PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **JEFFREY PAUL KRANZDORF,** **Member No. 90207,** A Member of the State Bar.	**Case No.: 12-O-13730-DFM** **DECISION INCLUDING DISBARMENT RECOMMENDATION AND INVOLUNTARY INACTIVE ENROLLMENT ORDER**

INTRODUCTION

Respondent **Jeffrey Paul Kranzdorf** (Respondent) is charged here with willfully violating: (1) rule 4-100(A) of the Rules of Professional Conduct[1] (failure to maintain client funds in trust account); (2) section 6106 of the Business and Professions Code[2] (moral turpitude - misappropriation); and (3) section 6068, subdivision (i) (failure to cooperate with State Bar investigation). In view of Respondent's misconduct and the relative aggravating and mitigating factors, the court recommends, inter alia, that Respondent be disbarred from the practice of law.

PERTINENT PROCEDURAL HISTORY

The original Notice of Disciplinary Charges (NDC) in case No. 12-O-13730 was filed by the State Bar on March 19, 2014. It had only a single count: failing to cooperate with a State Bar investigation. Attached to the NDC was a proof of service indicating that it had been served by certified mail on that same date, return receipt requested, addressed to Respondent's official membership address.

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[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

[2] Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

On March 26, 2014, this court filed and served a Notice of Assignment and Notice of Initial Status Conference. The notice was sent by first-class mail to Respondent's official membership address at that time. The document gave notice that an initial status conference would be held by this court on April 14, 2014, and directed all parties and their counsel to appear at it.

The status conference was held by the court on April 14, 2014, as previously scheduled. Respondent did not appear for it. He has not claimed that he was not aware of the status conference at the time, and he has not explained why he did not appear at it, other than to subsequently say that he had not been "personally" served with the NDC. At this conference a trial date of July 8, 2014, with a one-day trial estimate, was scheduled by the court; Respondent's failure to file a response to the NDC was discussed; and counsel for the State Bar was directed by the court to file a motion seeking entry of Respondent's default in the event that he continued to fail to appear.

On April 17, 2014, this court issued a written order, stating that the trial of this matter was to commence on July 8, 2014, with a pretrial conference to be held on June 30, 2014. A copy of that order was mailed by this court to Respondent at his official membership address. In that order, this court also noted Respondent's ongoing failure to file a response to the NDC; ordered counsel for the State Bar to file a motion for entry of Respondent's default; and warned Respondent that he "needs to file a response immediately to avoid that default being entered." Respondent has made no claim that he did not receive this order.

On April 28, 2014, counsel for the State Bar filed a motion for entry of Respondent's default. The motion included the mandatory language, in bold print, that Respondent needed to file a response within 10 days and that failure to do so would result in his default being taken. A copy of that motion was sent to Respondent by certified mail at his official membership address.

Respondent acknowledges receiving that motion. Nonetheless, he did not file any opposition to it. Nor did he file a response to the NDC.

On May 19, 2014, after Respondent failed to file either a response to the NDC or any opposition to the motion for entry of his default, this court entered Respondent's default and enrolled him inactive pursuant to section 6007, subdivision (e) . That order was served on Respondent by certified mail.

Respondent subsequently acknowledged receiving the above written notification from the State Bar Court. However, he took no steps to file a motion to set aside his default as soon as practical. Instead, he waited until February 9, 2015, well after the 180-day period for filing a motion for relief from the default had expired, before he filed such a motion.[3] In the interim, the scheduled dates for the pretrial conference and trial had passed.

In his motion seeking to set aside his default, Respondent provided no explanation for why he did not act promptly to set aside his default after receiving the various communications from this court. Instead, he stated that he elected not to participate in the scheduled trial because he had not been personally served with the NDC.

On March 19, 2015, the State Bar filed an opposition to Respondent's motion, contending that Respondent has failed to satisfy the requirements of rule 5.83 of the Rules of Procedure of the State Bar of California.

On March 24, 2015, this court issued an order, denying the requested relief from default but setting the matter for a hearing on April 24, 2015, regarding only aggravating and mitigating factors pursuant to the Review Department's recent *Carver* decision.

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[3] On that date, no petition for disbarment had yet been filed by the State Bar although the applicable 181-day waiting period had already elapsed.

Two days before that scheduled hearing, the State Bar filed a motion seeking to amend the NDC to add a wholly new count alleging that Respondent had misappropriated $50,000. The motion acknowledged that the granting of the motion would have the effect of vacating the existing default and effectively re-starting the entire proceeding.

