

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case Nos.: 13-O-14152-LMA (13-O-15777)
)
PHILLIP GERRALD SAMOVAR,)
) DECISION AND ORDER OF
Member No. 39842,) INVOLUNTARY INACTIVE
) ENROLLMENT
)
A Member of the State Bar.)

Introduction¹

In this contested disciplinary proceeding, respondent Phillip Gerrald Samovar is charged with eight counts of misconduct. The charged misconduct includes: (1) failing to maintain client funds in a trust account; (2) committing acts of moral turpitude by misappropriation (\$376,934) and misrepresentation; (3) failing to return unearned fees; (4) failing to perform services competently; (5) commingling personal funds in a client trust account; and (6) failing to render an accounting.

This court finds, by clear and convincing evidence, that respondent is culpable on six of the eight charged counts of misconduct. Based on the nature and extent of culpability, as well as the applicable aggravating and mitigating circumstances, including respondent's 45 years of practice without a prior record of discipline, in conjunction with meeting the goals of attorney

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

discipline, the court recommends that respondent be disbarred from the practice of law and make restitution of \$315,000.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on June 27, 2014. Respondent filed his response to the NDC on July 21, 2014.

A two-day trial was held on December 17 and 19, 2014. The State Bar was represented by Deputy Trial Counsel Charles T. Calix. Respondent represented himself. On January 5, 2015, after allowing the parties to submit closing briefs, the court took this matter under submission for decision.²

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on January 4, 1967, and has been a member of the State Bar of California at all times since that date.

Credibility Findings

In general, the court did not find respondent to be a credible witness, particularly when he claimed the following:

- that withdrawals from his client trust account were for client expenses;
- that Mary Sisler-Williams (Williams) and Tawny L. McWilliams (McWilliams) told respondent that the money belonged to Williams;³

² Respondent filed a closing brief but the State Bar did not.

³ Contrary to respondent's contention, the testimony of Williams and McWilliams and corroborating documentary evidence support the clients' claim that the money belonged to McWilliams, and not Williams.

- that respondent told Williams he was going to use McWilliams's money to pay for Williams's legal fees;
- that Williams and McWilliams told respondent he could use McWilliams's money to pay his legal fees;⁴ and
- that respondent had earned over \$350,000 in legal fees from February 2012 to March 2013.

Case No. 13-O-14152 – The Client Trust Account Matter

Facts

At all times relevant herein, respondent had a client trust account with Bank of America, account No. xxxxxxxx0479⁵ (CTA).

Between June 13, 2012, and July 17, 2013, respondent withdrew funds and issued the following checks from his CTA:

<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>
1150	Paint Boy	\$19,000
1157	Builder Boy	\$19,000
1175	NCO Financial	\$ 2,472.36
1193	Shelby Samovar	\$ 1,500
1196	Susan Caldwell & Steve Caldwell	\$15,000
1205	Shelby Samovar	\$ 2,300
1245	Shelby Samovar	\$ 1,000
1257	Bank of America	\$ 1,200
1275	Bank of America	\$ 1,100
1279	Shelby Samovar	\$ 1,500
1286	Bank of America	\$ 2,247.05
Electronic Withdrawal	Bank of America	\$ 1,200

⁴ Contrary to respondent's contention, the testimony of Williams and McWilliams and corroborating documentary evidence support the clients' claim that they never allowed respondent to use that money for any purpose.

⁵ The number is redacted to protect the account holder.

There were no corresponding deposits made to cover these checks. These payments were for respondent's personal and business expenses.⁶

Conclusions

Count One – (Rule 4-100(A) [Commingling Personal Funds in Client Trust Account])

Rule 4-100(A) provides that all funds received or held for the benefit of clients must be deposited in a client trust account and no funds belonging to the attorney or law firm must be deposited therein or otherwise commingled therewith, except for limited exceptions.

It is well settled that using a client trust account for personal expenses constitutes commingling even where there were no client funds in the trust account.

“The rule absolutely bars use of the trust account for personal purposes, even if client funds are not on deposit. Because [respondent] used the account while it was ... denominated a trust account, even if he [did not intend] ... to use for trust purposes, rule [4-100(A)] was violated. The rule leaves no room for inquiry into the depositor's intent.” (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 22-23.)

