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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Ashod Mooradian Senior Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1004</p> <p>Bar # 194283</p>	<p>Case Number(s): 14-O-00840</p> <p style="font-size: 24pt; text-align: center;">PUBLIC MATTER</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 24pt;">FILED</p> <p style="text-align: center; font-size: 18pt;">JUN 08 2015</p> <p style="text-align: center; font-size: 10pt;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>William John Howard PO Box 47546 Phoenix, AZ 85068 (866) 611-9672</p> <p>Bar # 145678</p>	<p>Submitted to:</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: WILLIAM JOHN HOWARD</p> <p>Bar # 145678</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 **January 18, 1990**.
- (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 Attachment at page 11.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See Attachment at pages 11-12.**

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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 Attachment at page 11.**
- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

None.

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:

See Attachment at page 12.

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:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: WILLIAM JOHN HOWARD

CASE NUMBER: 14-O-00840

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. 14-O-00840 (State Bar Investigation)

FACTS:

1. WILLIAM JOHN HOWARD ("Respondent") was admitted to the practice of law in the State of California on January 18, 1990, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

2. In or about 1994, the Alice Steckman Johanson Trust ("ASJ Trust") was created and established. Alice Steckman Johanson was the settlor of the ASJ Trust and her granddaughter Jerrae Staples was the sole beneficiary of the ASJ Trust.

3. At all relevant times herein, Ms. Staples was Respondent's client. From 1994 through the time of her death, Ms. Steckman Johanson was Respondent's client.

4. On December 4, 2004, Ms. Steckman Johanson was adjudged to be incapacitated based on a letter report submitted by her personal physician.

5. Between December 7, 2004 and January 21, 2010, Respondent agreed to become the trustee of the ASJ Trust.

6. At all times relevant herein, Respondent was the owner of a company called Tax & Financial Strategies, Ltd.

7. In January 2005, Ms. Steckman Johanson passed away. Pursuant to the terms of the ASJ Trust, Ms. Staples would be entitled to a lump-sum payment of \$194,047.56 at the time of Ms. Steckman Johanson's death. However, Respondent did not distribute any funds to Ms. Staples at the time of Ms. Steckman Johanson's death.

8. On March 16, 2005, Respondent issued ASJ Trust check number 108, in the amount of \$100,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 108 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

9. On May 9, 2005, Respondent issued ASJ Trust check number 112, in the amount of \$40,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 112 to

Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

10. On June 6, 2005, Respondent issued ASJ Trust check number 114, in the amount of \$40,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 114 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

11. On July 5, 2005, Respondent issued ASJ Trust check number 117, in the amount of \$10,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 117 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

12. On July 6, 2005, Respondent issued ASJ Trust check number 118, in the amount of \$20,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 118 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

13. On July 27, 2005, Respondent issued ASJ Trust check number 120, in the amount of \$20,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 120 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Steckman Johanson or Ms. Staples and for Respondent's own purposes.

14. On September 27, 2005, Respondent issued ASJ Trust check number 121, in the amount of \$10,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 121 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes. After transferring this amount to Tax & Financial Strategies, Ltd., Respondent had transferred a total of \$240,000 from the ASJ Trust bank account to benefit himself.

15. On November 3, 2005, Respondent deposited \$165,000 of his own funds into the ASJ Trust bank account. Respondent never notified or disclosed to Ms. Staples that he had deposited \$165,000 of his own funds into the ASJ Trust bank account.

16. On November 7, 2005, Respondent paid \$194,047.56 to Ms. Staples.

17. After this payment to Ms. Staples, the balance in the ASJ Trust bank account was \$12,656.55.

18. Pursuant to the terms of the ASJ Trust, Ms. Staples would be entitled to a another lump sum payment of \$92,587.69 in 2010 when she turned 35. Accordingly, Respondent was required to maintain at least \$92,587.69 in the ASJ Trust bank account from November 7, 2005 until Ms. Staples's 35th birthday.

19. On November 18, 2005, Respondent issued ASJ Trust check number 131, in the amount of \$10,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 131 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

20. On November 30, 2005, Respondent issued ASJ Trust check number 132, in the amount of \$2,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 132 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

21. Between December 1, 2005 and March 30, 2006, the ASJ Trust bank account had a balance of approximately \$657.

22. Between March 31, 2006 and May 31, 2006, a total of \$6,137.63 was deposited into the ASJ Trust bank account. These funds represented regular trust income.

