

(Do not write above this line.)

<p align="center"><b>State Bar Court of California</b>  <b>Hearing Department</b>  <b>Los Angeles</b>  <b>DISBARMENT</b></p> <p align="right"><b>PUBLIC MATTER</b></p>		
<p>Counsel For The State Bar</p> <p>Eli D. Morgenstern  Deputy Trial Counsel  The State Bar of California  1149 South Hill Street  Los Angeles, CA 90015-2299  Tel: (213) 765-1334  Fax: (213) 765-1319</p> <p>Bar # 190560</p>	<p>Case Number(s):  10-O-10296</p>	<p>For Court use only</p> <p align="center"><b>FILED</b></p> <p align="center">JAN 24 2012  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES</p>
<p>In Pro Per Respondent</p> <p>Daniel S. Kodam  Kodam &amp; Associates, PC  27890 Clinton Keith Rd  Ste D PMB 414  Murrieta, CA 92562  Tel: (951) 445-4905  Fax: (951) 445-4906</p> <p>Bar # 190703</p>	<p>Submitted to: <b>Assigned Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND  DISPOSITION AND ORDER APPROVING; ORDER OF  INVOLUNTARY INACTIVE ENROLLMENT</p> <p><b>DISBARMENT</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of:  Daniel S. Kodam</p> <p>Bar # 190703</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 4, 1997.
- (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.

(Effective January 1, 2011)



(Do not write above this line.)

- (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."
- (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.

(Do not write above this line.)

- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 8 for further discussion regarding Harm.
- (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 page 8 for further discussion regarding Multiple Acts of Wrongdoing.
- (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. See page 8 for further discussion regarding No Prior Record of 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 9 for further discussion regarding Candor and 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. See page 9 for further discussion regarding Remorse.
- (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. See page 8 and 9 for further discussion regarding Extreme Emotional Difficulties.
- (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

(Do not write above this line.)

---

which were directly responsible for the misconduct. See page 8 and 9 for further discussion regarding Financial Problems.

- (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. See page 8 and 9 for further discussion regarding Family Problems.
- (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            in the amount of \$            plus 10 percent interest per year from            . If the Client Security Fund has reimbursed            for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than            days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

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

IN THE MATTER OF:                      DANIEL SHERVIN KODAM

CASE NUMBER(S):                      10-O-10296

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statute.

**Case No. 10-O-10296**

**FACTS**

1. Modeso LLC d/b/a RapidFunds ("Modeso") is in the business of purchasing an assignment of attorneys' fees on settled cases from contingency fee lawyers. In exchange for this purchase, lawyers are able to gain access to a portion of their contingency fees that they have earned on an accelerated basis.
2. On December 2, 2009, Respondent provided Modeso with what purported to be a fully executed Settlement Agreement between the California Department of Forestry and Fire Protection ("Cal-Fire") and Frank Woodley ("Woodley"), Respondent's client in a matter titled *Frank Woodley v. California Department of Forestry and Fire Protection, et. al.* (the "Woodley matter").
3. On December 7, 2009, Respondent entered into a contract titled "Assignment of Settlement Agreement" with Modeso by which he sold, transferred, and assigned to Modeso attorneys' fees of \$232,910.96 he claimed to have earned but had not yet received.
4. On December 11, 2009, in accordance with the terms of the agreement, Modeso wired \$170,000 (less a wire of fee of \$25) to Respondent's account at Bank of America as consideration for the assignment.
5. In fact, the parties had not settled the Woodley matter, and Respondent fraudulently obtained the funds. Respondent forged the signatures of Woodley and two representatives from Cal-Fire on the signature page of the Settlement Agreement.
6. On February 18, 2010, Respondent provided Modeso with what purported to be a fully executed Settlement Agreement between the California Department of Forestry and Fire Protection ("Cal-Fire") and Daniel Stewart ("Stewart"), Respondent's client in a matter titled *Daniel Stewart v. California Department of Forestry and Fire Protection, et. al.* (the "Stewart matter").
7. Shortly thereafter, Respondent entered into another contract titled "Assignment of Settlement Agreement" with Modeso whereby he sold, transferred, and assigned to Modeso \$164,000 of the attorneys' fees Respondent claimed to have earned in the Stewart matter.

