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STATE BAR COURT  
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# PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos.: 14-O-05418
	)	
ALBERT MIKLOS KUN,	)	
	)	DECISION
Member No. 55820,	)	
	)	
A Member of the State Bar.	)	
_____	)	

### Introduction<sup>1</sup>

In this contested disciplinary proceeding, Albert Miklos Kun (Respondent), is charged with four counts of client trust account violations and other misconduct in a single client matter.

This court finds, by clear and convincing evidence<sup>2</sup>, that Respondent is culpable of the charges. In view of Respondent's misconduct and the evidence in aggravation and mitigation, the court recommends, among other things, that Respondent be suspended from the practice of law for two years, that execution of suspension be stayed, that he be placed on probation for two years, subject to conditions, including a one-year actual suspension.

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

<sup>2</sup> Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal. 4th 519, 552.)



### **Significant Procedural History**

The State Bar of California, Office of the Chief Trial Counsel (State Bar), initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on October 2, 2015. Respondent filed a response on November 25, 2015. On January 22, 2016, the parties filed a stipulation as to facts and admission of documents (Stipulation). A supplemental stipulation of facts was filed February 16, 2016.

Trial was held January 22, 2016, and February 16, 2016. Deputy Trial Counsel Erica Dennings represented the State Bar. Respondent represented himself. This matter was submitted for decision on March 7, 2016.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on June 28, 1973, and has been a member of the State Bar of California at all times since that date.

The following findings of fact are based on the testimony and evidence presented at trial and the stipulated facts.

#### **Case No. 14-O-05418 - The LeGrande Matter**

##### **Facts**

During April 2014, Dana LeGrande consulted with Respondent regarding her father's healthcare cost issues. Although Ms. LeGrande decided not to retain Respondent regarding her father's issues, she subsequently hired Respondent on June 6, 2014, to assist her in obtaining a restraining order against a family member. Respondent advised Ms. LeGrande that he would represent her and would charge her \$2,000 in attorney's fees and \$460 for a filing fee.

Respondent did not discuss with Ms. LeGrande whether he would charge a flat fee, an hourly fee

or any other billing arrangement. Nor did he enter into a retainer agreement with her. On or about June 9, 2014, Ms. LeGrande gave Respondent a check in the amount of \$2,460.

Due to Respondent's failure to communicate with Ms. LeGrande for about a month after receipt of her retainer fee, Ms. LeGrande called Respondent on July 7, 2014, and advised Respondent she was terminating his services.<sup>3</sup> Ms. LeGrande also requested that Respondent return any unused portion of the attorney's fees she had already paid him. Based on an August 7, 2014, accounting Respondent provided Ms. LeGrande, Respondent indicated that he provided a total of 9.9 hours of services at \$250 per hour on her case. Most of the work Respondent performed on the restraining order (7.1 hours), was performed *after* Ms. LeGrande terminated Respondent's services on July 7, 2014. The fees incurred after Ms. LeGrande terminated Respondent totaled \$1,775. Respondent's August 7 accounting did not indicate any costs incurred in connection with the work he performed for Ms. LeGrande.

#### **Respondent's Client Trust Accounts (CTAs)**

For many years, Respondent has maintained two client trust accounts: one at Wells Fargo Bank (Wells CTA)<sup>4</sup> and one at Bank of the West (Bank of the West CTA). Respondent deposited Ms. LeGrande's \$2,460 check into his Bank of the West CTA on June 12, 2014.

It was Respondent's practice to pay certain firm operating expenses from his Wells CTA account. Respondent paid other business expenses and personal expenses from his Bank of the

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<sup>3</sup> Ms. LeGrande subsequently forwarded a letter to him dated July 29, 2014, which memorialized her efforts to contact him over the prior two-week period and stated Respondent should return the filing fee and any unexhausted attorney's fees. Ms. LeGrande also indicated that she was not satisfied with the TRO petition Respondent prepared and forwarded to her after she terminated his services.

<sup>4</sup> The Wells CTA was not the subject of any charges asserted by the State Bar against Respondent in the instant proceeding.

West CTA: Between June 2, 2014, and April 30, 2015, Respondent issued at least 34 checks from his Bank of the West CTA to pay personal and business expenses.<sup>5</sup> During this period, Respondent also deposited into the Bank of the West CTA earned attorney's fees paid to him by various clients. By June 30, 2014, Respondent's Bank of the West CTA balance had dipped below the \$460 he was required to maintain for Ms. LeGrande's purported costs. By the end of the day on July 7, 2014, Respondent's Bank of the West CTA balance had dropped to \$9.01 and Respondent had neither incurred costs nor earned more than \$950 in attorney's fees in connection with Ms. LeGrande's matter.

### **Conclusions**

#### ***Count One - (Rule 4-100(A) [Failure To Maintain Client Funds in Trust Account])***

Rule 4-100(A) requires an attorney to deposit and maintain in trust "[a]ll funds received or held for the benefit of clients . . . ." Respondent failed to maintain Ms. LeGrande's funds in trust, in willful violation of Rule 4-100(A). Respondent was required to maintain at least \$1,775 in his CTA on Ms. LeGrande's behalf after she terminated Respondent's services on July 7, 2014. However, the court assigns no weight to this charge since, as discussed below, the same facts support the section 6106 violation in Count 2. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127.)