At trial respondent testified that the checks, such as the ones made payable to "Shelby Samovar," were to pay for client expenses. But there were no corresponding deposits from any of these "clients." In fact, he issued these checks for his personal and business expenses, and not for his clients. The court finds respondent's claim without merit and disingenuous.

Therefore, by writing checks to pay for his personal and business operating expenses on his CTA from June 2012 through July 2013, respondent used funds belonging to the CTA for his own expenses in willful violation of rule 4-100(A).

⁶ Respondent is not credible when he testified that the expenses were for his clients.

Case No. 13-O-15777

Facts (The Williams Matter)

In 2012, Mary Sisler-Williams hired respondent to represent her in numerous legal matters, including a divorce, a bank dispute, a personal injury matter, business liens matters and business tenant matters.

Respondent prepared fee agreements for some of these legal matters but not all of them.

From February 6 to March 6, 2012, Williams paid respondent \$35,425 in advance attorney fees for these various legal matters.

In March 2013, Williams terminated respondent from representing her in all legal matters.

Between February 2012 and March 2013, respondent performed various legal services for Williams, including but not limited to her divorce, the bank dispute, researching her husband's business affairs, an FBI investigation, and a business lease dispute.

Between February 2012 and March 2013, respondent did not render an appropriate accounting regarding the advanced attorney fees of \$35,425 received.

Conclusions

Count Two – (Rule 3-110(A) [Failure to Perform Legal Services with Competence])

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

The State Bar alleged that respondent failed to perform legal services with competence when he represented Williams regarding a bank dispute, a personal injury matter, and a business matter.

However, respondent provided documentary evidence that he represented Williams and had performed services in numerous legal matters. Reasonable doubts in proving a charge of professional misconduct must be resolved in the accused attorney's favor. (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291.)

Therefore, respondent did not violate rule 3-110(A) because there is a lack of clear and convincing evidence to support the charge that respondent failed to perform services competently.

Count Three – (Rule 4-100(B)(3) [Maintain Records of Client Property/Render Appropriate Accounts])

Rule 4-100(B)(3) provides that an attorney must maintain records of all client funds, securities, and other properties coming into the attorney's possession and render appropriate accounts to the client regarding such property.

By failing to provide Williams with an accounting for the \$35,425 advanced fees between February 2012 and March 2013, respondent failed to render appropriate accounts to a client regarding all funds coming into his possession, in willful violation of rule 4-100(B)(3).

Count Four – (Rule 3-700(D)(2) [Failure to Return Unearned Fees])

Rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund any part of a fee paid in advance that has not been earned.

Respondent worked on the various legal matters for Williams, including her divorce, the bank dispute, researching her husband's business affairs, an FBI investigation, and a business lease dispute. There is no clear and convincing evidence that any part of the \$35,425 in advanced fees paid by Williams had not been earned or that the services were of no value to Williams.

As respondent contended, this was a fee dispute matter. Fee disputes are a proper subject of arbitration but they do not belong in the State Bar's disciplinary system. "This court does not sit in disciplinary matters as a collection board for clients aggrieved over fee matters." (*Bach v. State Bar* (1991) 52 Cal.3d 1201, 1207; Bus. & Prof. Code, § 6200 et seq.)

Accordingly, the court does not find that respondent had violated rule 3-700(D)(2) by clear and convincing evidence.

Case No. 13-O-15777

Facts (The McWilliams Matter)

Tawny McWilliams is Williams's adult daughter. McWilliams had \$450,000 in a bank account. Most of this money was given to McWilliams from Williams to purchase a home; it was also from her own personal savings and her salary.

It was agreed by respondent, Williams and McWilliams that the \$450,000 that belonged solely to McWilliams would be placed in respondent's client trust account in order to prevent Williams's husband from alleging the money was community property in the contentious divorce proceeding.

On April 10, 2012, respondent sent McWilliams an email stating that it was understood that her funds would be held in trust in his CTA for the purchase of her home. It was further understood that McWilliams's funds would be held in the trust account for a while until she found a home.

On April 10, 2012, McWilliams wired the \$450,000 into respondent's CTA, which brought its balance to \$450,016.11 (there was \$16.11 in the CTA prior to the wire transfer).

Respondent immediately began to unilaterally withdraw the funds from the CTA for his own benefit.

On April 16, 2012, respondent issued two CTA checks (check Nos. 1142 and 1145) to himself totaling \$50,000.