8. On March 10, 2010, in accordance with the terms of the agreement, Modeso wired \$150,000 (less a wire fee of \$25) to Respondent's account at Bank of America as consideration for the assignment.

9. In fact, the parties had not settled the Stewart matter, and Respondent fraudulently executed the Settlement Agreement. Respondent forged the signatures of Stewart and two representatives from Cal-Fire on the signature page of the Settlement Agreement.

10. After several inquiries from Modeso regarding the status of Respondent's repayments, Respondent admitted the settlement agreements he had presented were forgeries, and stated that he would repay the loan in its entirety. On or about July 20, 2010, Respondent started making repayments to Modeso.

11. On September 8, 2010, Modeso filed a complaint against Respondent alleging breach of contract, fraud, conversion, and breach of fiduciary duty in a matter titled *Modeso, LLC d/b/a RapidFunds v. Daniel Shervin Kodam*, Los Angeles County Superior Court case number BC445143 (the "Modeso civil matter").

12. On September 13, 2010, Respondent signed Modeso's Offer to Compromise in the Modeso civil matter. The parties had informally agreed to this offer before Modeso filed the complaint in the Modeso civil matter. Thereafter, Respondent paid the remaining balance to Modeso according to a payment plan. By March 30, 2011, Respondent had repaid the full \$320,000 plus interest to Modeso. On that date, Modeso executed an Acknowledgment of Satisfaction of Judgment.

13. In late December 2010, Respondent enrolled in the Lawyers Assistance Program ("LAP"). Respondent's case manager referred him to Michael Black, LCSW, a therapist. Respondent began treatment on December 29, 2010, and is still in therapy.

14. On January 3, 2011, Respondent had telephone conversations with both Frank Woodley ("Woodley") and Dan Stewart ("Stewart"). Respondent advised each of them that he had used their names to create the settlement agreements he presented to Modeso. He advised them that he created settlement paperwork on their cases to obtain cash advances. Respondent advised Woodley and Stewart that it would be best if he no longer represented them and offered to cooperate fully with any attorney they might choose. On January 4, 2011, Respondent followed up on his telephone conversations with Woodley and Stewart by sending each client a letter memorializing the respective conversations.

15. On January 6, 2011, Respondent mailed all of his remaining clients a letter advising that his firm would be closing as of January 28, 2011. Respondent explained that he expected to remain available after the immediate closure of his firm to assist in the orderly transfer of the cases.

16. On January 9, 2011, Respondent notified the State Bar that the judgment in the Modeso civil action had been entered against him on November 11, 2010.

17. On January 20, 2011, in response to a letter from the State Bar, Respondent admitted to the misconduct described herein and expressed his remorse.

18. On May 30, 2011, the State Bar received Respondent's Application For Transfer to Inactive status. On May 31, 2011, Respondent's membership status was changed to voluntarily inactive.

19. On July 18, 2011, Respondent tendered his resignation with charges pending to the State Bar Court.

20. On October 11, 2001, the Review Department of the State Bar Court recommended to the California Supreme Court that Respondent's resignation be rejected. On November 28, 2011, the Review Department filed an Amended Recommendation on Resignation which superseded the prior recommendation. In the November 28, 2011 Recommendation, the Review Department denied Respondent's request for reconsideration, but amended its previous recommendation to correct a few factual errors in the prior recommendation.

### **Conclusions of Law**

By forging settlement agreements for the purpose of inducing Modeso to purchase \$397,910.36 in worthless assignments in purported attorneys' fees that he had not earned, and by accepting \$320,000 from Modeso as consideration for the worthless assignments, Respondent committed acts involving moral turpitude, dishonesty, or corruption in violation of Business and Professions Code section 6106.

### **PENDING PROCEEDINGS.**

The disclosure date referred to on page 2, paragraph A(7) was December 19, 2011.

### **AGGRAVATING CIRCUMSTANCES.**

#### **1. Multiple Acts of Wrongdoing.**

Respondent engaged in repeated acts of deceit in order to fraudulently obtain \$320,000. (Std. 1.2(b)(ii).)

