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

<p>Counsel For The State Bar</p> <p>William Todd Deputy Trial Counsel 1149 S Hill Street Los Angeles, California 90015 213-765-1491</p> <p>Bar # 259194</p>	<p>Case Number(s): 10-O-11238-RAP, 12-O-12952</p>	<p>For Court use only</p> <p>FILED</p> <p>FEB 20 2013 <i>He</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Robert Berke 7236 Owensmouth Ave Ste D Canoga Park, California 91303 818-804-5729</p> <p>Bar # 148957</p>	<p>Submitted to: Settlement 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 checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: RONALD EARL BEHLING</p> <p>Bar # 89042</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 November 29, 1979.
- (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 (13) 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)

*ASB
1/18/13*



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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 91-O-03670, et al.
 - (b) Date prior discipline effective April 29, 1994
 - (c) Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct rules 1-100(A), 3-500, 4-100(A) and 4-100(B); Business and Professions Code sections 6068(a), 6068(m), 6103 and 6106
 - (d) Degree of prior discipline Two year suspension, stayed, with 120 days actual suspension, three years probation, restitution of \$13,728.42 and rule 955 compliance
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:

State Bar Court Case 94-PM-15461, effective July 9, 1995. Respondent violated Business and Professions Code section 6068(k). The degree of prior discipline in this instance was two years suspension, stayed, with thirty days actual suspension and four years 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.
- (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. Please see "Attachment to Stipulation," page 9.

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- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Please see "Attachment to Stipulation," page 9.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. Please see "Attachment to Stipulation," page 9.
- (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. Please see "Attachment to Stipulation," page 9.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

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

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- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Please see "Attachment to Stipulation," page 10.

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 Eun J. Lim and Justin Han in the amount of \$13,789.25 and \$1,100.00, respectively, plus 10 percent interest per year from March 11, 2010 (Eun J. Lim) and July 16, 2010 (Justin Han), respectively. If the Client Security Fund has reimbursed either Eun J. Lim or Justin Han 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 N/A days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

8. On August 30, 2010, Respondent's Bank of America client trust account ("CTA #2") balance was zero dollars (\$0).

9. On September 1, 2010, a deposit of \$239.00 was made into CTA #2. On September 9, 2010, a deposit of \$2,695.61 was made into CTA #2, leaving a total balance of \$2,934.61. Of this total balance, \$2,000.00 were Han's funds.

10. On September 21, 2010, the balance in CTA #2 fell to \$690.43 due to several transactions unrelated to Han's matter. However, Respondent was still obligated to hold \$2,000.00 of Han's funds in CTA #2, leaving a difference of \$1,309.57. Respondent misappropriated at least \$1,309.57 of Han's funds from CTA #2.

11. Between September 21, 2010 and November 18, 2010, Respondent deposited thousands of dollars into CTA #2 that were received on behalf of other clients and were unrelated to the Han matter.

12. On November 18, 2010, Respondent delivered a check in the amount \$900.00 drafted on CTA #2 to Shin's MRI on Han's behalf. In so doing, Respondent misappropriated at least \$209.57 from other client's funds to pay Shin MRI on behalf of Han.

13. To date, Respondent has failed to pay the remaining \$1,100.00 of Han's funds either to Han or to a third party at Han's request.

CONCLUSIONS OF LAW:

14. By failing to maintain at least \$2,000.00 of Han's funds in CTA #2 on September 21, 2010, 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 Fund Account" or words of similar import in willful violation of Rules of Professional Conduct rule 4-100(A).

15. By misappropriating \$1,309.57 of Han's funds on September 21, 2010, Respondent committed an act involving moral turpitude in willful violation of Business and Professions Code section 6106.

16. By misappropriating \$209.57 of funds belonging to other clients in order to make payment to Shin MRI on Han's behalf on November 18, 2010, Respondent committed an act involving moral turpitude in willful violation of Business and Professions Code section 6106.

FACTS:

17. On August 30, 2009, Eun J. Lim ("Lim") retained Respondent to represent her in a property damage insurance claim filed with her insurance carrier for damages done to Lim's home. The parties entered into a retainer agreement which set Respondent's contingent fee at 33.3 percent of Lim's total recovery.

18. On March 7, 2010, the insurance carrier issued a settlement check in the amount of \$20,683.88. Both Lim and Respondent were payees on the check, and the check was mailed to Respondent.

19. On March 11, 2010, Respondent deposited the settlement check into his client trust account, and he issued a check in the amount of \$6,894.63 payable to himself representing Respondent's 33.3 percent contingent fee.

20. On March 11, 2010, Respondent issued a check to "Shin's Maintenance" in the amount of \$13,789.25, ostensibly on behalf of Lim. However, this payment was made without Lim's knowledge or consent. Respondent did not advise Lim that any portion of her settlement funds would be delivered to Shin's Maintenance. Shin's Maintenance had no valid claim or entitlement to any portion of Lim's settlement funds. Respondent misappropriated \$13,789.25 of Lim's funds.