Between April 16 and May 4, 2012, respondent issued six additional CTA checks made payable to himself in the total amount of \$77,500.

On May 9, 2012, McWilliams sent an email to respondent instructing him to wire \$375,000 to a title company for her to purchase real property. Unbeknownst to McWilliams, respondent only had about \$372,500 in the CTA.

On May 10, 2012, respondent issued another CTA check to himself for \$2,000, which lowered the CTA balance to about \$370,500. McWilliams requested \$375,000 of her \$450,000.

On May 10, 2012, respondent wired \$370,000 to the title company, which left a balance of \$479.11 in his CTA.

On May 17, 2012, the real property that McWilliams had planned to purchase fell out of escrow and the realtor informed McWilliams that it would issue a refund.

On May 22, 2012, the title company issued a check to McWilliams for \$375,000, which included an additional \$5,000 good faith deposit that McWilliams had made from her own funds.

Respondent deposited McWilliams's \$375,000 funds into his CTA which brought the balance to \$375,479.

Between June 6 and September 18, 2012, respondent issued checks to himself or for personal expenses totaling \$233,551.86, which reduced the balance in his CTA to \$141,927.25.

In December 2012, McWilliams was in the process of purchasing another home. The realtor requested that McWilliams provide proof that she had a minimum of \$170,000 available to qualify for the loan and home purchase.

On December 6, 2012, McWilliams sent an email to respondent, requesting that he prepare a letter to the realtor that stated he held \$170,000 in trust for her.

On December 6, 2012, respondent sent a letter to "Whom it May Concern" re "Tawny McWilliams," stating that he held \$170,000 in "trust account for [her]." At the time, the balance in respondent's CTA was \$96,227.25. Respondent knew that this letter was false.

Between December 2012 and February 2013, McWilliams repeatedly requested that respondent return the \$450,000.

On January 10, 2013, the balance in the CTA dipped to \$78,066.25.

On February 1, 2013, respondent wired \$50,000 to McWilliams.

On February 8, 2013, respondent wired another \$50,000 to McWilliams.

On February 27, 2013, respondent wired \$40,000 to Williams for McWilliams.

Altogether, respondent paid \$140,000 (\$50,000 + \$50,000 + \$40,000) to McWilliams.

In March 2013, Williams terminated respondent's services and employed attorney Christine A. Greer to represent her in the marital dissolution.

On March 29, 2013, attorney Greer sent a letter to respondent requesting Williams's file regarding the dissolution and an accounting.

On May 6, 2013, respondent sent a billing statement to attorney Greer for the dissolution and other legal matters for approximately \$341,285. The court finds this accounting completely incredulous.

Conclusions

Count Five – (§ 6106 [Moral Turpitude])

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

The State Bar alleged that respondent committed an act involving moral turpitude by stating in writing to McWilliams that she should deposit \$450,000 into his CTA in order to unlawfully conceal the funds to prevent her stepfather from discovering and pursuing a legal claim to the funds.

While there is no clear and convincing evidence that respondent had given McWilliams such advice in writing, there is clear and convincing evidence that respondent had agreed to engage in such concealment and did so. His knowledge of his client's intent to conceal the funds from the marital dissolution proceeding and of her express purpose in transferring the \$450,000 funds into his CTA, coupled with helping and providing his CTA as a place of hiding, demonstrates that respondent acted in conscious disregard of his obligation to uphold the law. (See *In the Matter of Fandey* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767 [an attorney, knowing that his client had stopped paying child support and intended to move with the express purpose of avoiding complying with a child support order, provided the client with affirmative help in moving and thereby had committed an act of moral turpitude despite his lack of specific intent to help the client avoid the support order].)

Because honesty is one of the most fundamental rules of ethics for attorneys, the court finds respondent's act of concealment was dishonest and involved moral turpitude that is subject to professional discipline. (See *In the Matter of Crane and DePew* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563.)

Therefore, by agreeing to deposit the \$450,000 in his CTA in order to prevent Williams's husband from alleging the money was community property and by depositing those funds in his

CTA, respondent committed an act of moral turpitude and dishonesty in willful violation of section 6106.

Count Six – (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])

Respondent was required to maintain a total of \$455,000 received from McWilliams in April and May 2012 in his CTA. Instead, after he received the funds, respondent began to withdraw the funds for his personal and business expenses. By January 10, 2013, nine months later, the balance dipped to \$78,066.25.