23. On August 14, 2006, Respondent withdrew \$450 from the ASJ Trust bank account. Respondent withdrew the \$450 without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

24. On August 22, 2006, Respondent issued ASJ Trust check number 135, in the amount of \$2,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 135 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

25. On August 24, 2006, Respondent issued ASJ Trust check number 136, in the amount of \$1,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 136 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

26. On September 11, 2006, Respondent issued ASJ Trust check number 137, in the amount of \$2,000, made payable to Tax & Financial Strategies, Ltd. Respondent issued ASJ Trust check number 137 to Tax & Financial Strategies, Ltd. without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

27. On December 4, 2006, Respondent deposited \$15,000 of his own funds into the ASJ Trust bank account. Respondent never notified or disclosed to Ms. Staples that he had deposited \$15,000 of his own funds into the ASJ Trust bank account.

28. On December 4, 2006, Respondent issued ASJ Trust check number 125, in the amount of \$10,000, made payable to Respondent and deposited into Respondent's personal checking account number ****2405. Respondent issued ASJ Trust check number 125 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

29. On December 18, 2006, Respondent issued ASJ Trust check number 126, in the amount of \$5,000, made payable to Respondent and deposited into Respondent's personal checking account number ****2405. Respondent issued ASJ Trust check number 126 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

30. On February 8, 2007, Respondent deposited \$6,500 of his own funds into the ASJ Trust bank account. Respondent never notified or disclosed to Ms. Staples that he had deposited \$6,500 of his own funds into the ASJ Trust bank account.

31. On February 14, 2007, pursuant to the terms of the ASJ Trust, Respondent paid \$6,500 to Ms. Staples as her annual interest distribution pursuant to the terms of the ASJ Trust.

32. Between February 15, 2007 and May 15, 2008, the balance in the ASJ Trust bank account was approximately \$355.

33. On May 22, 2008, Respondent issued ASJ Trust check number 138, in the amount of \$325, made payable to Respondent and deposited into Respondent's business checking account. Respondent

issued ASJ Trust check number 126 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

34. Between May 23, 2008 and November 27, 2008, the balance in the ASJ Trust bank account was approximately \$30.

35. On November 28, 2008, Respondent deposited \$6,000 of his own funds into the ASJ Trust bank account. Respondent never notified or disclosed to Ms. Staples that he had deposited \$6,000 of his own funds into the ASJ Trust bank account.

36. On December 30, 2008, Respondent issued ASJ Trust check number 141, in the amount of \$1,000, made payable to Respondent and deposited into Respondent's business checking account. Respondent issued ASJ Trust check number 141 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

37. On December 30, 2006, Respondent issued ASJ Trust check number 142, in the amount of \$400, made payable to Respondent and deposited into Respondent's personal checking account number ****2460. Respondent issued ASJ Trust check number 142 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

38. On December 31, 2008, Respondent paid \$4,500 to Ms. Staples as her annual interest distribution pursuant to the terms of the ASJ Trust.

39. On January 22, 2009, Respondent issued ASJ Trust check number 143, in the amount of \$100, made payable to Respondent and deposited into Respondent's personal checking account number ****2405. Respondent issued ASJ Trust check number 143 to himself without the knowledge, authorization or consent of Ms. Staples and for Respondent's own purposes.

40. Between January 23, 2009 and January 21, 2010, the balance in the ASJ Trust bank account was approximately \$32.

41. Pursuant to the terms of the ASJ Trust, Ms. Staples was entitled to an annual accounting and distributions of principal and interest.

42. On March 12, 2008, August 15, 2008, September 5, 2008, November 4, 2008, November 10, 2008 and November 18, 2008, Ms. Staples sent emails to Respondent requesting the 2006 and 2007 accountings and distributions for the ASJ Trust. Respondent received each of the above-listed emails from Ms. Staples but did not respond to any of them.

43. On September 20, 2008, September 24, 2008, October 18, 2008 and December 2008, Ms. Staples called Respondent and requested the 2006 and 2007 accountings and distributions for the ASJ Trust. Respondent received each of the above-listed calls from Ms. Staples but did not respond to any of them.

44. On December 24, 2008, Respondent provided Ms. Staples with her 2006 and 2007 accounting and distribution for the ASJ Trust. This was the last time that Respondent communicated with Ms. Staples or her representatives.