#### **2. Harm**

Respondent's misconduct caused financial harm to Modeso. (Std. 1.2(b)(iv).) However, as discussed in paragraph 12 of the Facts, Respondent subsequently made full restitution, plus interest, to Modeso.

### **MITIGATING CIRCUMSTANCES.**

#### **1. No Prior Record of Discipline.**

Respondent has been a member of the State Bar since December 4, 1997, and has no prior record of discipline. Respondent practiced law for approximately thirteen (13) years before he began committing the misconduct herein. Respondent's twelve years of discipline free practice is a mitigating circumstance. (Std. 1.2(e)(i). See also, *In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287 (attorney's eight (8) years of discipline free practice was a mitigating circumstance).)

#### **2. Family Problems/Extreme Emotional Difficulties/Financial Problems**

During the time of the misconduct described herein, Respondent's two year old son was experiencing medical problems. (Std. 1.2(e)(iv).) During the time of the misconduct described herein, Respondent's attention was focused on his son and he was frequently away from the office. As a result



of his frequent absences from the office, Respondent's income dropped dramatically, and he experienced financial problems.

### **3. Candor and Cooperation/Remorse**

As soon as Respondent was contacted by the State Bar, he admitted his culpability to the misconduct committed herein. Respondent responded promptly to all State Bar inquiries and willingly provided any and all documentation requested. (Standard 1.2(e)(v).)

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

Respondent also communicated with Modeso and admitted his misconduct. The fact that Respondent also made restitution to Modeso is indicative of his acknowledgment of wrongdoing and remorse.

### **AUTHORITIES SUPPORTING DISCIPLINE.**

#### **1. Standards**

Standard 2.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Standards") provides that culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim 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.

Here, Respondent engaged in acts of deceit in order to fraudulently obtain several hundred thousand dollars from Modeso. The misconduct was directly related to his practice, and caused significant harm to Modeso. The mitigating circumstances discussed above are not sufficiently compelling to warrant a discipline of less than disbarment in light of Respondent's misconduct.

### **COSTS OF DISCIPLINARY PROCEEDINGS.**

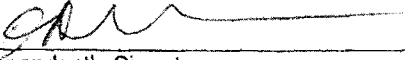

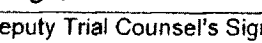
Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of December 19, 2011, the prosecution costs in this matter are \$2,861. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: Daniel Shervin Kodam	Case number(s): 10-O-10296
---	-------------------------------

### 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>12/29/11</u> Date	 Respondent's Signature	<u>Daniel Shervin Kodam</u> Print Name
<u>12/29/11</u> Date	 Respondent's Counsel Signature	<u>not applicable</u> Print Name
<u>12/29/11</u> Date	 Deputy Trial Counsel's Signature	<u>Eli D. Morgenstern</u> Print Name


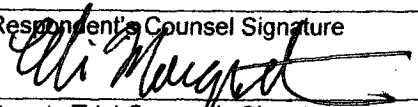
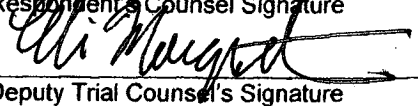
(Do not write above this line.)

In the Matter of:  
Daniel Shervin Kodam

Case number(s):  
10-O-10296

### 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>12/29/11</u> Date	 Respondent's Signature	<u>Daniel Shervin Kodam</u> Print Name
<u>1/12/12</u> Date	 Respondent's Counsel Signature	<u>not applicable</u> Print Name
	 Deputy Trial Counsel's Signature	<u>Eli D. Morgenstern</u> Print Name

(Do not write above this line.)

In the Matter of:  
Daniel Shervin Kodam

Case Number(s):  
10-O-10296

### 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

1-23-12

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 January 24, 2012, 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:

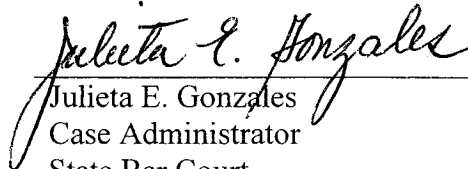
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DANIEL S KODAM ESQ  
KODAM & ASSOCIATES, PC  
27890 CLINTON KEITH RD  
STE D PMB 414  
MURRIETA, CA 92562

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

Eli D. Morgenstern, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 24, 2012.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court