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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Melanie J. Lawrence 1149 South Hill Street Los Angeles, CA 90015 (213)765-1066</p> <p>Bar # 230102</p>	<p>Case Number(s): 10-O-09997 11-O-10516</p>	<p>For Court use only</p> <p align="center">FILED SEP 15 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Paul J. Virgo P.O. Box 67682 Los Angeles, CA 90067 (310)666-9701</p> <p>Bar # 67900</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: Samuel L. Hart 6355 Topanga Canyon Blvd., Ste. 5 Woodland Hills, CA 91367 (818)992-4225</p> <p>Bar # 66135</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 December 18, 1975.
- (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 (11) pages, not including the order.

(Effective January 1, 2011)



- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (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 91-O-03576
 - (b) ☒ Date prior discipline effective August 27, 1993
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: 3-400(A)&(B)
 - (d) ☒ Degree of prior discipline 30 days stayed suspension, one year probation
 - (e) ☐ If respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment

- (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. See Attachment
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

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- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See attachment

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 Stuart G. King Jr. in the amount of \$ 201,081.70 plus 10 percent interest per year from August 19, 2008. If the Client Security Fund has reimbursed Stuart G. King Jr. 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 see attachment 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: Samuel L. Hart
CASE NUMBER(S): 10-O-09997 & 11-O-10516

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. 11-O-10516 (Complainant: Stuart G. King Jr.)

FACTS:

1. In May 2005, Respondent began representing David Franklin ("Franklin") in his capacity as administrator of the *Estate of Stuart G. King*, Los Angeles County Superior Court case number BP084292 ("the probate matter").
2. In his capacity as administrator, Franklin opened a bank account at Washington Mutual Bank in the name of David G. Franklin, Administrator of the Estate of Stuart G. King, account number ***-***5331-3¹ into which he deposited estate funds.
3. On December 11, 2007, Respondent filed or caused to be filed, in the probate matter, an "Amended First and Final Accounting and Report of Administrator; Petition for Allowance of Statutory Fees for Attorney and Statutory Commissions for Administrator; Extraordinary Fees for Attorney; Reimbursement of Costs for Attorney and Extraordinary Commissions for Administrator; Surcharge of Stuart G. King, Jr. and Petition for Final Distribution" ("the accounting"). Respondent prepared or caused to be prepared, the accounting, on behalf of Franklin.
4. In the accounting, Respondent set forth the property available for distribution as cash in the amount of "\$441,976.83" and a piece of desert real property valued at \$1,500. The cash was derived from proceeds of the sale of the decedent's home which Franklin used to purchase two certificates of deposit in the name of the estate at Washington Mutual Bank.
5. There were two beneficiaries of King's estate – Stuart G. King, Jr. and Randy Allen Gernandt. Each was entitled to a 50% distribution of the remainder of the probate estate, after payment of costs and expenses set forth in the accounting. Stuart G. King, Jr. was entitled to \$201,113.06 after payment of costs and expenses.
6. On March 6, 2008, Franklin liquidated the two certificates of deposit at Respondent's direction and transferred a total of \$349,306.51 from the account by way of two cashier's checks, numbers 642774884 and 642774883 ("the cashier's checks"), both payable to "Law Office of Samuel L. Hart."

¹ Part of the account number is deleted due to privacy concerns.

7. On March 6, 2008, Respondent deposited the cashier's checks into a client trust account he maintained at Mission Valley Bank, account number ***0706.² Those funds belonged to the probate estate for distribution to the beneficiaries. Respondent was required to maintain \$201,113.06 of those funds in trust for the benefit of Stuart G. King, Jr. until they were properly distributed to him.

8. On March 26, 2008, an "Order Approving Amended First and Final Accounting and Report of Administrator; Petition for Allowance of Statutory Fees for Attorney and Statutory Commissions for Administrator; Extraordinary Fees for Attorney; Reimbursement of Costs for Attorney and Extraordinary Commissions for Administrator; Surcharge of Stuart G. King, Jr. and Petition for Final Distribution" ("the Order") was filed. The Order required that the remainder of the estate be distributed.

9. Respondent never distributed any of the estate funds to Stuart G. King, Jr. By August 19, 2008, the balance in Respondent's client trust account had dropped to \$31.36.