45. On September 16, 2009, October 15, 2009 and November 17, 2009, Ms. Staples sent emails to Respondent requesting the 2008 and 2009 accountings and distributions for the ASJ Trust. Respondent received each of the above-listed emails from Ms. Staples but did not respond to any of them.

46. On September 30, 2009, Ms. Staples sent a letter to Respondent requesting the 2008 and 2009 accountings and distributions for the ASJ Trust. Respondent received the September 30, 2009 letter from Ms. Staples but did not respond.

47. On October 20, 2009, November 2, 2009 and November 17, 2009, Ms. Staples called Respondent and requested the 2008 and 2009 accountings and distributions for the ASJ Trust. Respondent received each of the above-listed calls from Ms. Staples but did not respond to any of them.

48. On December 7, 2009, Ms. Staples hired new counsel to act as trustee of the ASJ Trust and to remove Respondent as trustee of the ASJ Trust.

49. On January 21, 2010, pursuant to the terms of the ASJ Trust, Ms. Staples removed Respondent due to his failure to perform his duties as trustee.

50. Following his termination on January 21, 2010, Respondent failed to provide Ms. Staples with an accounting and failed to turn over all documentation of the ASJ Trust assets in Respondent's possession.

51. At the time of Respondent's termination on January 21, 2010, the ASJ Trust bank account had a \$0 balance.

52. Ms. Staples' new attorney and then a mediator sent several requests to Respondent to turn over the ASJ Trust bank account numbers where the ASJ Trust funds could be found. Respondent received each of these requests but failed to respond to any of them.

53. In March 2010, Ms. Staples' new attorney located the ASJ Trust bank account and obtained bank statements dating back to 2005. It was at this point that Ms. Staples learned for the first time that Respondent had issued 18 ASJ Trust checks and made one \$450 withdrawal totaling \$274,275 from the ASJ Trust bank account between March 16, 2005 and January 22, 2009.

54. Further, the bank statements revealed that the accountings that Respondent had previously sent to Ms. Staples were fabricated. For example, in the accounting he provided to Ms. Staples, Respondent reported that check no. 125 was written for \$300 for CPA services. According to the bank statements for the ASJ Trust, however, check no. 125 was written for \$10,000 to Respondent and deposited in Respondent's personal account. Respondent had fabricated the records he sent to Ms. Staples.

55. On January 23, 2015, Respondent paid Ms. Staples \$98,812.69 as restitution as part of a plea agreement for a lesser charge and no jail time in a Maricopa County Arizona criminal case relating to Respondent's theft of funds from the ASJ Trust. The \$98,812.69 restitution amount represented a full recovery of all losses sustained by Ms. Staples in this matter. The \$98,812.69 restitution amount included reimbursement for Ms. Staples legal fees paid out of her pocket in pursuit of the stolen funds from ASJ trust as well as recovery of the \$92,587.69 payout due to Ms. Staples in 2010 pursuant to the terms of the ASJ Trust.

CONCLUSIONS OF LAW:

56. By not responding promptly to four telephonic and six written reasonable status inquiries made by Ms. Staples between March 12, 2008 and December 24, 2008 and by not responding promptly to three telephonic and four written reasonable status inquiries made Ms. Staples between September 16, 2009 and December 7, 2009, all of which Respondent received in a matter in which he had agreed to provide legal services and at the time while he was acting as the trustee for the ASJ Trust, Respondent

failed to respond promptly to reasonable status inquiries made by a client in willful violation of Business and Professions Code, section 6068(m).

57. By issuing himself 18 ASJ Trust checks and one \$450 withdrawal from the ASJ Trust bank account totaling \$274,275, between March 16, 2005 and January 22, 2009, while acting as trustee for the ASJ Trust and without the knowledge, authorization or consent of Ms. Staples, Respondent dishonestly misappropriated \$274,275 for his own purposes from the ASJ Trust's bank account that his client Ms. Staples was entitled to receive, thereby committing acts involving moral turpitude in willful violation of Business and Professions Code, section 6106.

