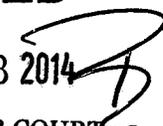


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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Kimberly G. Anderson Senior Trial Counsel Office of the Chief Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1083</p> <p>Bar # 150359</p>	<p>Case Number(s): 14-O-00055-DFM</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center;">SEP 03 2014 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Paul J. Virgo 9909 Topanga Canyon Blvd., #282 Chatsworth, CA 91311 (310) 666-9701</p> <p>Bar # 67900</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: SCOTT STONE MEHLER</p> <p>Bar # 190014</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **November 24, 1997.**
- (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 (16) 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."

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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [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.
- (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 13.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Stipulation Attachment at page 14.**
- (8) **Restitution:** Respondent failed to make restitution. **See Stipulation Attachment at page 14.**
- (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.

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(13) **No mitigating circumstances are involved.**

Additional mitigating circumstances:

Pretrial Stipulation - See Stipulation Attachment at page 14.

No Prior Discipline - See Stipulation Attachment at page 14.

(Do not write above this line.)

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 **Raymond Mayo, Salvatore Giuliano and their attorneys Joshua Abel and Bruce Abel collectively** in the amount of \$ **916,437.76** plus 10 percent interest per year from **May 21, 2013**. If the Client Security Fund has reimbursed **Raymond Mayo, Salvatore Giuliano and their attorneys Joshua Abel and Bruce Abel** 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:**

6. On October 21, 2013, which was within the five days following the close of escrow, Stephens emailed Respondent in anticipation of the release of the escrow funds. Pursuant to the escrow agreement, Stephens demanded that Respondent pay the portions for Mayo and Giuliano to Stephens' client trust account. In the email, Stephens asked Respondent to let him know when the funds would be distributed. Respondent received the email. Of the funds to be distributed, \$55,201.80 was to be paid to a brokerage firm, Plethora.

7. On October 22, 2013, Respondent responded to Stephens' email and stated that the amount of money deposited with him was \$1,400,000, that \$71,977.68 was returned to Amerector per an adjustment in the purchase price, and that the remainder of \$1,328,022.32 would be distributed. Respondent also stated he would be in touch with the parties regarding the final distribution. On October 1, 2013, Respondent had in fact returned the \$71,977.68 to Amerector pursuant to the adjustment in the purchase price.

8. On October 24, 2013, Buckland sent an email to Respondent and Stephens instructing Respondent to release all remaining funds to Stephens' client trust account. Stephens responded to the email and requested Respondent provide confirmation of the wiring when completed. Respondent received both emails from Buckland and Stephens.

9. On October 25, 2013, Respondent sent an email to Stephens confirming that he would wire the remaining funds to Stephens' client trust account. Respondent did not tell any of the parties or their other attorneys that he had already taken the funds.

10. Beginning on October 27, 2013 and continuing until December 11, 2013, Respondent began making excuses and engaging in trickery and concealment with the intention of concealing from Mayo, Giuliano, Amerector, Stephens and Buckland that he had misappropriated the funds and to keep them from discovering that he had misappropriated the funds, by the following acts and sequence of events:

- On October 27, 2013, Respondent sent Stephens an email stating the Amerector's parent company, Canector, had a "question/issue" regarding sending payment directly to a broker that was owed a commission on the transaction. In the email, Respondent stated that as soon as he had authorization from Canector, he would wire the escrow funds. Respondent stated that he anticipated having authorization from Canector on Monday (the next day).
- On October 28, 2013, Respondent emailed Stephens stating he was in an arbitration and that he would stay on top of the matter and finish it up. Respondent thanked Stephens for his patience.
- Later on October 28, 2013, Stephens emailed Respondent and directed Respondent to promptly wire the funds for Mayo and Giuliano to Stephens' client trust account as the broker Plethora did not want Mayo and Giuliano to suffer any delay in receipt of their funds on account of the broker's commission, which was \$55,201.80. Respondent received the email.
- On October 30, 2013, Respondent emailed Stephens and said Canector was no longer objecting and that he would send two wire transfers, one to the broker Plethora and one to Stephens for Mayo and Giuliano.

