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<b>State Bar Court of California</b> Hearing Department <b>PUBLIC MATTER</b> Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar  <b>Anand Kumar</b> Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1714  Bar # 261592	Case Number(s): <b>14-O-00887 (INV)</b> <b>14-O-03908</b>	For Court use only  <div style="text-align: center;"> <b>FILED</b>                      JUN 24 2015                      STATE BAR COURT                      CLERK'S OFFICE                      LOS ANGELES                 </div>
Counsel For Respondent  <b>Arthur L. Margolis</b> 2000 Riverside Drive Los Angeles, CA 90039 (323) 953-8996  Bar # 57703	Submitted to: <b>Assigned Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: <b>HAKOP A. KESHISHYAN</b>  Bar # 265848  A Member of the State Bar of California (Respondent)		

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

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 1, 2009**.
- (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 entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **15** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



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- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **two (2) billing cycles immediately following the effective date of the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - Costs are entirely waived.

**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.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

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- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See stipulation, at page 12.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (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. **See stipulation, at page 12.**
- (5)  **Restitution:** Respondent paid \$ **\$3,438.75** on **July 3, 2014** in restitution to **a medical lienholder on behalf of his clients** without the threat or force of disciplinary, civil or criminal proceedings. **See stipulation, at page 12.**
- (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 convincing proof of subsequent rehabilitation.

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

**Additional mitigating circumstances:**

**Prefiling stipulation, see stipulation, at page 12.**

**D. Discipline:**

(1)  **Stayed Suspension:**

(a)  Respondent must be suspended from the practice of law for a period of **two (2) years**.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.

ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii.  and until Respondent does the following:

(b)  The above-referenced suspension is stayed.

(2)  **Probation:**

Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3)  **Actual Suspension:**

(a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **six (6) months**.

i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct

ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii.  and until Respondent does the following:

**E. Additional Conditions of Probation:**

(1)  If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

(2)  During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3)  Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

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- (4)  Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5)  Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6)  Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7)  Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8)  Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: .
- (9)  Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10)  The following conditions are attached hereto and incorporated:
- |   |   |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions         | <input checked="" type="checkbox"/> Financial Conditions  |

#### F. Other Conditions Negotiated by the Parties:

- (1)  **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason: .

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- (2)  **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.
- (3)  **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she 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 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4)  **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5)  **Other Conditions:**

**As part of the instant discipline, Respondent will be required to provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School, and passage of the test given at the end of that session. If Respondent attends Ethics School and passes the test at the end of that session prior to the effective date of discipline in this matter, Respondent will receive credit for completion of Ethics School upon his provision to the Office of Probation of satisfactory proof of attendance of the course and passage of the test given at the completion of the course.**

**As part of the instant discipline, within one (1) year of the effective date of the discipline herein, Respondent will be required to provide to the Office of Probation satisfactory proof of attendance at a session of State Bar Client Trust Accounting School and passage of the test given at the end of that session. If Respondent attends Client Trust Accounting School and passes the test at the end of that session prior to the effective date of discipline in this matter, Respondent will receive credit for completion of Client Trust Accounting School upon his provision to the Office of Probation of satisfactory proof of attendance of the course and passage of the test given at the completion of the course.**

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In the Matter of: <b>HAKOP A. KESHISHYAN</b>	Case Number(s): <b>14-O-00887, 14-O-03908</b>
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### Financial Conditions

#### a. Restitution

- Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

#### b. Installment Restitution Payments

- Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

#### c. Client Funds Certificate

1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

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- b. Respondent has kept and maintained the following:
- i. A written ledger for each client on whose behalf funds are held that sets forth:
    - 1. the name of such client;
    - 2. the date, amount and source of all funds received on behalf of such client;
    - 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
    - 4. the current balance for such client.
  - ii. a written journal for each client trust fund account that sets forth:
    - 1. the name of such account;
    - 2. the date, amount and client affected by each debit and credit; and,
    - 3. the current balance in such account.
  - iii. all bank statements and cancelled checks for each client trust account; and,
  - iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.
- c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:
- i. each item of security and property held;
  - ii. the person on whose behalf the security or property is held;
  - iii. the date of receipt of the security or property;
  - iv. the date of distribution of the security or property; and,
  - v. the person to whom the security or property was distributed.
2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



11. On December 10, 2013, the balance in Respondent's CTA was \$4,984.39 (\$112.39 + \$4,872).

12. On December 11, 2013, prior to any disbursement of funds to Ms. H. or anyone on her behalf, Respondent issued a replacement check (CTA check number 1050) to Mr. P., in the amount of \$2,172.25, which Mr. P. presented for payment and negotiated that same day, and which caused the balance in Respondent's CTA to decrease to \$2,812.14 (\$4,984.39 - \$2,172.25).