58. On December 24, 2008, while acting as trustee for the ASJ Trust, Respondent provided Ms. Staples a written accounting for the ASJ Trust which included false and misleading statements including that: 1) the ASJ Trust check no. 125 was paid out for third-party CPA services when in truth and fact, check no. 125 was made payable to Respondent; 2) the amount of ASJ Trust check no. 125 was \$300, when in truth and fact, the check amount was \$10,000 and was deposited into Respondent's personal account; and 3) omitting any reference to the 18 ASJ Trust checks and one \$450 withdrawal from the ASJ Trust bank account totaling \$274,275 to himself, when Respondent knew the accounting was false and misleading, Respondent thereby committed acts involving dishonesty in willful violation of Business and Professions Code, section 6106.

59. By not providing an appropriate accounting as requested by his client Ms. Staples for the 2008 and 2009 accountings and distributions for the ASJ Trust and by not providing an appropriate accounting of all ASJ Trust bank account funds at the time of Respondent's termination as Trustee on January 21, 2010, Respondent failed, upon request and at the termination of employment, to render appropriate account to a client regarding funds coming into his possession in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct [Standard 1.5(b)]: Respondent's misconduct herein involves four counts of misconduct in a single client matter including failures to communicate, a failure to account, and acts of moral turpitude including misrepresentation and the misappropriation of \$274,275. Further, some of the misconduct involved multiple events, such as writing multiple unauthorized checks.

Client Harm [Standard 1.5(f)]: Respondent's misconduct caused significant financial harm to the client in this matter, Ms. Staples, including the deprivation of the use of the funds and the incurring of significant legal fees and expenses for litigation against Respondent to hold him responsible for the \$274,275 misappropriation of the trust funds.

Indifference [Standard 1.5(g)]: Prior to agreeing to enter into a settlement in this matter, Respondent's indifference was demonstrated by his unwillingness to concede that his misconduct in this matter was unethical and wrongful. Further, Respondent's misappropriation of \$274,275 from his clients in this matter exhibited a disturbing lack of insight into the misconduct as well as posed a credible risk that he will repeat his misdeeds. In addition, Respondent's eventual payment of restitution only came after he was under criminal prosecution and facing a long-term imprisonment. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380; See also *Weber v. State Bar* (1988) 47 Cal.3d 492, 506 [an attorney's failure to acknowledge the wrongfulness of his or her acts is an aggravating factor]; *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [the law does not require false penitence, but it does require that the respondent accept responsibility for his

acts and come to grips with his culpability; *Morse v. State Bar* (1995) 11 Cal.4th 184, 209 [although an attorney accused of misconduct has the right to vigorously defend himself, when the attorney's conduct reflects a seeming unwillingness even to consider the appropriateness of his statutory interpretation or to acknowledge at some point that his position was meritless or even wrong to some extent, the attorney has move beyond tenacity to truculence; *Blair v. State Bar* (1989) 49 Cal.3d 762, 781-782 ["His assertion no discipline should be imposed shows that he does not recognize his problems and that he may not correct them].)

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Respondent had been in practice for 15 years without a prior record when the first misconduct in this matter occurred. The misconduct in this matter is very serious and involved, among other violations, misrepresentations of material fact and the misappropriation of \$274,275. Consequently, Respondent's the significant period of time without discipline is entitled to little to no mitigation credit. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Pretrial Stipulation: Respondent has agreed to enter into this pre-trial stipulation to fully resolve this matter without the necessity of a trial, thereby saving the State Bar time and 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).)

Here, Respondent committed four counts of professional misconduct in a single client matter. Standards 1.7(b) and (c) require that where a Respondent has committed two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

In this matter, both standards 2.1(a) and 2.7 are applicable. However, since the gravamen of Respondent's misconduct is misappropriation, the standard most applicable to Respondent's misconduct is found in Standard 2.1(a). However, the same disciplinary outcome – disbarment – is still appropriate under standard 2.7.

Standard 2.1(a) provides that [d]isbarment 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. Neither exception applies here.

Respondent dishonestly misappropriated \$274,275 from the ASJ Trust and ultimately from the sole beneficiary of the ASJ Trust Jerrae Staples by issuing and cashing 18 ASJ Trust checks and withdrawing \$450 from the ASJ Trust bank account for his own purposes and without the knowledge, authorization or consent of Ms. Staples. Clearly, Respondent's misappropriation of \$274,275 was not insignificantly small.

Misappropriation of client funds is a grievous breach of an attorney's ethical responsibilities, and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. (See *Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511.)