At the time the matter was called for the scheduled hearing on April 24, 2015, this court denied the motion to amend, and the hearing went forward as scheduled. The matter was then submitted for decision on April 24, 2015.

On May 29, 2015, the State Bar filed a request that the submittal of this matter for decision be vacated and that the case be dismissed without prejudice, in order that it might be re-filed with the new count of misappropriation. On June 15, 2015, this court issued an order dismissing the matter without prejudice. The State Bar was represented at that time by Senior Trial Counsel Anthony Garcia. Respondent acted as counsel for himself.

On July 1, 2015, the State Bar revived this matter by filing a new Notice of Disciplinary Charges (NDC). The new NDC differs from that of the earlier action in that it includes an additional two new counts, both based on the allegation that Respondent had mishandled funds entrusted to him as a fiduciary. One of those new counts alleges that Respondent actions violated rule 4-100(A); the other count alleges that his misconduct constitutes acts of moral turpitude, in violation of section 6106.

On August 3, 2015, Respondent, acting in pro per, filed a response to the new NDC. In it, he denied all of the allegations of the NDC and added: "Respondent wishes to specifically and generally deny that Respondent has engaged in any 'misappropriation' of any sum of money from Respondent's client in this matter or from anyone else." (Answer, p. 1.)

A status conference was held in the newly-refiled matter on August 3, 2015, at which time it was scheduled to commence trial on October 22, 2015.

Trial was commenced and completed on October 22, 2015. The State Bar was represented at trial by Senior Trial Counsel Anand Kumar. Respondent continued to act as counsel for himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on the extensive stipulation of undisputed facts filed by the parties, on Respondent's response to the NDC, and on the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on November 29, 1979, and has been a member of the State Bar at all relevant times.

Case No. 12-O-13730

In the Fall of 2009, Respondent represented his client, Red Note Media Ltd. (Red Note) and its principal Edward Adams (Adams) in a business transaction wherein Red Note sought to purchase from Prime Entertainment Group (Prime Entertainment) certain original master sound recordings of the Jackson 5. Prime Entertainment was owned by J. William Valenziano (Valenziano). These recordings are commonly referred to as the "Steel Town Masters." During the business transaction, Ray Santilli (Santilli), Adams's business partner, served as an agent for Red Note Media Ltd. in facilitating the transaction.

On November 6, 2009, Adams and Valenziano consummated the business transaction by entering into a written purchase-sales agreement, wherein Prime Entertainment agreed to sell its right, title, and interest in the Steel Town Masters to Red Note for the sum of $50,000.

In November 2009, Valenziano transferred all of his interest in the Steel Town Masters to Red Note.

On November 6, 2009, in order to fund the above agreement, Adams wired $53,000 into Respondent's business account at Bank of America. At the time, $50,000 of these funds were earmarked to purchase the Steel Town Masters. At all relevant times, Respondent was required, and he knew he was required, to deposit $50,000 of these funds into his client trust account or a bank account labeled "Trust Account," "Client's Funds Account" or other words of similar import.

Despite Respondent's knowledge of his obligation to deposit the funds into a trust account, he did not do so. Nor did he transmit the funds to Valenziano. Instead, on November 6, 2009, the same day that Respondent received the $53,000 funds from Adams, he immediately and knowingly began using the funds for his own personal purposes without disclosing his use of the funds to Adams, Santilli or Valenziano until December 8, 2009.[4] Between November 6, 2009 and January 11, 2010, Respondent used the misappropriated funds to pay for personal and business expenses, including the following:

a. Three car payments for a Mercedes-Benz in the amount of $693.03 on November 9, 2009, December 8, 2009, and January 7, 2010, respectively;

b. Two tuition payments for his daughter, totaling approximately $5,600, on November 9, 2009;

c. Two mortgage loan payments in the amount of $2,344.29 on November 17, 2009 and December 17, 2009 respectively;

d. Three student loan payments in the amount of $492.70 on November 6, 2009, December 7, 2009, and January 11, 2010, respectively;

e. Payments to an employee, totaling $8,600;

f. Credit card bill [$127 on 12/14/09];

[4] On November 6, 2009, prior to the deposit of the $53,000 from Adams, the balance in Respondent's business account was $2,081.96.

g. Tax bill [check no. 1113 to L.A. County Tax Collector in the amount of $564];

h. Utility bill [$41.94 on 12/11/09];

i. Retail purchases from Tiffany's [$192.07 on 12/24/09], Nordstrom [$180.21 on 12/16/09], Bloomingdales [$3,300 total between 11/19/09, 12/2/09 and 12/28/09], Neiman Marcus [$200 total via check nos. 1106 and 1125], and Frye's Electronics [approximately $390 between 11/30/09 and 12/1/09];

j. Restaurants including Lawry's Prime Rib [$333.75 on 12/22/09], and Fleming's Steakhouse [11/30/09 and 12/18/09];

k. Health club bills totaling approximately $350; and

l. Cable and phone bills totaling approximately $750.