13. Respondent was grossly negligently in not knowing that \$435.86 (\$3,248 - \$2,812.14) of Ms. H's funds would be used to pay Mr. P. vis-à-vis CTA check 1050 when it was presented for payment.

14. In May 2014, upon discovering that he had not deposited the \$5,200 settlement check on behalf of Mr. P., Respondent immediately had another check issued by the insurance company, and deposited the new check in his CTA.

15. As a result of Respondent's failure to promptly deposit Mr. P's settlement funds in his CTA and his subsequent issuance of CTA check number 1050, on December 11, 2013, Respondent failed to maintain and grossly negligent misappropriated \$435.86 of Ms. H's funds, which were used to pay Mr. P.

#### CONCLUSIONS OF LAW:

16. By issuing CTA check number 1047 drawn upon his CTA when he was grossly negligent in not ensuring that there were insufficient funds to pay it, Respondent committed an act involving moral turpitude, in willful violation of Business and Professions Code section 6106.

17. By failing to maintain \$435.86 on behalf of Ms. H. on December 11, 2013, Respondent failed to maintain funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of Rules of Professional Conduct, rule 4-100(A).

18. By grossly negligently misappropriating \$435.86 of Ms. H's funds on December 11, 2013, Respondent committed an act involving moral turpitude, in willful violation of Business and Professions Code section 6106.

#### Case No. 14-O-03908 (State Bar Investigation)

#### FACTS:

19. On June 24, 2014, Respondent issued 11 checks totaling \$13,261.65 from his CTA, made payable to a medical lienholder ("lienholder"). On June 24, 2014, the balance in Respondent's CTA was \$16,055.86.

20. Between June 26, 2014 and June 30, 2014, the lienholder presented eight of the 11 checks for payment, which were honored and paid by the bank.

21. The three remaining checks, CTA check numbers 1114, 1119, and 1122, were client funds earmarked for payment to the lienholder on behalf of three of Respondent's clients. CTA check numbers 1114, 1119, and 1122 totaled \$3,438.75.

22. On June 30, 2014, the balance in Respondent's CTA decreased to \$761.96 prior to the payment of CTA check numbers 1114, 1119, and 1122.

23. On June 30, 2014, the lienholder presented all three checks for payment, which were returned due to insufficient funds in Respondent's CTA.

24. Respondent was grossly negligent in not knowing that there were insufficient funds in his CTA to pay CTA check numbers 1114, 1119, and 1122 when he issued them.

25. Respondent was grossly negligently in not ensuring that there would be sufficient funds in his CTA to pay CTA check numbers 1114, 1119, and 1122 when they would be presented for payment.

26. Respondent failed to maintain and was grossly negligent in misappropriating \$2,676.79 (\$3,438.75 - \$761.96), which belonged to three clients.

27. On June 30, 2014, Respondent received notice of the insufficient funds and immediately attempted to rectify the situation prior to the State Bar's involvement in the matter.

28. On July 1, 2014, Respondent deposited \$3,500 of his own funds into his CTA to restore the grossly negligently misappropriated funds and fulfill the payment of CTA check numbers 1114, 1119 and 1122 to the lienholder.

29. On July 3, 2014, the lienholder presented CTA check numbers 1114, 1119 and 1122 for payment, which were paid in full. By restoring the misappropriated funds to his CTA and making payment to the lienholder by July 3, 2014, Respondent made restitution to the lienholder of his clients.

30. On June 8, 2015, Respondent voluntarily enrolled in State Bar CTA School and Ethics School.

#### CONCLUSIONS OF LAW:

31. By issuing CTA check numbers 1114, 1119, and 1122 drawn upon his CTA when he was grossly negligent in not ensuring that there were insufficient funds to pay them, Respondent committed an act involving moral turpitude, in willful violation of Business and Professions Code section 6106.

32. By failing to maintain \$2,676.79 on behalf of Respondent's three clients between June 24, 2014 and June 30, 2014, Respondent failed to maintain funds received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of Rules of Professional Conduct, rule 4-100(A).