- Later on October 30, 2013, Respondent emailed Stephens confirming that he had wired the funds and that they should reach Stephens' trust account the next day. On October 30, 2013, Respondent had in fact wire transferred the \$55,201.80 commission to Plethora, but Respondent had not wire transferred the remaining entrusted funds to Mayo and Giuliano and he did not have the funds to do so as the CTA balance was only \$26,846.50 after Respondent wire transferred the commission to Plethora.
- On November 1, 2013, Respondent emailed Stephens and inquired whether Stephens received the funds for Mayo and Giuliano and requested that Stephens verify Plethora's receipt of its wire transfer of the \$55,201.80 commission.
- As of November 1, 2013, Stephens had not received any wire transferred funds on behalf of Mayo and Giuliano. On November 1, 2013, Stephens sent Respondent an email telling him the funds had not been received. Respondent received the email.
- On November 4, 2013, Respondent sent Stephens an email stating he had assumed the wire transfers had gone through, but indicating that he had experienced problems in the past when sending large wire transfers where Citibank would call him to verify the transfers as an additional security device.
- On November 4, 2013, Stephens telephoned Citibank (where he also happened to maintain his client trust account) and asked to verify the wire transfers. Stephens learned from Citibank that there had been two wire transfers sent to his client trust account, each in the amount of \$127,282.06 for a total of \$254,564.12. However, Respondent was supposed to have sent Stephens \$1,272,820.52 for Giuliano and Mayo.
- On November 4, 2013, and immediately after learning of the amount of the wire transfers, Stephens emailed Respondent stating that he had learned from Citibank that there were only two wire transfers totaling \$254,564.12, as opposed to a wire transfer for \$1,272,820.52. Respondent received the email and replied, telling Stephens that the wire transfers were made in error, that he could not explain the duplicate wire transfers for \$127,282.06, but he stated that it appeared that one of the wire transfers "was the right amount but off a decimal." At the time Respondent stated that one of the wire transfers "was the right amount but off a decimal," Respondent knew that the statement was false, Respondent knew that he had not actually requested a \$1,272,820.52 wire transfer and he knew he did not have the funds available. Respondent stated to Stephens that he would personally go to the bank the next day and take care of the transfer of the remaining funds, stating he would not be able to do it that day. At no time did Respondent inform Stephens that he had already misappropriated the funds and that he did not currently have sufficient funds available to pay the full \$1,272,820.52 owed to Giuliano and Mayo.
- On November 4, 2013, the balance in the CTA after issuance of the two wire transfers totaling \$254,564.12 was only \$6,166.30.
- Respondent did not wire the remaining balance of the funds on November 5, 2013. Instead, Respondent sent Stephens an email stating that, "I had something serious come up that I have to attend to." In the email, Respondent stated he would go to the bank first thing the next day and take care of the wire transfer.