In late November 2009, Respondent informed Valenziano that there were complications in the anticipated use of the Steel Town Masters by Red Note, and, accordingly, Valenziano agreed to receive only $25,000 from the sale of the Steel Town Masters, instead of the $50,000 stated in the purchase-sales agreement.

On January 11, 2010, without having made any disbursement of funds to Valenziano on Red Note's behalf, Respondent's business account became overdrawn and fell to negative balance of negative $850. Respondent knew that his business account had become overdrawn without him having made any disbursement of funds to Valenziano. The fact that the account was overdrawn on that date resulted from and reflected the fact that Respondent had intentionally and dishonestly misappropriated the $25,000 of the funds received from Adams for the benefit of Red Note.

Respondent was eventually required to disclose to both his client and Valenziano the fact that he was not still holding the funds that he had received to fund the transaction between the two of them. Between December 2009 and September 2010, Respondent made numerous representations to Valenziano and Santilli, sometimes suggesting that he was about to disburse the funds and frequently making excuses for his inability to immediately advance the monies. Included among these excuses was Respondent's claim that he had been diagnosed with cancer, was undergoing chemotherapy, and had been financially forced to use the $25,000 to pay for the costs of his treatments. These representations by Respondent, that he had cancer, were completely untrue, but they were believed by the two affected parties.

On May 2, 2012, well more than two years after Respondent was supposed to have disbursed the $25,000 to Prime Entertainment, Valentino, still not having been paid by Respondent, filed a complaint with the State Bar regarding Respondent's actions.

On June 11, 2012, a State Bar investigator mailed a letter to Respondent at his membership records address, requesting a response to Valenziano's allegations. Respondent received the letter but failed to respond.

On June 26, 2012, the State Bar investigator mailed a second letter to Respondent at his membership records address, requesting a response to Valenziano's allegations. Respondent received the letter but failed to respond.

On September 13, 2012, the State Bar investigator mailed a third letter to Respondent at his membership records address, requesting a response to Valenziano's allegations. Respondent received the letter but failed to respond.

On September 14, 2012, the State Bar investigator sent an email to Respondent, attaching copies of all three letters requesting a response to Valenziano's allegations. Respondent received the email but failed to respond.

On September 18, 2013, the State Bar investigator personally served Respondent at his law office with a subpoena requiring Respondent's appearance at a deposition to be held on October 2, 2013. At the time, Respondent had still not paid to Valenziano the $25,000 Respondent had diverted for his own purposes. Respondent received the deposition subpoena, but failed to appear for the deposition.

On June 18, 2014, more than four years after Respondent had misappropriated the funds owed to Prime Entertainment/Valenziano and several months after the State Bar had filed the original NDC against him in March 2014, Respondent and Valenziano entered into a settlement agreement whereby Valenziano agreed to accept the $25,000 as payment of the full purchase price for all the interests in the Steel Town Masters. Finally, on that same day, June 18, 2014, Respondent delivered the $25,000 to Valenziano.

Count 1 – Section 6068, subd. (i) [Failure to Cooperate in State Bar Investigation]

Section 6068, subdivision (i), of the Business and Professions Code, subject to constitutional and statutory privileges, requires attorneys to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against that attorney.

By failing to respond to the letters and other communications of the State Bar's investigator and by failing to appear for his scheduled deposition, Respondent has stipulated, and this court finds, that he willfully violated section 6068, subdivision (i). (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 644 [attorney may be found culpable of violating § 6068, subd. (i), for failing to respond to State Bar investigator's letter, even if attorney later appears and fully participates in formal disciplinary proceeding].)