33. By grossly negligently misappropriating \$2,676.79 of three clients' funds earmarked to pay the lienholder on their behalf, Respondent committed an act involving moral turpitude, in willful violation of Business and Professions Code section 6106.

## **AGGRAVATING CIRCUMSTANCES.**

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent committed five violations of the Rules of Professional Conduct.

## **MITIGATING CIRCUMSTANCES.**

**Remorse (Std. 1.6(g)):** By restoring his funds to his CTA within a day of being notified of the lienholder's failed attempt to negotiate CTA check numbers 1114, 1119, 1122, Respondent took prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement. Additionally, at early stages in both State Bar investigations, Respondent admitted to his misconduct further demonstrating his recognition of the wrongdoing.

**Restitution (Std. 1.6(j)):** In case number 14-O-03908, Respondent made restitution to the lienholder on behalf of his clients without the threat or force of administrative, disciplinary, civil or criminal proceedings.

### **Additional Mitigating Circumstances:**

**Prefiling Stipulation:** While many of the facts are easily provable, Respondent has cooperated with the State Bar by entering into the instant stipulation fully resolving the matter at an early stage in the disciplinary process without the necessity of a trial, thereby saving State Bar resources. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

## **AUTHORITIES SUPPORTING DISCIPLINE.**

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

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type

of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent admitted that he committed multiple acts of professional misconduct. 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 here is Standard 2.1(b), which is triggered by Respondent's grossly negligent misappropriation of client funds \$3,112.65 (\$438.86 + \$2,676.79) in violation of Business and Professions Code section 6106.

Standard 2.1(b) provides that disbarment or actual suspension is appropriate for misappropriation of funds involving gross negligence. "An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception." (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38.) Respondent's misappropriation of the clients' funds to pay the lienholder was the result of gross negligence caused by his failure to properly manage and regularly reconcile his CTA. However, Respondent belatedly paid the funds to the lienholder on his three clients' respective behalves within a day of being advised that his CTA had insufficient funds to pay the checks. The total amount of funds misappropriated from all four clients was \$3,112.65. All of the misconduct occurred within a 7-month span between December 2013 and June 2014. Importantly, Respondent's misconduct did not involve dishonesty. Accordingly, discipline on the lower end of the spectrum is appropriate for Respondent's misconduct and disbarment is clearly not warranted. (*Edwards, supra*, 52 Cal.3d at pp. 38-39 [finding disbarment inappropriate discipline for attorney who "engaged in no acts of deceit, made full repayment within three months after the misappropriation and before he was aware of the complaint to the State Bar, ha[d] been candid and cooperative throughout the proceedings, and voluntarily took steps to improve his management of entrusted funds."].) Respondent also enrolled for CTA School and Ethics School voluntarily showing a willingness and ability to conform to his ethical duties.

Taking into consideration Respondent's spontaneous remorse, restitution, and his subsequent corrective action from the time of the misconduct in comparison with the aggravating circumstances present, discipline consisting of a two-year stayed suspension and a two-year probation with conditions, including a six-month actual suspension and completion of State Bar CTA School is appropriate to protect the public, the courts and the legal profession; maintain the highest professional standards; and preserve public confidence in the legal profession.

The recommended level of discipline is supported by relevant case law. In *Brockway v. State Bar* (1991) 53 Cal.3d 51, the Supreme Court imposed discipline consisting of a three-month actual suspension against an attorney for a \$500 grossly negligent misappropriation and a failure to refund client funds, and misconduct in second matter for acquiring adverse interest in client's property. The Court took into consideration Brockway's 13-years of discipline-free practice in California and five in Iowa, and favorable character evidence; in aggravation the Court noted questionable candor and indifference. Here, in comparison to the respondent in *Brockway*, Respondent lacks similar aggravating circumstances, because he has demonstrated remorse and admitted to his misconduct at an early stage in the State Bar investigations, but the amount of funds involved is greater, and Respondent lacks the same mitigation for a lengthy discipline-free practice.