- On November 6, 2013, Respondent emailed Stephens and stated he had to take his son to the doctor, but that he would go to the bank later in the day and get the wire transfer completed.
- On November 6, 2013, when Stephens had not heard from Respondent, Stephens emailed Respondent again, stating that his clients Mayo and Giuliano were getting concerned and requesting that Respondent get the matter handled the next day and send him confirmation. Respondent received the email.
- On November 7, 2013, Respondent sent Stephens an email stating that his dog was injured, his son was sick, his wife was out of town and he too was coming down with an illness. That same day, Mayo asked Stephens for Respondent's telephone number, which Stephens provided to Mayo. Stephens emailed Respondent and told Respondent he was authorized to speak to Mayo. In that same email, Stephens asked Respondent if the funds could be expected the next day. Respondent received Stephens's November 7, 2013 email.
- On November 8, 2013, Respondent sent Stephens an email stating that \$1,018,256.48 had already been processed for wiring, which was \$5,000 more than the amount to which Mayo and Giuliano were entitled. That same day, Stephens emailed Respondent asking Respondent to reconcile his numbers. Respondent received the email, but did not respond immediately.
- On November 11, 2013, Stephens sent Respondent two more emails since he did not receive any response from Respondent. Respondent received both emails.
- On November 12, 2013, Respondent emailed Stephens, acknowledged his error and provided an accounting. Respondent requested that Stephens send him a check for the \$5,000 difference once the matter was completed. Respondent attached to the email a page purporting to be from his CTA bank statement representing that he had the \$1,018,256.48 in the trust account. The attached document was falsified in that it did not show that Respondent had removed any funds from the CTA, and Respondent's true balance in his CTA was only \$66,166.30. At the time Respondent sent the email with the attached false document, Respondent knew that the attached document was false and grossly inaccurate.
- Later in the day on November 12, 2013, Respondent emailed Stephens again and stated the \$1,018,256.48 wire transfer had not gone through as he had requested an amount which exceeded the account balance. Respondent stated he would be processing another wire transfer for \$1,018,186.40 which would be in Stephens' client trust account that day or the next day. On November 12, 2013, Respondent's true balance in his CTA was only \$66,166.30.
- On the afternoon of November 13, 2013, when Stephens had once again not received any funds from Respondent, Stephens emailed Respondent stating that he had still not received a wire transfer. Respondent received the email.
- On November 13, 2013, Respondent emailed Stephens and stated that he had been stuck at a client's office, and that he would be out of the office in the morning, but would

provide confirmation of a wire transfer when he returned to the office later in the afternoon. A few hours later, Respondent sent Stephens an email containing a confirmation number.

- Again on November 13, 2013, Respondent sent Stephens another email stating that the bank had left him a message requiring him to verify the transfer and that he would be doing so. Respondent followed up with another email to Stephens later that day stating the bank officer would finish the processing and the money might not arrive until the next day (November 14, 2013).
- On the morning of November 14, 2013, when Stephens had still not received any funds, he called Citibank and confirmed that a wire from Respondent was received in the amount of \$101,818.64 as opposed to the \$1,018,186.40 Respondent had stated he would send. Respondent had in fact deposited the \$101,818.64 into his CTA on November 13, 2013 and then caused the wire transfer to be sent to Stephens in the same amount on November 14, 2013, leaving a true balance of \$6,166.30 in his CTA.
- On November 14, 2013, Stephens emailed Respondent to find out what happened to the remaining entrusted funds and Respondent told Stephens that a second wire transfer in the amount of \$916,367.75 was "on its way." Respondent told Stephens, "Like before, I was having trouble sending over \$1m so I broke it into two." At the time Respondent made these statements to Stephens, Respondent knew that he could not wire transfer the remaining entrusted funds because he no longer had them.
- Later on November 14, 2013, Respondent sent Stephens another email stating that the CTA balance was insufficient, so he had transferred funds into the CTA to cover the \$916,367.75 wire and had resubmitted the wire transfer for processing. In the email, Respondent told Stephens, "the remaining balance is on its way." Respondent also stated, "If there is any type of hiccup this time and this is not resolved by EOB tomorrow I will hand deliver a cashiers check for the balance to your office Monday."
- On Saturday November 16, 2013, when Stephens had still not received the \$916,367.75 by wire transfer, he emailed Respondent again, requesting to speak on Monday November 18, 2013.
- On Monday November 18, 2013, Respondent replied to Stephens by email and reasserted that the funds had been withdrawn from the CTA. Respondent stated he would send a screen shot showing the funds and confirming that he had wire transferred the funds to Stephens' client trust account. Respondent did not send a screen shot and he did not otherwise provide any proof of the wire transfer.
- On November 19, 2013, Respondent emailed Stephens and stated he had been out of the office on November 18, and November 19, 2013 so he could not send a screen shot. However, he assured Stephens the funds were on the way.
- Later on November 19, 2013, Respondent sent Stephens another email with a partial screen shot showing a wire transfer on November 20, 2013 to Stephens' client trust account in the amount of \$916,367.75 (\$70.09 short of the \$916,437.84 balance due). In addition, he attached a screen shot of what appeared to be his trust accounting for the