Count 2 – Section 6106 [Moral Turpitude – Misappropriation]
Count 3 – Rule 4-100(A) [Failure to Deposit Client Funds in Trust Account]

Rule 4-100(A) requires that all funds received or held for the benefit of others by a member as a fiduciary shall be deposited and maintained in a client trust account. The failure of a member to deposit in a client trust account funds received and held by the attorney as a fiduciary for the benefit of others constitutes a basis for discipline. Respondent has stipulated, and this court finds, that Respondent willfully violated rule 4-100(A) by failing to deposit at any time the $50,000 he had received from Adams into his client trust account, or any bank account labeled "Trust Account," "Client's Funds Account" or other words of similar import.[5]

Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty, or corruption. While moral turpitude generally requires a certain level of intent, guilty knowledge, or willfulness, a finding of gross negligence will support such a charge where an attorney's fiduciary obligations, particularly trust account duties, are involved. (*In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 410; *In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 208, citing *Lipson v. State Bar* (1991) 53 Cal.3d 1010, 1020; *In the Matter of Rubens* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 468, 478.).) That is because "an attorney who accepts the responsibility of a fiduciary nature is held to the high standards of the legal professional whether or not he acts in his capacity of an attorney." (*In the Matter of Kittrell, supra,* 4 Cal. State Bar Ct. Rptr. at 208, quoting *Worth v. State Bar* (1976) 17 Cal.3d 337, 341.) An attorney's failure to use entrusted funds for the

[5] The conduct underlying this violation is essentially the same as that underlying the finding, below, that Respondent is culpable of the more serious misconduct of committing acts of moral turpitude (misappropriation) in willful violation of section 6106. Accordingly, the court finds no need to assess any additional discipline as a consequence of it. (See *In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403.)

purpose for which they were entrusted constitutes misappropriation. (*Baca v. State Bar* (1990) 52 Cal.3d 294, 304.)

Respondent has stipulated, and this court finds, that Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106 by intentionally and dishonestly misappropriating $25,000 of Adams' funds between November 6, 2009 and January 11, 2010, which funds were to be used for the benefit of Red Note and were earmarked for the purchase of the Steel Town Masters.[6]

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,[7] std. 1.5.) The court finds the following with respect to aggravating circumstances.

Multiple Acts of Misconduct

Respondent is culpable of multiple acts of misconduct. In addition to repeated and ongoing failures by him to cooperate in the State Bar's investigation, he misappropriated funds, held by him as a fiduciary, and used them for himself on numerous and separate occasions. Each of these transactions represented a separate act of moral turpitude. (*In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 279.) This is an aggravating factor. (Std. 1.5(b).

Harm/Failure to Make Restitution

Standard 1.5(j) provides as an aggravating circumstance that the member's misconduct significantly harmed a client, the public, or the administration of justice. The evidence offered

[6] The State Bar made no effort at trial to prove that Respondent misappropriated for his own use any other portion of the $50,000 received from Red Note/Adams, other than failing to initially deposit it into a client trust account. Instead, at trial the parties stipulated that the 2015 NDC would be deemed amended to allege that the section 6106 violation involved only $25,000.

[7] All further references to standard(s) or std. are to this source. Because this matter was tried after new standards were adopted, effective July 1, 2015, this court refers to those new standards.

by the State Bar fails to provide clear and convincing evidence of significant harm arising from Respondent's misuse of the funds held for Adams. No harm inured to Adams from the misuse of the funds. While Valenziano's organization was deprived of the use of the funds for a period of time, Valenziano declined to testify that any financial significant harm came to it or him from Red Notes' lack of use of those funds.

Misconduct Surrounded by Bad Faith/Concealment/Dishonesty/Overreaching

Standard 1.5(d) provides as an aggravating circumstance that the member's misconduct included intentional misconduct, bad faith, dishonesty, concealment, overreaching, or other uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.

As previously noted, after Respondent disclosed to Valenziano and Red Note his misuse for personal reasons of the money owed by Red Note to Valenziano, Respondent used various excuses to justify his ongoing delays in repaying the money, including false claims that he was suffering from cancer and undergoing chemotherapy. Illustrative is Respondent's email message to his client and friend Santilli on January 12, 2010:

> "My God Ray I am just scrambling here. I need to leave for my "drip" (it's done on an I.V.) right now. You know I tried to give Bill half the money when we were waiting on Robert to come through he refused and then I realized I had to come up with more for USC Norris (where I am being treated) than I thought. Is there ANY possibility that if Edward knew of my condition (you are one of only 6 friends who knows) he might "lend" me 25K. . . . I am leaving for hospital in 10 minutes or so and will be back to computer in less than 2 hours."

(Ex. 12, p. 8.)