10. Respondent dishonestly or with gross negligence, misappropriated \$201,081.70 of Stuart G. King Jr.'s funds.

11. On June 10, 2010, Nancy J. Lee ("Lee"), an attorney representing Stuart King, Jr., mailed a letter via certified mail to Respondent, which he received. In the letter Lee discussed the Order filed March 26, 2008, and requested that Respondent, among other things, provide Lee with an accounting of property due Stuart King, Jr., and for Respondent to outline steps he had taken to comply with the Order to distribute the estate. Respondent did not respond.

12. Between June 25, 2010 and September 17, 2010, Lee attempted to contact Respondent several times by telephone. On some occasions, Lee left a message which Respondent received, requesting that he contact her. He did not do so. On at least two occasions Lee spoke directly with Respondent at which time he assured her he would send "proceeds" and "paperwork" to Lee's office. He never did so.

13. On September 22, 2010, Lee mailed a letter via certified mail to Respondent which he received. In the letter Lee requested Respondent account for and distribute any estate property due Stuart King, Jr. Respondent did not respond.

14. On January 31, 2011, the State Bar opened an investigation based upon the complaint in 11-O-10516.

15. On March 2, 2011, a State Bar investigator mailed Respondent a letter, which he received, requesting that he respond in writing to the allegations related to Stuart King, Jr., by March 16, 2011. Respondent failed to do so.

16. On March 21, 2011, the investigator mailed Respondent a letter, which he received, requesting that he respond in writing to the allegations related to Stuart King, Jr., by April 4, 2011. He failed to do so.

² Part of the account number is deleted due to privacy concerns.

CONCLUSIONS OF LAW:

By failing to maintain \$201,081.70 in his client trust account for the benefit of Stuart G. King Jr., Respondent 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 Rule 4-100(A) of the Rules of Professional Conduct.

By misappropriating \$201,081.70 of Stuart G. King's funds, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business & Professions Code section 6106.

By failing to respond to Lee's June 10 and September 22, 2010, letters and by failing to respond to the telephone messages she left him, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services in violation of Business & Professions Code section 6068(m).

By failing to provide Lee with any accounting of the funds due Stuart King, Jr., Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent's possession in violation of Rule 4-100(B)(3).

By not providing a written response to either of the two letters regarding the allegations related to Stuart King, Jr., Respondent failed to cooperate in a disciplinary investigation pending against Respondent in violation of Business and Professions Code section 6068(i).

Case No. 10-O-09997 (Complainant: Lugene Johnson-Haynes)

FACTS:

17. In June 2008, Lugene Johnson-Haynes ("Johnson-Haynes") employed Respondent to assist her in negotiating with her late husband's employer, payment of his final paycheck and vacation pay. The employer had issued two checks payable to her late husband, one in the amount of \$256.81 and one in the amount of \$8,317.26. Because they were made payable to her late husband, Johnson-Haynes' credit union would not cash the checks for her.

18. Respondent instructed Johnson-Haynes to complete a "Declaration Under Probate Code Section 13101" to be sent to the employer in order to have the checks reissued in her name. Johnson-Haynes did so.

19. The employer reissued the checks, numbers 0005059928 in the amount of \$256.81 and 0005085276 in the amount of \$8317.26 ("the checks"), but both were payable to Johnson-Haynes' late husband's estate, not to Johnson-Haynes herself. Johnson-Haynes' credit union still refused to cash the checks as written.

20. Thereafter, Respondent instructed Johnson-Haynes to send him the checks and represented to her that he would put the checks "through" his client trust account in order to expedite payment of the checks. Johnson-Haynes sent Respondent the checks.

21. On July 15, 2008, Respondent deposited or caused to be deposited, the checks into a client trust account he maintained at Mission Valley Bank, account number ***0706.³

³ The full number is not provided for privacy reasons.

22. Respondent took no further action on behalf of Johnson-Haynes, did not tell her he had successfully deposited the checks into his client trust account, and did not provide her with the funds.

23. Respondent was required to maintain \$8,574.07 in the client trust account on behalf of Johnson-Haynes. Instead, by August 19, 2008, the balance in the account had dropped to \$31.36.

24. Between August 2008 and October 2009, Johnson-Haynes made several inquiries of Respondent as to the status of the checks. On the occasions that Johnson-Haynes spoke with Respondent he told her the checks had to be "sent through the court in California" and then to "Florida to be ratified through their courts" and that the employer had agreed to reissue the checks. At the time Respondent made those statements he knew they were false or was grossly negligent in not knowing they were false.

25. In August 2010, Johnson-Haynes learned from the employer that Respondent had cashed the checks.

26. Respondent dishonestly or with gross negligence, misappropriated \$8,542.71 of Johnson-Haynes' funds.

27. By misappropriating \$8,542.71 of Johnson-Haynes' funds, Respondent committed an act involving moral turpitude, dishonesty or corruption.