There are two mitigating circumstances in this matter, namely, no prior record of discipline and cooperation. However, as discussed above, Respondent 15 years of no prior record of discipline is entitled to little to no weight because the misconduct herein is very serious. Nevertheless, Respondent's willingness to enter into a complete factual stipulation, conclusions of law and discipline of disbarment is entitled to mitigation. On the other hand, Respondent's misconduct herein is also aggravated by three aggravating circumstances including multiple acts of misconduct, significant financial harm to client, and indifference. On balance, Respondent's mitigating circumstances are not sufficient to be deemed "most compelling mitigating circumstances."

"As the term is used in attorney discipline cases, 'willful misappropriation' covers a broad range of conduct varying significantly in the degree of culpability. An attorney who deliberately takes client funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception." (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38.)

Here, Respondent ignored Ms. Staples's requests for financial information and would deposit his own funds into the ASJ Trust bank account to increase the balance enough to cover any distributions to Ms. Staples, all of which had the effect of forestalling Ms. Staples's discovery of Respondent's misappropriations until many years later. Further, Respondent also failed to account to Ms. Staples. Thus, the combination of intentional misappropriation and dishonesty that delayed his clients' discovery

of Respondent's misappropriation in this matter strongly supports the conclusion that the application of Standard 2.1(a) in this matter results in Respondent's disbarment.

Although the Review Department considered former misappropriation standard 2.2(a) "a guideline rather than...an inflexible rule..." (*Lipson v. State* (1991) 53 Cal.3d 1010, 1022), "[m]isappropriation of client trust funds has long been viewed as a particularly serious ethical violation" (*Kelly v. State Bar* (1989) 45 Cal.3d 649, 656), and it generally warrants disbarment in the absence of clearly mitigating circumstances. (*Ibid.*) As discussed above, Respondent's mitigation evidence is not compelling and does not predominate over his more serious aggravation. Thus, a departure from Standard 2.1(a) is not warranted and disbarment is necessary in order to protect the public, the courts and the legal profession.

Therefore, applying Standard 2.1(a) with due consideration of Standards 1.7(b) and (c) and the predominance of aggravating factors in this matter, the appropriate disposition herein would disbarment including compliance with rule 9.20, California Rules of Court. Moreover, this level of discipline best serves the purposes of discipline as defined in Standard 1.1.

This recommendation is supported by comparable discipline cases involving misappropriation or conversion of significant sums. Time and time again the Supreme Court and the Review Department have imposed disbarment on attorneys who, in violation of standard 2.2(a), have wilfully misappropriated entrusted funds. In *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, an attorney with over 11 years of practice and no prior record of discipline was disbarred for misappropriating approximately \$29,000 over an eight month period. In *Chang v. State Bar* (1989) 49 Cal.3d 114, an attorney misappropriated almost \$7,900 and was disbarred despite the fact that he had no prior record of discipline. In *Kennedy v. State Bar* (1989) 48 Cal.3d 610 an attorney was disbarred for a misappropriation in excess of \$10,000 from multiple clients and failure to return files with no prior misconduct in eight years.

DISMISSALS.

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
14-O-00840	ONE	Business and Professions Code section 6106
14-O-00840	TWO	Business and Professions Code section 6106
14-O-00840	THREE	Rules of Professional Conduct, rule 4-100(B)(3)

COSTS OF DISCIPLINARY PROCEEDINGS.

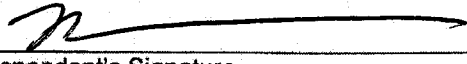
Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of May 7, 2015, the prosecution costs in this matter are \$3,584.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

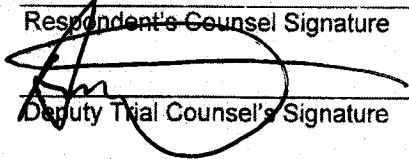
(Do not write above this line.)

In the Matter of: WILLIAM JOHN HOWARD	Case number(s): 14-O-00840
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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.

5/11/2015  William John Howard
Date Respondent's Signature Print Name

5/14/2015  Ashod Mooradian
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of: WILLIAM JOHN HOWARD	Case Number(s): 14-O-00840
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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 WILLIAM JOHN HOWARD 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 June 8, 2015 Cat McElroy
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 San Francisco, On June 8, 2015, 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 San Francisco, California, addressed as follows:

WILLIAM J. HOWARD
PO BOX 47546
PHOENIX, AZ 85068

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

Ashod Mooradian, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 8, 2015.


Laurretta Cramer
Case Administrator
State Bar Court