Respondent's dishonesty was effective. By way of example, on the very same day as Respondent sent the above email to Santilli, Santilli solicited work for Respondent from others, innocently, but erroneously, representing to others that Respondent needed financial support because of the financial hardship caused by his fight against cancer:

> Hi Volker,
> This is VERY private...
> I have a bit of a problem with Jeff. My investment group wired him some money to pay for titles they purchased. He did not pass the money on!!! He used their money for his cancer treatment. Would you believe??
> ...
> I don't suppose you have any USA business for him where you could advance him???

(Ex. 12, p. 9.)

Such dishonesty by Respondent, which is not integral to the findings of culpability discussed above, is an additional and significant aggravating factor here.

Mitigating Factors

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with respect to mitigating circumstances.

No Prior Discipline

Respondent has practiced in this state since 1979 without any prior discipline. Although the misconduct here is serious, Respondent's lengthy tenure of discipline-free practice is a significant mitigating factor. (Std. 1.6(a); *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343, 350; *In the Matter of Johnston* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585, 589; but see *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 520; *In the Matter of Brazil* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679, 688; *In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594 [mitigating weight of such a long period of discipline-free service does not rule out possible disbarment in appropriate case].)

Cooperation

Respondent did not admit culpability in the matter until just prior to the commencement of trial, when he entered into a stipulation regarding the facts and his culpability in the case, thereby assisting the State Bar in the prosecution of the matter. For such conduct Respondent would normally be entitled to mitigation credit. (Std. 1.6(e); see also *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50; cf. *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [credit for stipulating to facts but "very limited" where culpability is denied].) However, the weight of this mitigation credit is reduced greatly by the lengthy period of time during which Respondent continued to deny any misconduct in the matter, as evidenced by the affirmative denials of misappropriation contained in his August 2015 response to the NDC; by his prolonged efforts to avoid participating at all in this disciplinary proceeding; and by the fact that his acknowledgement of culpability came only just prior to the commencement of the trial of the matter.

Restitution

Respondent seeks mitigation credit for repaying to Valenziano the funds he previously misappropriated. The court declines to give Respondent any mitigation credit for that action. The authorities are clear and consistent that restitution made only after the initiation of disciplinary proceedings is not a proper source of mitigation credit. (See, e.g., *In the Matter of Petilla* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231, 249, citing *Warner v. State Bar* (1983) 34 Cal.3d 36, 47; *In the Matter of Ike* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483, 490; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619; *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 496; *In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708, 714 [delay in making restitution is

aggravating, not mitigating, factor]; and *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, 663, citing *Rosenthal v. State Bar* (1987) 43 Cal.3d 658, 663.)

Character Evidence

Respondent presented good character evidence from twelve individuals, including two attorneys. Each of the declarants indicated having an awareness of the misconduct underlying the charges in this matter. Two of the declarants were Valenziano and Santilli. Respondent is entitled to mitigation for this good character evidence, but the weight of that credit is reduced substantially by the fact that some, and possibly most, of these declarants submitted their declarations believing that Respondent had been fighting cancer at the time of his misconduct.

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State

Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

The State Bar contends that disbarment of Respondent is called for by both the case law and the standards and that such is necessary here to protect both the public and the profession. This court agrees.

Standard 1.7(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for Respondent's misconduct is found in standard 2.1(a).

Standard 2.1(a) provides: "Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate."

Application of this standard here indicates that disbarment is the presumed discipline for Respondent's conduct. His misconduct represented multiple acts of moral turpitude; the amount of money misappropriated by Respondent was clearly not insignificant; and no compelling mitigating circumstances have been demonstrated.

Turning to the case law, misappropriation of client funds has long been viewed by the courts as a particularly serious ethical violation. The Supreme Court has repeatedly stated that misappropriation breaches the high duty of loyalty owed by an attorney, violates basic notions of honesty, endangers public confidence in the profession, and generally warrants disbarment in the absence of clearly mitigating circumstances. (*McKnight v. State* Bar (1991) 53 Cal.3d 1025,