In *Sugarman v. State Bar* (1990) 51 Cal.3d 609, the Supreme Court imposed a one-year actual suspension for an attorney who was found culpable of grossly negligently misappropriating client funds and acquiring an interest adverse to his client without first permitting the client an opportunity to seek independent legal advice in violation of former rule 8-101. There was no clear and convincing evidence of the exact amount of client funds misappropriated, but the Court determined that it was not more than \$15,317. In mitigation, the Court considered Sugarman's personal problems at the time of the misappropriation and his good faith efforts to improve his office procedures. Respondent's misconduct did not involve as much funds as in *Sugarman* and therefore warrants a period of less actual suspension.

In *Sternlieb v. State Bar* (1990) 52 Cal.3d 317, the Supreme Court imposed a 30-day actual suspension for an attorney who was found culpable of grossly negligently misappropriating \$4,066 of her client's funds, failing to maintain proper records and failing to account for client funds. The Court found unreasonable Sternlieb's belief that her use of the trust funds was authorized by the client, but found that the misappropriation was not dishonest. In mitigation, the Court considered the attorney's 13-year discipline-free record of practice, good character and pro bono work, remorse, and implemented new office procedures. The amount of Respondent's misappropriated funds was less than in *Sternlieb*, but he lacks similar mitigation, and therefore his misconduct warrants a longer period of actual suspension.

Accordingly, Respondent's misconduct warrants more serious discipline than in *Brockway* (3-month actual suspension), *Sternlieb* (30-day actual suspension), but less severe discipline than in *Sugarman* (1-year actual suspension). As stated above, Respondent's misconduct lacks deceit and dishonesty, and the recommended discipline is therefore appropriate.

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of June 8, 2015, the prosecution costs in this matter are approximately \$3,947. 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.

#### **EXCLUSION FROM MCLE CREDIT**

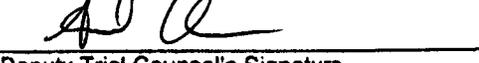
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School and Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: HAKOP A. KESHISHYAN	Case number(s): 14-O-00887, 14-O-03908
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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.

June <u>9</u> , 2015 Date	 Respondent's Signature	Hakop A. Keshishyan Print Name
June <u>10</u> , 2015 Date	 Respondent's Counsel Signature	Arthur L. Margolis Print Name
June <u>10</u> , 2015 Date	 Deputy Trial Counsel's Signature	Anand Kumar Print Name

(Do not write above this line.)

In the Matter of: HAKOP A. KESHISHYAN	Case Number(s): 14-O-00887 and 14-O-03908
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### ACTUAL SUSPENSION ORDER

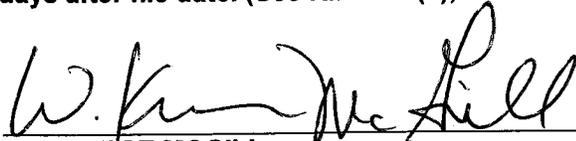
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

See attached Modifications to Stipulation.

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.)**

6/23/15  
Date

  
W. KEARSE MCGILL  
Judge of the State Bar Court

### MODIFICATIONS TO STIPULATION

1. On page 8 of the Stipulation, in the paragraph that appears under the heading, "d. Client Trust Accounting School," the words "Ethics School" should be **deleted** and in their place the words "State Bar" should be **inserted**. And, following the last sentence of that same paragraph, the following words should be **inserted**:

If Respondent attends Client Trust Accounting School and passes the test at the end of that session prior to the effective date of discipline in this matter, Respondent will receive credit for completion of Client Trust Accounting School upon his provision to the Office of Probation of satisfactory proof of attendance of the course and passage of the test given at the completion of the course.

2. On page 10 of the Stipulation, in paragraph 16, the word, "insufficient" should be **deleted** and the word "sufficient" should be **inserted** in its place.

3. On page 11 of the Stipulation, in paragraph 31, the word, "insufficient" should be **deleted** and the word "sufficient" should be **inserted** in its place.

-X-X-X-

**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 June 24, 2015, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

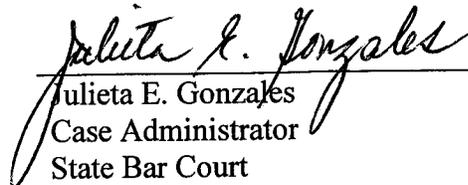
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTHUR LEWIS MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039

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

Anand Kumar, Enforcement, Los Angeles  
Terrie Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 24, 2015.

  
\_\_\_\_\_  
Julieta E. Gonzales  
Case Administrator  
State Bar Court