

ORIGINAL

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State Bar Court of California Hearing Department Los Angeles DISBARMENT			PUBLIC MATTER
Counsel For The State Bar Mia R. Ellis Deputy Trial Counsel 1149 South Hill Street Los Angeles, CA 90015 213-765-1380 Bar # 228235	Case Number(s): 11-O-17936-RAP	For Court use only FILED OCT 11 2012 STATE BAR COURT CLERK'S OFFICE LOS ANGELES	
In Pro Per Respondent Michael Stuart Pratter 8701 Pesaro Dr. Las Vegas, NV 89117 310-391-3311 Bar # 40277	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: Michael Stuart Pratter Bar # 40277 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 June 16, 1967.
- (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.



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- (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 10-O-09153
- (b) ☒ Date prior discipline effective June 21, 2012
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rules of Professional Conduct 4-100(A), Business and Professions Code Section 6106
- (d) ☒ Degree of prior discipline Two (2) years actual suspension, three years stayed suspension, and three years probation
- (e) ☒ If respondent has two or more incidents of prior discipline, use space provided below:
- 09-O-11706 and 09-O-11707; February 18, 2011; Rules of Professional Conduct 6068(k); ninety days actual suspension, three years stayed, and three years probation
- 01-O-01231; February 26, 2004; two violations of Rules of Professional Conduct, rule 4-100(A); four years probation and three years stayed.
- 93-O-20134 et al; March 5, 1998; five violations of Business and Professions Code sections 6068(a), 6125, and 6126(b), two counts of Rules of Professional Conduct, rule 3-700(D)(2), one count of Business and Professions Code section 6103, and one count of 4-100(A); one year actual suspension, two years stayed, and four years probation.

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- (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 Stipulation Attachment at page 8
- (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 Stipulation Attachment at page 8
- (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.

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- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Stipulation Attachment at page 8

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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 see attachment at page 9 in the amount of \$ see attachment at page 9 plus 10 percent interest per year from see attachment at page 9. If the Client Security Fund has reimbursed see attachment at page 9 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 at page 9 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: Michael Stuart Pratter

CASE NUMBER(S): 11-O-17936-RAP

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-17936 (Complainant: Summer Still)

FACTS:

1. At all relevant times herein, Respondent maintained a client trust account at Bank of America, with account number xxxxxxxx951¹("CTA")
2. On January 22, 2009, Summer Still ("Still") employed Respondent to handle a personal injury matter against State Farm. The retainer agreement provided that Respondent would receive 33 percent as attorney's fees if the case settled without a lawsuit.
3. On February 11, 2009, Respondent signed a lien with Studio City Wellness Center ("Studio City") for Still's medical treatment.
4. On February 23, 2009, Respondent signed a medical services lien with Dr. Karl Epstein ("Dr. Epstein") for Still's medical treatment.
5. On June 26, 2009, Respondent signed a lien with Warner Radiology for Still's medical treatment.
6. On July 29, 2009, Studio City sent Respondent a letter accepting \$1500 to settle the lien.
7. On July 29, 2009, Dr. Epstein's office sent Respondent a letter accepting \$675 to settle the lien.
8. In August 2009, State Farm offered to settle the personal injury matter for \$8000. On August 3, 2009, State Farm sent Respondent a letter enclosing a Release for Still to sign and return.
9. On August 7, 2009, Respondent sent Still an email. The email outlined the disbursement of funds to the medical providers and outlined the total to Still.
10. On September 5, 2009, Still signed a release to settle the personal injury claim.

¹ The complete account number has been omitted due to privacy concerns.

11. On September 10, 2009, State Farm sent Respondent the settlement check for \$8000, check number 1 23 485266 J.

12. On September 11, 2009, Respondent deposited the settlement check into his CTA.

13. On September 14, 2009, Respondent withdrew \$2,667.20 from his CTA as attorney's fee in the Still matter. However, Respondent was only entitled to 33% as attorney's fees, or \$2,640. Therefore, on September 14, 2009, Respondent was required to maintain \$5,360 in his CTA on behalf of Still.

14. As of September 14, 2009, Respondent had not disbursed funds to Still or anyone on her behalf.

15. On September 14, 2009, the balance in the CTA was \$406.58.

16. Therefore, Respondent dishonestly or with gross negligence misappropriated \$4,953.42 that belonged to Still.

17. At the time of the settlement, Respondent knew or should have known that Still's medical bills were outstanding.

18. To date, Respondent has not paid Still the balance of funds owed to her for the settlement.

19. To date, Respondent has not paid the medical providers.

20. Still has paid a portion of the medical bills.

CONCLUSIONS OF LAW:

21. By failing to pay the medical providers, Respondent, failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

22. By failing to maintain \$4,953.42 in his CTA for Still and the medical providers, 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 wilful violation of Rules of Professional Conduct, rule 4-100(A).