1035; *Kelly v. State Bar* (1988) 45 Cal.3d 649, 656; *Waysman v. State Bar* (1986) 41 Cal.3d 452, 457; *Cain v. State Bar* (1979) 25 Cal.3d 956, 961.) The Supreme Court has also imposed disbarment on attorneys with no prior record of discipline in cases involving a single misappropriation. (See, e.g., *In re Abbott* (1977) 19 Cal.3d 249 [taking of $29,500, showing of manic-depressive condition, prognosis uncertain].) In *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, an attorney with over 11 years of practice and no prior record of discipline was disbarred for misappropriating approximately $29,000 in law firm funds over an 8-month period. In *Chang v. State Bar* (1989) 49 Cal.3d 114, an attorney misappropriated almost $7,900 from his law firm, coincident with his termination by that firm, and was disbarred. (See also *In the Matter of Blum, supra,* 3 Cal. State Bar Ct. Rptr. 170 [no prior record of discipline, misappropriation of approximately $55,000 from a single client]; *In the Matter of Spaith, supra,* 3 Cal. State Bar Ct. Rptr. 511 [misappropriation of nearly $40,000, misled client for a year, no prior discipline]; *Kennedy v. State Bar* (1989) 48 Cal.3d 610 [disbarment for misappropriation in excess of $10,000 from multiple clients and failure to return files with no prior misconduct in eight years]; and *Kelly v. State Bar*, *supra*, 45 Cal.3d 649 [disbarment for misappropriation of $20,000 and failure to account with no prior discipline in seven years].)

Respondent's misappropriation of the funds owed to Valenziano did not result from gross negligence on his part or from any failure by him to supervise the conduct of others. Instead, his misuse of his client's money was intentional; his retention of the money continued for more than four years, despite the demands of his client, the complaints of Valenziano, and the efforts of the State Bar to intervene; and Respondent's efforts to justify continuing to retain the funds included false claims of being a victim of cancer.

"An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline

than an attorney who has acted negligently, without intent to deprive and without acts of deception." (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38.)

During the trial of this matter, Respondent, through his testimony and other evidence, sought to somehow explain his misappropriation and retention of the $25,000 by alluding to various difficulties in his life, including problems related to his impaired and dying parents, his children, and his entertainment industry clients. While this court is not unsympathetic to the fiscal demands placed on Respondent by these difficulties, they do not explain or justify his actions. As set forth in detail above, considerable portions of the funds misappropriated by Respondent were spent by him on a luxury car, for expensive meals, and at expensive retail establishments, including more than $4,000 spent at Bloomingdales, Neiman Marcus, Nordstrom, Frye's, and Tiffany's.

It is also concerning to this court that Respondent's misconduct was directed at individuals whom he regarded as colleagues in the entertainment business and who, he knew, viewed him as a trusted friend. The fact that he solicited and submitted to this court character declarations from two of these colleagues (Valenziano and Santilli) at a time when those individuals were still under the impression that he had been fighting cancer during the time when he was misusing their funds is especially alarming to this court.

Finally, Respondent's past communications with Valenziano, complaining that Valenziano had informed the State Bar of Respondent's actions, make clear that Respondent was well aware that his use of his client's money could cause him to lose his law license. (See, e.g., Ex. 20, p. 6.) Despite that, he was not dissuaded from taking and using the money.

The confidence of the public that funds entrusted to an attorney for safekeeping will remain safe is frequently a critically important key to the ability of the public to conduct its affairs and transact its business. Misconduct by an attorney damaging or even endangering that

trust is intolerable, and standard 2.1(a) and decisions of the Supreme Court make clear that such will not be condoned. Under the circumstances of this case, it is this court's conclusion that a disbarment recommendation is both appropriate and necessary to protect the profession and the public.

RECOMMENDED DISCIPLINE

Disbarment

The court recommends that respondent **Jeffrey Paul Kranzdorf,** Member No. 90207, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

California Rules of Court, Rule 9.20

The court further recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20 and to 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 order in this matter.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that **Jeffrey Paul Kranzdorf,** Member No. 90207, be involuntarily enrolled as an

inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)[8]

Dated: October 30, 2015.

DONALD F. MILES
Judge of the State Bar Court

[8] An inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b); see also Bus. & Prof. Code, § 6125.) It is a crime for an attorney who has been enrolled inactive (or disbarred) to practice law, to attempt to practice law, or to even hold himself or herself out as entitled to practice law. (*Ibid.*) Moreover, an attorney who has been enrolled inactive (or disbarred) may not lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)

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 30, 2015, I deposited a true copy of the following document(s):

DECISION INCLUDING DISBARMENT RECOMMENDATION AND 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:

JEFFREY PAUL KRANZDORF
10866 WILSHIRE BLVD STE 500
LOS ANGELES, CA 90024

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

ANAND KUMAR, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 30, 2015.

Tammy Cleaver
Case Administrator
State Bar Court