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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  <b>Eli D. Morgenstern</b> <b>Senior Trial Counsel</b> <b>845 South Figueroa Street</b> <b>Los Angeles, CA 90017-2515</b> <b>213-765-1334</b>  <b>Bar # 190560</b>	<b>Case Number(s):</b> <b>14-O-02010</b>  <b>PUBLIC MATTER</b>	<b>For Court use only</b>  <b>ORIGINAL</b>  <b>FILED</b> <b>FEB 02 2015</b> P.B. <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>Counsel For Respondent</b>  <b>Stephen J. Strauss</b> <b>Law Offices of Stephen Strauss</b> <b>1107 Fair Oaks Avenue, Suite 885</b> <b>South Pasadena, CA 91030</b> <b>323-221-2286</b>  <b>Bar # 129648</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>ACTUAL SUSPENSION</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>In the Matter of:</b> <b>PETER JAN MININSOHN</b>  <b>Bar # 71972</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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 22, 1976**.
- (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 **14** 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):
- ☐ 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: **three years following the effective date of the Supreme Court order.** (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. **See Page 10.**
- (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 page 10.**
- (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.
- (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. **See page 11.**
- (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. **See page 11.**

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

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

**Additional mitigating circumstances:**

**Prefiling Stipulation. See page 10.**

**No Prior Discipline. See page 11.**

**Pro Bono Activities and Community Service. See page 11.**

#### **D. Discipline:**

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **two 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 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 **one year**.

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.

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- (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.
- (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

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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:

- (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:**

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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:
- a. 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";

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.



**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

CASE NUMBER: 14-O-02010

Respondent admits that the following facts are true and that he is culpable of violations of the specified statute and Rules of Professional Conduct.

7. At all relevant times to the misconduct committed herein, respondent did not maintain proper client trust account records and did not conduct any, much less, monthly reconciliations of his client trust account as required by the Rules of Professional Conduct. As the result of his improper trust account administration, respondent grossly negligently misappropriated \$7,376 (\$7,400-\$24.70) that the clients were entitled to receive.

8. On February 28, 2012, Ms. Villegas sent respondent an e-mail informing him that she had been contacted by a collection agency who had been employed by one of her medical providers as a result of respondent's failure to pay the provider's bill. Ms. Villegas requested that respondent pay the bill.

9. In 2012, after he received Ms. Villegas's February 28, 2012 e-mail, respondent contacted the collection agency on a few occasions in order to attempt to resolve the medical provider's bill; however, he was unable to do so.

10. On July 15, 2013, Ms. Villegas sent respondent an e-mail requesting that he contact the collection agency and pay the outstanding bill owed to the medical provider.

11. On November 4, 2014, respondent paid the bills owed to the two remaining medical providers.

#### CONCLUSIONS OF LAW:

12. By withdrawing his contingency fee in increments, respondent failed to withdraw fees at the earliest reasonable time after respondent's interest in the fees became fixed, in willful violation of Rules of Professional Conduct, rule 4-100(A)(2).

13. By failing to maintain a balance of \$7,400 on behalf of the clients in his client trust account, respondent failed to maintain client funds in trust in willful violation of Rules of Professional Conduct, rule 4-100(A).

14. By grossly negligently misappropriating \$7,376 that the clients were entitled to receive, respondent committed an act of moral turpitude in violation of Business and Professions Code, section 6106.

15. By failing to pay two of the medical providers until November 4, 2014, more than four years after he resolved the clients' personal injury claims, respondent repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A).

#### AGGRAVATING CIRCUMSTANCES.

**Harm (Std. 1.5(f)):** As a result of respondent's failure to pay the bill owed to one of her medical providers, the medical provider reported Ms. Villegas to the credit reporting agencies, and Ms. Villegas's credit rating suffered as a result. However, in November 2014, respondent took steps to assist Ms. Villegas with clearing her credit reports. And, by no later than January 15, 2015, Ms. Villegas's credit reports no longer listed the bill formerly owed to the medical provider.

