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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
Counsel For The State Bar Kimberly G. Anderson Senior Trial Counsel 845 S. Figueroa St. Los Angeles, CA 90017 (213) 765-1083 Bar # 150359	Case Number(s): 13-O-14032	For Court use only <div style="text-align: center;"> PUBLIC MATTER FILED MAR 12 2014 <i>RZ</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Peter J. Rimel 315 Centennial Way Tustin, CA 92780 (714) 544-5193 Bar # 178345	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: PETER J. RIMEL Bar # 178345 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 **December 1, 1995**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(11)** pages, not including the order.
- (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."

(Effective January 1, 2014)



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- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. 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 intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct. **See Stipulation Attachment at page 7.**
- (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 7.**
- (5) ☒ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See Stipulation Attachment at page 7.**
- (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.

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- (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 7.
- (8) ☒ **Restitution:** Respondent failed to make restitution. See Stipulation Attachment at page 7.
- (9) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

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Additional mitigating circumstances:

No Prior Discipline and Pre-filing Stipulation - 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 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: Restitution: See Stipulation Attachment at pages 9-10.**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: PETER J. RIMEL

CASE NUMBER: 13-O-14032

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. 13-O-14032 (Complainant: Daniel Cooper, Esq.)

FACTS:

1. Genvieve Ferencz had the following five children, who were beneficiaries under her trust: Joseph Ferencz, Dorothy Block, Mary Cowlshaw, Darlene Cunzeman, and Kathy Reynolds.

2. Between November 14 and 15, 2012, after Genvieve died, Respondent, acting as counsel for Trustee Joseph Ferencz, received on behalf of the Genvieve M. Ferencz Trust, three checks in the amounts of \$225,000, \$27,702.89 and \$11,400, totaling \$264,120.89, from which proceeds were to be disbursed to Joseph Ferencz (who was both a trustee and beneficiary) and to the four additional beneficiaries.

3. Between November 14 and 15, 2012, Respondent deposited the three checks totaling \$264,120.89 into Respondent's client trust account at Wells Fargo Bank on behalf of the beneficiaries. Of the \$264,120.89 Respondent received, after making preliminary distributions and expenditures on behalf of the Trust, Respondent was required to hold \$233,500 in trust and to disburse that money as follows: \$76,700 to Dorothy Block, \$76,700 to Mary Cowlshaw, \$76,700 to Darlene Cunzeman, \$1,700 to Joseph Ferencz, and \$1,700 to Kathy Reynolds.

4. After delays by Respondent, on March 21, 2013, Joseph Ferencz sent a letter to Respondent demanding that he disburse all funds and demanding an accounting. Respondent received the letter but did not provide an accounting.

5. On April 2, 2013, attorney Daniel Cooper, representing the three beneficiaries, Dorothy Block, Mary Cowlshaw and Darlene Cunzeman, sent a letter on their behalf demanding their funds and an accounting. Respondent received the letter but did not provide the funds or an accounting.

6. Between November 14, 2012 and April 22, 2013, Respondent intentionally misappropriated for Respondent's own purposes \$233,440.38, of the funds that he was required to hold in trust on behalf of Joseph Ferencz and the other beneficiaries. The balance in Respondent's client trust account dipped to \$59.32 as of April 22, 2013.

7. Respondent admitted to the State Bar during its investigation that he had misappropriated \$233,500 of the funds he was required to hold in trust and disburse on behalf of the beneficiaries.

Although Respondent admitted to taking the funds, he initially referred to it as a "loan," even though the misappropriation did not involve a loan. To date, Respondent has not made restitution for any portion of the funds.

CONCLUSIONS OF LAW:

8. By intentionally misappropriating \$233,500 in entrusted funds, Respondent committed an act of moral turpitude in willful violation of Business and Professions Code section 6106.

9. By failing to maintain at least \$233,500 in his client trust account on behalf of the beneficiaries, Respondent willfully failed to maintain entrusted funds in violation of rule 4-100(A) of the Rules of Professional Conduct.

10. By failing to account to the client and beneficiaries for the \$233,500 in entrusted funds despite their requests, Respondent willfully failed to render an appropriate accounting to the client and the beneficiaries regarding client funds in his possession in violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent has misappropriated a total of \$233,500 from the beneficiaries and has significantly harmed each of the beneficiaries by depriving them of funds to which they are entitled from April 22, 2013 to the present. Specifically, Respondent misappropriated \$76,700 belonging to Dorothy Block, \$76,700 belonging to Mary Colishaw, \$76,700 belonging to Darlene Cunzeman, \$1,700 belonging to Kathy Reynolds, and \$1,700 belonging to Joseph Ferencz.

Dishonesty (Std. 1.5(d)): Respondent acted dishonestly and concealed from the beneficiaries that he had misappropriated their funds until after the beneficiaries had filed a State Bar complaint against Respondent.