subject transaction. Both of these documents contained false information. At the time Respondent sent the partial screen shot and the ostensible trust accounting for the subject transaction, Respondent knew these documents and the statements in them had been falsified in the following respects. First, on November 20, 2013, Respondent only had \$6,166.30 in his CTA and had not requested the wire transfer from the CTA, which was the account for which he sent the screen shot. Second, Respondent also sent an IOLTA trust account record, which showed the \$1,400,000 deposit on April 19, 2013, but which did not show the May 21, 2013 withdrawal of \$1,856,223.89 to his own personal law firm money market account, did not show Respondent depositing funds into his CTA to cover the partial earlier wire transfers, and did not show the correct balances in the CTA on the relevant dates.

- Between November 19 and November 21, 2013, Stephens sent Respondent several emails advising that he had not received the balance of the entrusted funds. Respondent received each of those emails.
- On November 21, 2013, Respondent sent Stephens another email. In the email, Respondent stated he had been in depositions and was just receiving Stephens' earlier emails, that he was leaving for the airport, and that he had made a \$30.00 miscalculation in the transfer, causing the money to be returned to his CTA. He attached another screen shot to his email purporting to evidence \$916,332.75 in funds in his CTA. On November 21, 2013, Respondent knowingly sent Stephens a falsified screen shot as Respondent knew that the true balance in his CTA was \$6,166.30.
- Between November 21 and November 25, 2013, Respondent did not respond or send the funds remotely, stating he was on vacation in Hawaii.
- On November 22, 2013, Mayo filed a State Bar complaint and the State Bar opened in investigation.
- On November 26, 2013, Respondent sent an email from to Stephen stating he was in Hawaii, and providing another falsified screen shot for the CTA indicating that he had a balance of \$916,332.75 in the CTA, which Respondent knew was false. At the time, Respondent knew that the true balance in his CTA was \$6,166.30.
- On December 3, 5 and 6, 2013, Respondent sent Stephens additional emails making further excuses for the delay in sending the funds and promising to send the funds. At the time he sent each of the emails, Respondent knew he did not have the balance of the entrusted funds to send to Thomas.

11. On December 10, 2013, Stephens emailed Respondent requesting a return call and noting that Respondent had failed to turn over the balance of the funds for nearly two months. Respondent received the email.

12. On December 11, 2013, Respondent and Stephens had a telephone conversation and Respondent admitted to Stephens that he could not pay the remaining \$916,437.84 stating that, "it was lost on bad investments."

13. On December 16, 2013, Respondent emailed Stephens a proposed payment plan to repay the entrusted funds, which he wanted kept confidential. He stated he wanted Mayo and Giuliano to forego any legal action and to refrain from contacting any other third party regarding his misappropriation of their funds. In the email, Respondent stated that, "I will agree to never take escrow funds from another client or third party again so this does not ever happen again."

14. Respondent then attempted to issue three checks to cover the loss, each of which were returned due to insufficient funds totaling \$160,000 and for which Respondent knew or should have known there were insufficient funds to cover the amounts, as set forth below.

- On December 26, 2013, Respondent issued check no. 1453 from his law office Citibank operating account no. xxxxx7205 made payable to Mayo and Giuliano in the amount of \$25,000, which was returned due to insufficient funds on January 6, 2014.
- On December 30, 2013, Respondent issued check no. 1454 from his law office Citibank operating account no. xxxxx7205 made payable to Mayo and Giuliano in the amount of \$15,000, which was returned due to insufficient funds on January 6, 2014.
- On January 3, 2014, Respondent issued check no. 1456 from his law office Citibank operating account no. xxxxx7205 made payable to Mayo and Giuliano in the amount of \$120,000, which was returned due to insufficient funds on January 7, 2014.