**Multiple Acts of Misconduct (Std. 1.5(b)):** Respondent's multiple rule and statutory violations, three of which involve the administration of his trust account, are an aggravating factor.

## MITIGATING CIRCUMSTANCES.

**Prefiling Stipulation:** By entering into this stipulation, which serves to resolve this matter fully without the necessity of the filing of a notice of disciplinary charges, Respondent has demonstrated that he acknowledges his misconduct and saved the State Bar Court 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].)

**No Prior Discipline:** Respondent has been a member of the State Bar since December 22, 1976, and has no prior record of discipline. At the time that the misconduct herein was committed, respondent had practiced law for over 33 years. Even though respondent's misconduct is serious, respondent's over three decades of discipline-free practice is a significant mitigating circumstance. (See *In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364, 383 [Respondent's 40 years of discipline-free practice considered a "strong mitigating factor" even though attorney committed serious misconduct, including misappropriation of funds].)

**Pro Bono Activities and Community Service:** In 1988, 1990, and 1991, respondent served as a Judge Pro Tem of the South Gate branch of the Los Angeles County Municipal Court. Between 2001 and 2006, respondent served as a Judge Pro Tem for the Los Angeles County Superior Court. In 2008, respondent received a commendation from the Long Beach Bar Association for his service to the legal community. In addition, between 2005 and 2010, respondent performed volunteer work with the Greater Long Beach YMCA. (See *Calvert v. State Bar* (1991) 51 Cal.3d 765, 785 [community service and pro bono activities are mitigating factors that may be entitled to considerable weight].)

**Emotional/Physical Difficulties (Std. 1.6(d)):** With respect to respondent's failure to pay the clients' medical providers, in the early part of 2012, respondent's father began developing dementia. As a result, respondent's father often required respondent's assistance. In December 2012, respondent's father was placed in specialized care, and he died in May 2014. In 2012, respondent's wife was found to have a cancerous growth in her thyroid which required surgery, and thereafter, medication management. These events do not excuse respondent's inattention to the payment of the clients' medical bills, but they provided a distraction which contributed to his neglect.

**Extraordinary Good Character (Std. 1.6(f)):** Respondent has provided the State Bar with letters from a wide range of references, all of whom are aware of the full extent of respondent's misconduct, attesting to respondent's good character and commitment to the legal profession.

## AUTHORITIES SUPPORTING DISCIPLINE.

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

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

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

In this matter, respondent admits to committing four violations of the Rules of Professional Conduct and the State Bar Act. 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(b), which applies to respondent’s grossly negligent misappropriation of the clients’ funds. Standard 2.1(b) provides that disbarment or actual suspension is appropriate for misappropriation involving gross negligence.

Well before the January 1, 2014, revisions to the Standards, the Supreme Court noted a distinction between intentional and grossly negligent misappropriation, concluding that an “attorney who deliberately takes a client’s funds, intending to keep them permanently . . . 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.)

Further, the Supreme Court has observed that, “[A] year of actual suspension, if not less, has been more commonly the discipline imposed in our published decisions involving but a single instance of misappropriation.” (*Lawhorn v. State Bar* (1987) 43 Cal. 3d 1357, 1368.)

Here, there is an absence of evidence that respondent’s misappropriation stemmed from dishonesty, greed or venality. Rather, respondent’s misconduct arose from his improper trust account management, acts constituting gross carelessness and neglect. Respondent removed his earned contingency fee from the client trust account in increments and when he needed the money because he thought it was appropriate to do so. He was unaware that Rules of Procedure, rule 4-100(A)(2) required him to remove the entire contingency fee from the client trust account at the soonest, reasonable time after the fee became fixed. Respondent maintained neither client nor an account ledger, and he failed to maintain bank statements and cancelled checks for his client trust account. He never reconciled his client trust account. As a result, respondent failed to maintain the clients’ funds in trust.

In summary, respondent’s grossly negligent misappropriation is “a serious violation of professional ethics likely to undermine the public confidence in the legal profession. [Citations.]”