Therefore, respondent failed to maintain at least \$376,934 (\$455,000 - \$78,066) in trust for McWilliams in the CTA in willful violation of rule 4-100(A).

Count Seven – (§ 6106 [Moral Turpitude])

It is well settled that the mere fact that the balance in an attorney's trust account has fallen below the total of amounts deposited in and purportedly held in trust, supports a conclusion of misappropriation. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474-475.) The rule regarding safekeeping of entrusted funds leaves no room for inquiry into the attorney's intent. (See *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113.)

“[O]nce the trust account balance is shown to have dipped below the appropriate amount, an inference of misappropriation may be drawn.” (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618.) When the balance in the CTA fell below \$455,000, to a balance of \$78,066.25 by January 2013, respondent misappropriated \$376,934 that was held in trust on behalf of McWilliams.

Respondent's contention that he had earned \$341,285 in legal fees is without merit and the court rejects it.

Accordingly, respondent committed an act of moral turpitude in willful violation of section 6106 by misappropriating \$376,934, which was intended for McWilliams's purchase of a home. In February 2013, respondent paid McWilliams \$140,000 of the \$455,000 held in trust for the client. Thus, respondent owes McWilliams an outstanding balance of \$315,000 (\$455,000 - \$140,000) when he was terminated in March 2013.

Count Eight – (§ 6106 [Moral Turpitude])

By stating in a December 6, 2012 letter to the realtor that he was holding \$170,000 in the trust account for McWilliams, when he knew or should have known that the balance in the CTA was \$96,227.25 and that the letter was false, respondent committed an act of moral turpitude and dishonesty in willful violation of section 6106.

Aggravation⁷

Multiple Acts (Std. 1.5(b).)

Respondent's multiple acts of misconduct are an aggravating factor. He failed to render an accounting; failed to maintain client funds of \$455,000 and commingled funds in his CTA; and committed acts of moral turpitude by misappropriating client funds and by misrepresenting to the realtor.

Bad Faith, Concealment, and Dishonesty (Std. 1.5(d).)

Respondent's May 6, 2013 billing statement to attorney Greer for approximately \$341,285, which the court found to be completely incredulous and fabricated, is further aggravating evidence of respondent's dishonesty.

⁷ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Harm to Client/Public/Administration of Justice (Std. 1.5(f).)

Respondent's misappropriation of the client funds significantly harmed McWilliams, who is an unemployed, single mother, and damaged the integrity of the legal profession. Based on her experience with respondent, she opined that respondent had planned it all along and that "attorneys are manipulative thieves." Williams believed that respondent took her daughter's money because of greed. She said, "It's a terrible feeling to know that such a horrible human exists."

Indifference Toward Rectification/Atonement (Std. 1.5(g).)

Respondent does not accept responsibility for his misappropriation. He insists that he had earned the \$350,000 in legal fees from February 2012 to March 2013.

Failure to Make Restitution (Std. 1.5(i).)

Respondent's failure to make restitution of \$315,000 is a serious aggravating factor.

Mitigation

No Prior Record (Std. 1. 6(a).)

Respondent has no prior record of discipline for 45 years of practice at the time of his misconduct in the McWilliams matter. His lack of a prior record of discipline warrants significant consideration in mitigation; however, this mitigation is somewhat reduced due to the serious nature of the present misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Discussion

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to

preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; std. 1.1.)

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.) Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. And, if two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.7(a).)

However, standard 1.7(b) provides that if aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities in the future.

In this case, the standards provide a broad range of sanctions ranging from reproof to disbarment, depending upon the gravity of the offenses and the harm to the victim. Standards 2.1(a), 2.2(a), 2.2(b), and 2.7 apply in this matter.

Standard 2.1(a) provides that disbarment is appropriate for intentional or dishonest misappropriation of 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.

Standard 2.2(a) provides that actual suspension of three months is appropriate for commingling or failure to promptly pay out entrusted funds.

Standard 2.2(b) provides that suspension or reproof is appropriate for other violation of rule 4-100.

Standard 2.7 provides that disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact, depending on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law.

In this matter, the most severe sanction is found at standard 2.1(a), which recommends disbarment for intentional or dishonest misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case the minimum discipline recommended is a one-year actual suspension.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar urges the court to disbar respondent from the legal profession under standard 2.1(a) and case law (including *In the Matter of Conner* (Review Dept. 2008) 5 Cal.

