropriated more than \$169,000 of the \$200,000 he was entrusted to hold on behalf of Brooks.

##### **2. Harm (Standard 1.2(b)(iv))**

Respondent's misappropriation and misuse of Brooks's funds has harmed Brooks substantially. Respondent's misconduct has deprived Brooks of the use and enjoyment of more than \$150,000.

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## **MITIGATING CIRCUMSTANCES.**

### **1. No Prior State Bar Discipline (Standard 1.2(e)(i))**

Respondent was admitted to the State Bar on December 6, 1995, and has no prior record of State Bar discipline.

Standard 1.2(e)(i) has been applied to give an attorney some mitigating credit for no prior discipline even where the underlying misconduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, ft. 13).

### **2. Candor and Cooperation (Standard 1.2(e)(v))**

Respondent's stipulation herein to the facts, his culpability, and his disbarment is a mitigating circumstance. (See also, *In the matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521).

## **AUTHORITIES SUPPORTING DISCIPLINE.**

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") provides in pertinent part that, "[t]he primary purposes of disciplinary proceedings...are the protection of the public, the courts, and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

Standard 1.6(a) provides that 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.

Based upon Standard 1.6(a), the most severe sanction for Respondent's misconduct is found in Standard 2.2(a). Standard 2.2(a) provides that culpability of a member of willful misappropriation of entrusted funds shall result in disbarment. Only if the amount of funds misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed.

Here, the amount of funds that Respondent misappropriated is not insignificant. In fact, the opposite is true. Respondent misappropriated more than \$160,000 from his client. Moreover, the mitigating circumstances discussed above are not compelling to justify a deviation from the standards or a discipline less than disbarment. The parties acknowledge that Respondent's misappropriation, and the aggravating circumstances surrounding that misconduct, warrant his disbarment.

## **PENDING PROCEEDINGS.**

The disclosure date referred to on page 2, paragraph A(7), was March 21, 2011.

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**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of March 21, 2011, the prosecution costs in this matter are **\$1,983.00**.

Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**RESTITUTION.**


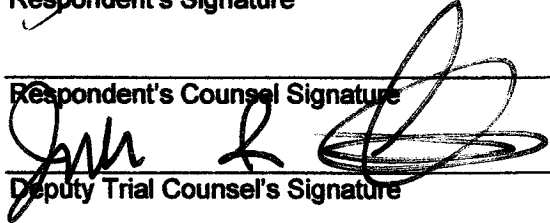

Respondent waives any objection to payment by the State Bar Client Security Fund upon a claim for the principal amount of restitution set forth herein.

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In the Matter of: ERIC J. SIEGLER (no. 179602)	Case number(s): 10-O-08547
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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>3-22-10</u> Date	 Respondent's Signature	<u>ERIC J. SIEGLER</u> Print Name
<u>3-28-2011</u> Date	 Respondent's Counsel Signature	<u>NOT APPLICABLE</u> Print Name
<u>3-28-2011</u> Date	 Deputy Trial Counsel's Signature	<u>JOSEPH R. CARLUCCI</u> Print Name

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In the Matter of: ERIC J. SIEGLER (no. 179602)	Case Number(s): 10-O-08547
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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 ERIC J. SIEGLER (no. 179602) 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.

April 13, 2011  
Date

Pat McElery  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On April 13, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

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

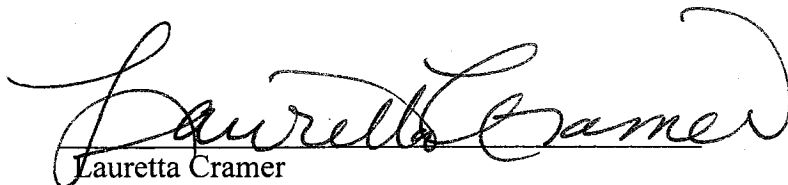
ERIC J. SIEGLER  
LAW OFFICE OF ERIC SIEGLER  
28475 OLD TOWN FRONT ST STE D  
TEMECULA, CA 92590

ERIC J SIEGLER  
10648 MEADOW MIST AVE  
LAS VEGAS, NV

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

JOSEPH CARLUCCI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 13, 2011.

  
Laurretta Cramer  
Case Administrator  
State Bar Court