23. By misappropriating \$4,953.42, Respondent committed an act involving moral turpitude, dishonesty or corruption in wilful violation of Business and Professions Code, section 6106.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm: Standard 1.2(b)(iv) applies because Respondent's misconduct caused harm to the complaining witness Summer Still as she has been deprived of funds in this case and the medical providers have not been paid.

Multiple/Pattern of Misconduct: The misconduct stipulated herein constitutes multiple acts as there is one client matter with three acts of misconduct. Standard 1.2(b)(ii). However, this misconduct does not constitute a pattern. (See *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074 [defining pattern of misconduct].)

ADDITIONAL MITIGATING CIRCUMSTANCES.

Pre-trial Stipulation: Respondent is entitled to mitigation for entering into a full stipulation with the Office of Chief Trial Counsel prior to the trial, thereby saving State Bar Court time and resources. (*In re Downey* (2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Rev. Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994). However, the facts in the matters could have been proven by documentary and testimonial evidence. Thus, Respondent's cooperation is entitled to some, but not great, weight in mitigation.

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 three 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.

A number of the Standards apply to the misconduct in this matter, but the most serious is Standard 1.7(b), which provides that the third imposition of discipline shall be disbarment unless the most compelling circumstances clearly predominate. Respondent has four prior records of discipline; at least

one involving client trust account issues (State Bar case numbers 09-O-11706 and 09-O-11707). There is no evidence of compelling mitigation to justify deviating from the Standards. Respondent's cooperation is entitled to some weight in mitigation. In balancing the misconduct and factors in aggravation, the parties submit that disbarment is appropriate due to the nature and extent of the misconduct committed by Respondent and is necessary to protect the public, courts and the legal profession.

DISMISSALS

The parties respectfully request the Court to dismiss Counts One and Four, Rules of Professional Conduct, rules 3-110 (A) and 4-100(B)(3).

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was September 12, 2012.

FINANCIAL CONDITIONS, RESTITUTION.

Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payees listed below. If the Client Security Fund (CSF) has reimbursed one or more of the payees 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.

Payee	Principal Amount	Interest Accrues From
Summer Still	\$5360	September 14, 2009

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of September 12, 2012, the prosecution costs in this matter are \$6,982.46. Respondent further acknowledges that this is an estimate and 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.

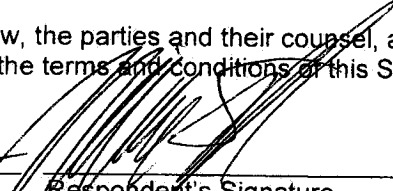
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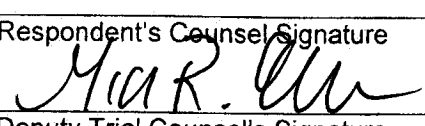
In the Matter of:
Michael Stuart Pratter

Case number(s):
11-O-17936-RAP

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.

9/12/2012 
Date Respondent's Signature Michael S. Pratter
Print Name

9/18/12 
Date Respondent's Counsel Signature Print Name
Mia R. Ellis
Deputy Trial Counsel's Signature Print Name

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In the Matter of: Michael Stuart Pratter	Case Number(s): 11-O-17936-RAP
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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

10/3/12


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 Los Angeles, on October 11, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

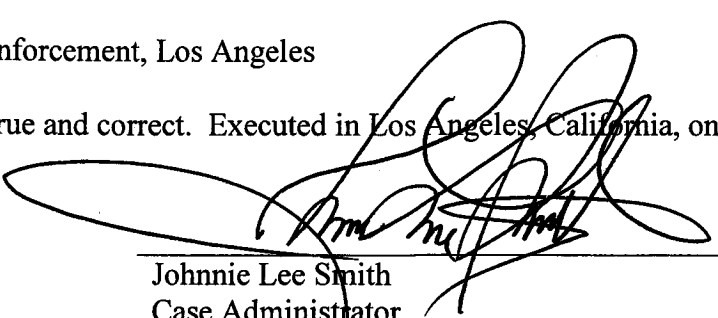
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MICHAEL STUART PRATTER
MICHAEL S. PRATTER
1771 E FLAMINGO RD # 201A
LAS VEGAS, NV 89119

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

Mia R. Ellis, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 11, 2012.



Johnnie Lee Smith
Case Administrator
State Bar Court