15. On January 17, 2014, Mayo, Giuliano and Amerector sued Respondent and his law firm in a civil action ("the civil action"), alleging that Respondent had taken approximately \$916,437.84, which Respondent had failed to pay to Mayo and Giuliano.

16. After having been sued civilly, Respondent made partial additional restitution in the amount of \$268,642.47 pursuant to orders made against him in the civil action in the following amounts:

- On January 31, 2014, Respondent made partial restitution to Mayo and Giuliano in the amount of \$100,000.00.
- On March 18, 2014, Respondent also paid \$160,819.69 to Mayo and Giuliano based upon a court order in the civil action requiring Respondent's property to be sold and the proceeds of the sale to be paid to Mayo and Giuliano.
- On May 23, 2014, Respondent paid to Mayo and Giuliano \$3,795.36 based upon the cash surrender value of a life insurance policy belonging to Respondent.
- On May 30, 2014, Respondent paid to Mayo and Giuliano \$4,027.42 based upon the cash surrender value of a second life insurance policy belonging to Respondent.

17. To date, Respondent still owes Mayo and Giuliano and has failed to make restitution to Mayo and Giuliano in the amount of \$647,795.37 (the difference between \$916,437.84 and \$268,642.47).

CONCLUSIONS OF LAW:

18. By dishonestly and intentionally misappropriating \$1,400,000 in entrusted funds, Respondent committed an act involving moral turpitude in willful violation of Business and Professions Code section 6106.

19. By failing to maintain at least \$1,400,000 in Respondent's client trust account, Respondent willfully failed to maintain entrusted funds on behalf of the parties to the business transaction in violation of Rules of Professional Conduct, rule 4-100(A).

20. By disbursing the entire \$1,400,000 into his own business law office money market account and thereafter failing to safeguard the funds entrusted to him as escrow agent, Respondent willfully breached his fiduciary duties owed to Mayo, Giuliano and Amerector, and thereby failed to support the Constitution and laws of the United States and of this state in willful violation of Business and Professions Code section 6068(a).

21. By failing to account, to his client and to other parties who had a legal interest in the funds, for the \$1,400,000 despite their repeated requests, Respondent failed to render an appropriate accounting to Mayo, Giuliano Stephens, Amerector and Buckland regarding those funds, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

22. By repeatedly sending emails and attachments to emails to Stephens by which he intentionally misrepresented the balance in his CTA with the intention of concealing from Stephens, Mayo, Giuliano, Amerector and Buckland that he had misappropriated the \$1,400,000 he was required to be holding in trust for them, Respondent thereby committed multiple acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code section 6106.

23. By failing to pay promptly, as requested by Buckland, Amerector, Stephens, Mayo and Giuliano, the \$916,437.84 balance of the \$1,272,820.60 to Stephens, Mayo and Giuliano, Respondent failed to promptly pay funds in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

24. By issuing three checks drawn upon his Citibank general operating account no. xxxxx7205 totaling \$160,000 when Respondent knew or was grossly negligent in not knowing that there were insufficient funds in the account to pay them, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

AGGRAVATING CIRCUMSTANCES.

Harm (Std. 1.5(f)): Respondent misappropriated \$1,400,000 in funds from the proceeds of the sale of a business, which funds he was required to hold in trust for his client and all parties to the transaction. Of the \$1,400,000, Mayo and Giuliano were collectively entitled to \$1,272,820.52. Respondent has substantially harmed Mayo and Giuliano. Respondent delayed in paying them \$254,564.12 of those funds from October 21, 2013 until November 4, 2013. Respondent also delayed in paying them an additional \$916,437.83 from October 21, 2013 until after January 17, 2014 when Mayo, Giuliano and Amerector sued him civilly. Between January 17, 2014 and May 30, 2014, Respondent paid Mayo and Giuliano an additional \$268,642.47, pursuant to court orders, as part of the civil action. To date, Mayo and Giuliano continue to be deprived of \$647,795.37.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed seven acts of professional misconduct, he made repeated misrepresentations to the parties for whom he was supposed to be holding the entrusted sales proceeds between October 2013 and December 2013 in order to conceal the misappropriation of the funds, and Respondent repeatedly failed to account for the entrusted funds. Respondent also subsequently knowingly issued three NSF checks totaling \$160,000.