Indifference (Std. 1.5(g)): Although Respondent did admit to intentionally misappropriating \$233,500 in funds, he also initially tried to characterize his taking of the funds as "a loan." Respondent now acknowledges his taking of the funds was not "a loan," and that he never had permission to borrow the money he misappropriated.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's misconduct involves misappropriation and failure to maintain funds over a period of more than five months. Respondent thereafter failed to account for the funds for many months and concealed that he had misappropriated the funds until after the beneficiaries had filed a State Bar complaint against him and until after the State Bar opened an investigation against him.

Failure to Make Restitution (Std. 1.5(i)): To date, Respondent has not made restitution to any of the beneficiaries.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Although the misconduct is serious, Respondent has been an attorney in California since 1995 and had been practicing law for almost seventeen years with no prior record of discipline at the time the misconduct commenced. In *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, the Review Department credited an attorney with significant mitigation for serious misconduct where the attorney had practiced discipline-free for more than seventeen years.

Prefiling Stipulation: Respondent admitted to the State Bar during the investigation that he had misappropriated the funds and he has entered into this stipulation as to facts and culpability prior to the filing of disciplinary charges, which has saved the State Bar's resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the Standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (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.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent admits to committing three acts of professional misconduct. Standard 1.7(a) requires that where an attorney "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to Respondent's misconduct is found in Standard 2.1, which applies to Respondent's violation of Business and Professions Code section 6106 (misappropriation of entrusted funds). Standard 2.1 states:

- (a) Disbarment is appropriate for intentional or dishonest misappropriation entrusted funds or property, unless the amount misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case actual suspension of one year is appropriate.
- (b) Disbarment or actual suspension is appropriate for misappropriation involving gross negligence.
- (c) Suspension or reproof is appropriate for misappropriation that does not involve intentional misconduct or gross negligence.

Respondent's misappropriation was intentional, the amount of funds taken was not insignificantly small and, Respondent's mitigation is not sufficiently compelling to justify any lesser sanction than disbarment.

Case law also supports a sanction of disbarment for similar misconduct. Misappropriation of client funds breaches the high duty of loyalty owed to a client, violates basic notions of honesty, and endangers public confidence in the legal profession. (*Kelly v. State Bar* (1988) 45 Cal.3d 649; *McKnight v. State Bar* (1991) 53 Cal.3d 1025.) Misappropriation generally warrants disbarment. (*Kelly, supra*, 45 Cal. 3d 649.) Intentional misappropriation of entrusted funds, even without a prior record of discipline, warrants disbarment in the absence of compelling mitigation. (*Kaplan v. State Bar* (1991) 52 Cal. 3d 1067, 1071-1073.)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 10, 2014, the prosecution costs in this matter are approximately \$3,057. 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.

RESTITUTION.

Respondent must make restitution to Dorothy Block in the principal amount of \$76,700 plus interest of 10% per year from April 22, 2013. If the Client Security Fund ("CSF") has reimbursed Dorothy Block 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 make restitution to Mary Colishaw in the principal amount of \$76,700 plus interest of 10% per year from April 22, 2013. If the Client Security Fund ("CSF") has reimbursed Mary Colishaw 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 make restitution to Darlene Cunzeman in the principal amount of \$76,700 plus interest of 10% per year from April 22, 2013. If the Client Security Fund ("CSF") has reimbursed Darlene Cunzeman 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 make restitution to Kathy Reynolds in the principal amount of \$1,700 plus interest of 10% per year from April 22, 2013. If the Client Security Fund ("CSF") has reimbursed Kathy Reynolds 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.


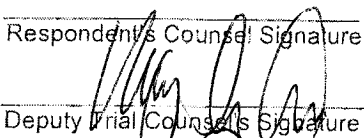
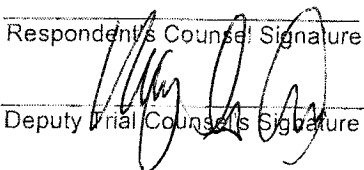
Respondent must make restitution to Joseph Ferencz in the principal amount of \$1,700 plus interest of 10% per year from April 22, 2013. If the Client Security Fund ("CSF") has reimbursed Joseph Ferencz for all or any portion of the principal amount, Respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5.

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In the Matter of: PETER J. RIMEL	Case number(s): 13-O-14032
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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>2-20-2014</u> Date	 Respondent's Signature	<u>Peter J Rimel</u> Print Name
<u>2-20-14</u> Date	 Respondent's Counsel Signature	 Print Name
<u>2-20-14</u> Date	 Deputy Trial Counsel's Signature	<u>KIMBERLY G. ANDERSON</u> Print Name

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In the Matter of: PETER J. RIMEL	Case Number(s): 13-O-14032
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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 PETER J. RIMEL 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 MARCH 11, 2014

GEORGE E. SCOTT, JUDGE PRO TEM
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 March 12, 2014, 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:

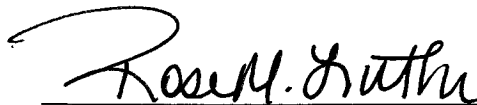
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PETER J. RIMEL
THE LAW OFFICE OF PETER J. RIMEL
315 CENTENNIAL WAY
TUSTIN, CA 92780

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 12, 2014.



Rose M. Luthi
Case Administrator
State Bar Court