28. Respondent's statements to Johnson-Haynes set forth in paragraph 24 were misrepresentations.

29. On November 5, 2010, an investigation was opened based upon Johnson-Haynes' complaint.

30. On March 25, 2011, a State Bar investigator sent Respondent a letter, which he received, requesting he provide a written response to the Johnson-Haynes allegations on or before April 8, 2011. Respondent failed to do so.

31. On March 28, 2011, the State Bar investigator received a letter from an attorney confirming that he was representing Respondent in the Johnson-Haynes complaint, that he and Respondent had received the March 25, 2011, letter and that they would provide a response. They failed to do so.

32. On April 11, 2011, the State Bar investigator sent Respondent's attorney another letter which he received on Respondent's behalf, in which the investigator enclosed the March 25, 2011, letter, and requested a written response to it by April 25, 2011. Neither his attorney nor Respondent provided a written response to the Johnson-Haynes allegations by April 25, 2011.

CONCLUSIONS OF LAW:

By failing to maintain \$8,542.71 in his client trust account on behalf of Johnson-Haynes, Respondent failed to maintain funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in violation of rule 4-100(A) of the Rules of Professional Conduct.

By misrepresenting the status of the checks to Johnson-Haynes, Respondent committed an act involving moral turpitude, dishonesty or corruption in violation of Business & Professions Code section 6106.

By not providing a written response to either of the two letters regarding the Johnson-Haynes complaint, Respondent failed to cooperate in a disciplinary investigation pending against Respondent in violation of Business and Professions Code section 6068(i).

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Std.") provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession; the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession."

Std. 2.2(a) applies. It requires disbarment for wilful misappropriation of entrusted funds or property.

MITIGATING CIRCUMSTANCES

Respondent cooperated in resolving this matter early in the proceedings. (Std. 1.2 (e)(v).)

The mitigating circumstances do not call for deviation from Std. 2.2(a). (Std. 1.6(b)(ii).)

AGGRAVATING CIRCUMSTANCES

Stuart G. King Jr. has been deprived of his portion of his father's estate for more than three years. (Std. 1.2(b)(iv).)

Respondent's misconduct involves multiple acts of misconduct in two separate matters. (Std. 1.2(b)(ii).)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of August 22, 2011, the prosecution costs in this matter are \$3,689. 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.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent must pay restitution to Stuart G. King Jr. in the amount of \$379,440.02 plus interest of 10 percent per annum calculated from August 19, 2008. If the Client Security Fund ("CSF") has reimbursed Stuart G. King Jr. for all or any portion of the amounts listed above, Respondent must reimburse CSF in the amounts paid, plus applicable interest and costs.

PENDING PROCEEDINGS.

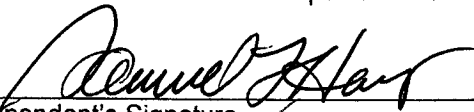
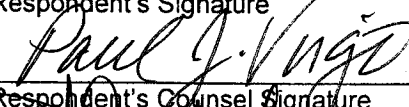

The disclosure date referred to, on page 2, paragraph A(7), was August 22, 2011.

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In the Matter of: Samuel Hart	Case number(s): 10-O-09997, 11-O-10516
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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.

August 29, 2011		SAMUEL L. HART
Date	Respondent's Signature	Print Name
8/31/2011		PAUL J. VIRGO
Date	Respondent's Counsel Signature	Print Name
8/31/11		Melanie J. Lawrence
Date	Deputy Trial Counsel's Signature	Print Name

In the Matter of: Samuel L. Hart	Case Number(s): 10-O-09997, 11-O-10516
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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:

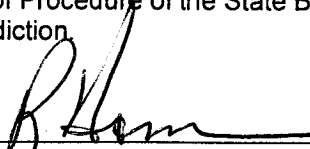
- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

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 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

9-14-11



Judge of the State Bar Court
RICHARD A. HONN

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 September 15, 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:

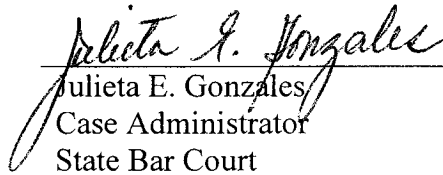
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

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

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

Melanie J. Lawrence, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 15, 2011.



Julieta E. Gonzales
Case Administrator
State Bar Court