State Bar Ct. Rptr. 93; *Baca v. State Bar* (1990) 52 Cal.3d 294; *In re Naney* (1990) 51 Cal.3d 186).

Respondent denies culpability and insists that this is a fee dispute matter. If he was found culpable of any misconduct, he argues that ordering him to take an ethics exam would be adequate.

The gravamen of this case is neither a fee dispute matter gone awry nor a failure to perform services competently. It is an egregious case of misappropriation. Yet, respondent has refused to take responsibility for his misconduct or recognize his wrongdoing.

The Supreme Court has repeatedly held that disbarment is the usual discipline for the willful misappropriation of client funds. (See *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37; and *Howard v. State Bar* (1990) 51 Cal.3d 215, 221.) “In a society where the use of a lawyer is often essential to vindicate rights and redress injury, clients are compelled to entrust their claims, money, and property to the custody and control of lawyers. In exchange for their privileged positions, lawyers are rightly expected to exercise extraordinary care and fidelity in dealing with money and property belonging to their clients. [Citation.] Thus, taking a client’s money is not only a violation of the moral and legal standards applicable to all individuals in society, it is one of the most serious breaches of professional trust that a lawyer can commit.” (*Howard v. State Bar, supra*, 51 Cal.3d 215, 221.)

Moreover, cases involving client deceit, misappropriation, and lack of insight have been known to warrant disbarment. (*Kelly v. State Bar* (1988) 45 Cal.3d 649 [disbarment for \$20,000 misappropriation, moral turpitude, dishonesty, and improper communication with adverse party with no prior record in mitigation and no aggravation].)

Here, the court finds *In the Matter of Spaith* (1996) 3 Cal. State Bar Ct. Rptr. 511, to be particularly instructive. In *Spaith*, the attorney was found culpable of misappropriating approximately \$40,000 from a client and misleading the client regarding the status of the money for over a year. In mitigation, the attorney demonstrated good character; provided community service and other pro bono activities; and cooperated with the State Bar by admitting his wrongdoing and stipulating to the facts and culpability. In addition, the attorney had no prior record of discipline in over 15 years of practicing law. In aggravation, the attorney's misconduct involved multiple acts of wrongdoing. The Review Department ultimately found that the mitigating circumstances were not sufficiently compelling to justify a lesser sanction than disbarment when weighed against the attorney's misconduct and aggravating circumstances. (*Id.* at p. 522.)

The present case is more egregious than *Spaith*. Here, respondent misappropriated at least \$315,000 from McWilliams. Despite the large sum of money involved, respondent failed to employ the requisite extraordinary care and fidelity required when dealing with client funds. An attorney-client relationship is of the highest fiduciary character and always requires utmost fidelity and fair dealing on the part of the attorney. (*Beery v. State Bar* (1987) 43 Cal.3d 802, 813.)

The court acknowledges respondent's mitigation, including a very lengthy career with no prior record of discipline. While the court gives significant consideration to respondent's mitigation evidence, the magnitude of the present misconduct and the significant harm he caused are particularly troubling. Moreover, respondent's overall mitigation, is not "the most compelling," nor does it "clearly predominate" when considered against his extensive misconduct and the aggravating factors. (Std. 2.1(a).) This is especially true when the court

considers that respondent's misappropriation was almost eight times the amount misappropriated in *Spaith*. And unlike the attorney in *Spaith*, respondent has made almost no effort to make his victims whole. Additionally, respondent lacks any insight into his own wrongdoing.

Therefore, after weighing the evidence, including the factors in aggravation and mitigation, the court finds no compelling reason to recommend a level of discipline short of disbarment. Additionally, the court finds that the interests of public protection mandate a recommendation of disbarment.

Recommendations

It is recommended that respondent Phillip Gerrald Samovar, State Bar Number 39842, be disbarred from the practice of law in California and respondent's name be stricken from the roll of attorneys.

Restitution

The court also recommends that respondent be ordered to make restitution to Tawny L. McWilliams in the amount of \$315,000, plus 10% interest per annum from March 1, 2013.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

California Rules of Court, Rule 9.20

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

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 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 State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: April _____, 2015

LUCY ARMENDARIZ
Judge of the State Bar Court