(*Giovanazzi v. State Bar* (1981) 28 Cal. 3d 465, 474.) But, because respondent's misconduct stemmed from inexactitude, rather than greed or venality, it does not warrant disbarment.

Further, the mitigating evidence is strong. Respondent's 33 years of discipline-free practice, the evidence of his commitment to the legal community, and his agreement to enter into this stipulation and to accept the terms of probation herein, including that he certify his compliance with Rules of Professional Conduct, rule 4-100, suggest that respondent is willing and able to conform his conduct to the ethical requirements of the profession in the future. It is also important that although respondent's failure to pay Ms. Villegas's medical provider caused her credit to suffer, respondent took steps to assist Ms. Villegas with clearing her credit. And, by January 15, 2015, Ms. Villegas's credit reports no longer listed the formerly outstanding medical bill.

In consideration of respondent's misconduct, the applicable standards, the balancing of all aggravating and mitigating circumstances, the harm caused by the misconduct, and respondent's willingness and ability to conform to ethical responsibilities in the future, a discipline consisting of a two year suspension, stayed, and two years' probation, with conditions including a one-year actual suspension is warranted in order to serve the purposes of attorney discipline.

The case law also supports the recommended discipline. In *Edwards v. State Bar*, *supra*, 52 Cal. 3d 28, the attorney was charged with misappropriating funds of one client, and writing her a check drawn on insufficient funds. The misappropriation in *Edwards* was not proved to have been intentional. Rather the attorney in *Edwards* testified that "he had believed there were sufficient funds in the account to cover the check, but that he had not known the exact balance. He said he 'would kind of keep a mental idea' as to the balance, rather than maintaining a record of the exact balance.... [H]e did not maintain a chart of the client funds in his trust account and did not promptly withdraw funds to which he became entitled as fees or as reimbursement for costs. He would allow his own funds to accumulate in the account and would draw on them as needed, sometimes by means of automated teller machines." (*Id.* at p. 33.) The Supreme Court cited with approval the hearing department's findings that "petitioner's dealings in his trust account, by his own admission, involve multiple acts of inappropriate record keeping and use of funds for personal matters" (*Id.* at p. 34.) Mitigating factors included prompt, full restitution, an 18-year clean record of practice, and voluntary steps by the attorney to improve his management of trust funds. The Supreme Court ordered the attorney actually suspended for one year. (*Id.* at p. 40.)

## **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed him that as of January 15, 2015, the prosecution costs in this matter are \$2,992. The discipline costs are to be paid in equal amounts prior to February 1 for the following three billing cycles following the effective date of the Supreme Court Order herein. 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**


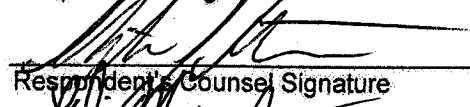

Pursuant to rule 3201, respondent may not receive MCLE credit for completion of State Bar Ethics and Client Trust Accounting Schools. (Rules Proc. of State Bar, rule 3201.)

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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>11/16/15</u> Date	 Respondent's Signature	<u>Peter Jan Mininsohn</u> Print Name
<u>11/16/15</u> Date	 Respondent's Counsel Signature	<u>Stephen J. Strauss</u> Print Name
<u>11/16/15</u> Date	 Deputy Trial Counsel's Signature	<u>Eli D. Morgenstern</u> Print Name

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In the Matter of:  
PETER JAN MININSOHN

Case Number(s):  
14-O-02010

### 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.

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.)**

2-2-15

Date

  
GEORGE E. SCOTT, JUDGE PRO TEM  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 2, 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:

**STEPHEN J. STRAUSS  
LAW OFFICES OF STEPHEN STRAUSS  
1107 FAIR OAKS AVE # 885  
SOUTH PASADENA, CA 91030**

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

**Eli D. Morgenstern, Enforcement, Los Angeles**

**Terrie Goldade, Probation, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 2, 2015.



\_\_\_\_\_  
Paul Barona  
Case Administrator  
State Bar Court