Failure to Make Restitution (Std. 1.5(i)): Respondent failed to make restitution for \$916,437.83 at any time until after Mayo, Giuliano and Amerector sued him civilly on January 17, 2014. Between January 17, 2014 and May 30, 2014, Respondent made \$268,642.47 in restitution to Mayo and Giuliano, but only because they had sued him civilly and he was concerned about State Bar disciplinary proceedings. To date, Respondent has failed to pay \$647,795.37 in restitution to Mayo and Giuliano.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Although the misconduct is serious, Respondent has been an attorney in California since 1997 and had been practicing law for almost sixteen years with no prior record of discipline at the time the misconduct commenced. (*See, 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].)

Pretrial Stipulation: Respondent has entered into a complete stipulation to facts, conclusions of law and disposition of disbarment prior to trial in this matter, thereby saving the State Bar and the State Bar Court substantial resources, which would be required to complete a trial in this matter. (*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 Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) 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 seven ethical violations. Standard 1.7(a) requires that where a Respondent "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(a), which applies to Respondent's intentional and dishonest misappropriation of entrusted funds in violation of Business and Professions Code section 6106. 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."

The evidence establishes that Respondent's misappropriation was both intentional and dishonest, the amount of funds taken was not insignificantly small and the amount of funds taken (\$1,400,000) was in fact significantly large. Respondent also went to great lengths and engaged in a number of acts of dishonesty for approximately two months to conceal his misappropriation from the parties who had entrusted him with their funds. Under such circumstances, and taking into account the three significant aggravating factors and the two mitigating factors, Standard 2.1(a) requires Respondent's disbarment. Even taking into account Respondent's cooperation in entering into a pretrial stipulation and lack of a prior record of discipline, there is not sufficiently compelling mitigation to justify any sanction less than disbarment. Disbarment is necessary to protect the public, the courts and the legal profession, to maintain the highest professional standards and to preserve the public's confidence in the legal profession.

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.) The same duties to safeguard funds that apply to clients also apply to third parties, where an attorney agrees to act as a fiduciary and to hold entrusted funds for the benefit of third parties. (See, e.g. *Guzetta v. State Bar* (1987) 43 Cal.3d 962.) 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.

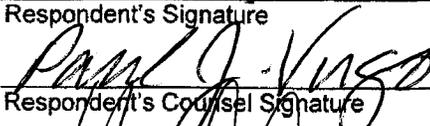
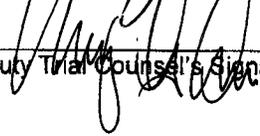
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 8, 2014, the prosecution costs in this matter are approximately \$3,497. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: SCOTT STONE MEHLER	Case number(s): 14-O-00055-DFM
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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>8-8-14</u>		_____ Scott Stone Mehler Print Name
<u>8/12/2014</u>		_____ Paul J. Virgo Print Name
<u>8/14/14</u>		_____ Kimberly G. Anderson Print Name

(Do not write above this line.)

In the Matter of: SCOTT STONE MEHLER	Case Number(s): 14-O-00055-DFM
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DISBARMENT ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Respondent _____ is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

9/3/14
Date


DONALD F. MILES
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 September 3, 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:

PAUL JEAN VIRGO
9909 TOPANGA BLVD # 282
CHATSWORTH, CA 91311

- 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 September 3, 2014.



Rose M. Luthi
Case Administrator
State Bar Court