21. Lim did not request that payment of her settlement funds be sent to Shin's Maintenance.

22. Between March 2010 and August 2010, Lim made repeated attempts to contact Respondent by telephone. Respondent failed to respond to any of Lim's attempts between March 2010 and August 2010.

23. On August 16, 2010, Lim requested that Respondent pay her the balance of her settlement funds.

24. To date, Respondent has failed to make any payment to Lim.

CONCLUSIONS OF LAW:

25. By failing to pay Lim the balance of her settlement funds, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive in willful violation of Rules of Professional Conduct rule 4-100(B)(4).

26. By sending Lim's funds to Shin's Maintenance without Lim's approval or knowledge and misappropriating \$13,789.25 of Lim's funds, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

27. By failing to advise Lim that payment had been made on her behalf to Shin's Maintenance and by failing to respond to repeated contact attempts by Lim, Respondent failed to keep a client reasonably informed of a significant development and failed to respond to client inquiries in a matter in which Respondent had agreed to provide legal services in willful violation of Business and Professions Code section 6068(m).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline, Standard 1.2 (b)(i): Respondent has two instances of prior misconduct, and both of these are aggravating circumstances to his current misconduct. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. St. Bar Ct. Rptr. 151.) The first is case 91-O-03670, et al, which involved failures to account, failures to communicate and misappropriation across six client matters. Respondent's ultimate discipline for the combined cases included a two year suspension, stayed, an actual suspension of 120 days, three years probation, restitution of \$13,728.42 and rule 955 compliance.

The second instance of prior discipline, case 94-PM-15461, arose from Respondent's failure to comply with the terms of his probation under the 91-O-03670 et al. matter. Respondent's discipline in 94-PM-15461 included a revocation of probation, a two year stayed suspension, stayed, four years probation with conditions, thirty days actual suspension and a continued duty to provide proof of previously ordered restitution.

Multiple Acts of Misconduct, Standard 1.2(b)(ii): Respondent committed multiple acts of misconduct, specifically three violations of Business and Professions Code section 6106 in addition to a single violation of section 6068(m). Respondent also willfully violated Rules of Professional Conduct rules 4-100(A) and 4-100(B)(4). (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93.)

Trust Violations, Standard 1.2(b)(iii): Respondent's misconduct here involved trust funds, and Respondent has thus far refused or been unable to account to the clients who were the objects of the trust fund-related misconduct, leaving an amount owed in restitution of \$14,889.25. (*In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar. Ct. Rptr. 404.)

Harm, Standard 1.2 (b)(iv): Respondent's actions significantly harmed clients and others. As a result of Respondent's actions, one client has been unable to repair her home, while another client has been pursued by a medical provider for an unpaid bill. (*In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.)

Indifference, Standard 1.2(b)(v): Respondent's failure to return misappropriated funds to the affected clients in the years since those funds were paid is demonstrative of his indifference. (*In the Matter of Kaplan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547.) Additionally, Respondent's previous insistence of no wrongdoing on his part suggests a lack of insight into his own misconduct. (*In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117.)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstance: Respondent cooperated in the completion of this stipulation, and his cooperation extended to facts not easily proven. However, cooperation with State Bar disciplinary proceedings is required, which limits the weight available in mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a “process of fixing discipline” pursuant to a set of written principles to “better discharge the purposes of attorney discipline as announced by the Supreme Court.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed 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.” (*In re Morse* (1995) 11 Cal.4th 184, 205; std 1.3.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing six acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe applicable sanction is found in standard 2.2(a), which applies to Respondent’s three misappropriations of client funds in willful violation of Business and Professions Code section 6106. Standard 2.2(a) provides in relevant part:

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.

Also relevant is standard 1.7(b), which applies because Respondent has two prior records of discipline. Standard 1.7(b) provides:

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. . . , the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.

Here, as described above, Respondent has two instances of prior discipline. His first prior discipline included Respondent's stipulation to acts of misappropriation and the necessity of restitution. Respondent later engaged in violations of his probation, violations which resulted in a second instance of prior discipline. These prior instances of discipline are an aggravating circumstance to Respondent's current misconduct, which includes additional acts of misappropriation, mishandling of his client trust account and failures to communicate.

As described above, there are five aggravating circumstances here, including Respondent's prior disciplinary history, the presence of multiple acts of misconduct, trust violations, significant harm to clients and Respondent's combination of indifference towards this process and a lack of insight into his misconduct. These circumstances establish serious aggravation, both individually and collectively.

The only mitigating circumstance involves the cooperation extended to the State Bar by this Respondent in agreeing to stipulate to facts, conclusions of law, and disposition. However, the weight of this mitigation is limited by Respondent's prior insistence that there was no wrongdoing. Therefore, the net effect of the aggravation and mitigation in this instance favors aggravation.

"[M]isappropriation of client funds is a grievous breach of an attorney's ethical responsibility, and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. [Citations.]" (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 518.) This is true even in cases involving an isolated instance of misappropriation by an attorney who has no prior record of discipline. (E.g., *Chang v. State Bar* (1989) 49 Cal.3d 114, 128-129; *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, 1071-1073.) Ordinarily, "discipline of less than disbarment is warranted only where extenuating circumstances show that the misappropriation of entrusted funds is an isolated event." (*In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 361.)

Disbarment is appropriate under standard 2.2(a) because there are no compelling mitigating circumstances and because Respondent is culpable of three separate misappropriations involving moral turpitude, if not dishonesty (§6106), none of which is "an isolated event." This disbarment conclusion is supported by standard 1.7(b) because there is a common thread between the misconduct in the present proceeding and the misconduct in Respondent's first disciplinary proceeding. The stipulated misconduct in the present proceeding includes three misappropriations of client funds in two separate client matters which total \$15,308.39 (\$1309.57 plus \$209.57 plus \$13,789.25), and the misconduct in Respondent's

first disciplinary proceeding included at least four misappropriations of client funds in three separate client matters, which totaled at least \$10,290.88 (\$700 plus \$2,000 plus \$5,291.25 plus \$2,299.63).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 10, 2012.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed in this matter, and the facts and/or conclusions of law obtained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a Notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

COSTS OF DISCIPLINARY PROCEEDINGS.

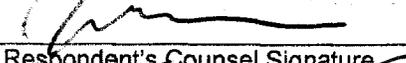
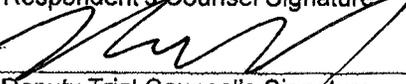
Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 10, 2012, the prosecution costs in this matter are \$6,944.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: RONALD EARL BEHLING, SBN 89042	Case number(s): 10-O-11238-RAP, 12-O-12952
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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>01/30/2013</u> Date	 Respondent's Signature	<u>Ronald Earl Behling</u> Print Name
<u>01/30/2013</u> Date	 Respondent's Counsel Signature	<u>Robert Berke</u> Print Name
<u>1/30/2013</u> Date	 Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

(Do not write above this line.)

In the Matter of:
RONALD EARL BEHLING, SBN 89042

Case Number(s):
10-O-11238-RAP, 12-O-12952

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.

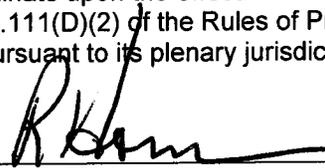
See attached Modifications to Stipulation.

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 Ronald Earl Behling 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

2-15-13


RICHARD A. HONN
Judge of the State Bar Court

MODIFICATIONS TO STIPULATION

1. On page 2 of the stipulation, the "X" in box B(3) ("Trust Violations") is DELETED so as remove any finding of or reference to aggravation based on respondent's misconduct involving trust funds (which is the basis of the stipulated section 6106 violations) and respondent's alleged refusal or inability to account (the stipulated facts account for the \$14,889.25 in client funds that respondent misappropriated).
2. On page 9 of the stipulation, in the section entitled "Additional Facts Re Aggravating Circumstances," the fourth paragraph, which begins "Trust Violations," is DELETED in its entirety.
3. On page 11 of the stipulation, immediately before the second paragraph, which begins "Here, as described above," the following two paragraphs are INSERTED:

Notwithstanding its unequivocal language to the contrary, standard 1.7(b) is not strictly applied. In other words, disbarment is not mandatory under standard 1.7(b) even if there are no compelling mitigating circumstances that clearly predominate in a case. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507, citing *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-779, 781.) To conclude otherwise would require that the State Bar Court and the Supreme Court blindly treat all prior records of discipline as equally aggravating.

Standard 1.7(b) is applied "with due regard to the nature and extent of the respondent's prior records. [Citation.]" (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 704; accord, *In the Matter of Sullivan* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189, 196 [the court must consider all relevant facts and circumstances, including the nature and chronology of the respondent's prior discipline records, to determine whether disbarment is the appropriate under standard 1.7(b)].) When applying standard 1.7(b), significant weight is placed "on whether or not there is a 'common thread' among the various prior disciplinary proceedings or a 'habitual course of conduct' which justifies disbarment. [Citation.]" (*In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 841.)

4. On page 11 of the stipulation, in the first sentence in the third paragraph, which begins "As described above," the word "five" is DELETED, and the word "four" is INSERTED in its place; and the words "trust violations" are DELETED.

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 February 20, 2013, 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:

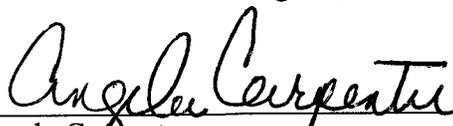
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ROBERT G. BERKE
BERKE LAW OFCS
7236 OWENSMOUTH AVE STE D
CANOGA PARK, CA 91303

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

William S. Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 20, 2013.



Angela Carpenter
Case Administrator
State Bar Court