#### ***Count Two - (Section 6106 [Moral Turpitude – Misappropriation])***

The State Bar charged Respondent with violating section 6106 by dishonestly or with gross negligence, misappropriating for his own purposes, \$450.99 to which Ms. LeGrande was

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<sup>5</sup> Some of the personal and business expenses paid by Respondent from his Bank of the West CTA during that period included his car insurance, car note, office phone, fax and computer, and various personal healthcare related expenses.

entitled. The State Bar charges that Respondent misappropriated these funds, in violation of Business and Professions Code section 6106, between June 12, 2014, and July 7, 2014.

By allowing the balance in his Bank of the West CTA to dip down to \$9.01 by July 7, 2014, without using any of the CTA funds for Ms. LeGrande's representation, there is clear and convincing evidence that Respondent misappropriated Ms. LeGrande's entrusted funds by gross negligence, in willful violation of section 6106.

***Count Three - (Rule 4-100(A) [Commingling Personal Funds in Client Trust Account])***  
***Count Four - (Rule 4-100(A) [Commingling Payment of Personal Expenses from CTA])***

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

It is well-settled that using a client trust account for personal expenses constitutes commingling even where there are client funds in the trust account. (*In The Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871, 876.) "The rule absolutely bars use of the trust account for personal purposes, even if client funds are not on deposit. Because [Respondent] used the account while it was . . . denominated a trust account, even if he [did not intend] . . . to use it for trust purposes, rule [4-100(A)] was violated. The rule leaves no room for inquiry into the depositor's intent." (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 23.)

Here, it is undisputed that Respondent deposited earned attorney's fees into the same Bank of the West CTA from which he also paid personal and business expenses. Therefore, by depositing his personal funds into his CTA, and by paying personal and business operating expenses from his Bank of the West CTA from June 2, 2014, through April 30, 2015,

Respondent deposited or commingled funds belonging to Respondent in his Bank of the West CTA in willful violation of rule 4-100(A).

Counts 3 and 4 of the NDC both charge a commingling-related violation of rule 4-100(A). Because the misconduct charged in Count 4 is an element of, and underlies the misconduct charged in Count 3, Count 4 is dismissed with prejudice as duplicative of Count 3. (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 992 [it is appropriate to dismiss duplicative charges where facts alleged in one charge of misconduct are the same or intrinsic to the culpability determination in another].)

#### **Aggravation<sup>6</sup>**

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with regard to aggravating circumstances.

#### **Prior Records of Discipline (Std. 1.5(a).)**

Respondent has two prior discipline records, which is a significant aggravating factor.

*Kun I* (Case No. 01-O-04505 and 01-O-04646)

On September 9, 2002, Respondent stipulated to a public reproof in connection with ten counts of misconduct charged in two client matters. In case number 01-O-04505 (Peel Matter), Respondent failed to: (1) file a trial setting conference memorandum; (2) appear at two hearings set for his client to show cause regarding dismissal; (3) respond to client inquiries; (4) promptly release his client's file; and (5) properly withdraw from employment. In addition, Respondent stipulated to one count of moral turpitude arising in connection with a misrepresentation Respondent made to the court.

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<sup>6</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

With regard to the second client matter (Szlamnik Matter), Respondent stipulated that he disclosed to individuals other than his client, confidential personal information conveyed to him in his capacity as Szlamnik's counsel; sought his client's agreement to withdraw a State Bar disciplinary complaint in exchange for settlement of a fee arbitration dispute; advanced a fact prejudicial to the reputation of his client; and improperly withdrew from employment by effectively abandoning his client.

The only aggravating circumstance was Respondent's multiple acts of wrongdoing and the only mitigating circumstance was Respondent's 29 years of discipline-free practice.

*Kun II* (Case No. 02-O-14481)

On June 10, 2004, the Supreme Court issued an order (S12360) suspending Respondent for one year, stayed, and placing him on probation for one year, subject to conditions, including a 30-day actual suspension. In this second disciplinary matter, Respondent stipulated to culpability for six counts of misconduct in a single client matter. Respondent's misconduct included failure to refund unearned fees of \$1,753; failure to inform his client of significant developments; two counts of moral turpitude involving misrepresentations made to his client and to the court; and failing to perform with competence by not filing court mandated documents. Respondent's prior record, client harm and multiple acts of wrongdoing were aggravating factors. Respondent presented no mitigating factors.

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

Respondent demonstrated indifference toward rectification of or atonement for the consequences of his misconduct. "The law does not require false penitence. [Citation.] But it does require that the Respondent accept responsibility for his acts and come to grips with his

culpability. [Citation.]” (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.)

Respondent has shown no recognition of his misconduct. He contends that he provided services worth the full value of the amount paid by Ms. LeGrande. Moreover, Respondent contends that the amount of misappropriated funds is nominal and for that reason, the charges against him should be dismissed. Significant weight is assigned to this factor because Respondent’s lack of insight makes him an ongoing danger to the public and legal profession. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [lack of insight causes concern attorney will repeat misconduct].)

**Uncharged Misconduct (Std. 1.5(h).) - Failure to Refund Unearned Fees**

Rule 3-700(D)(2) of the California Rules of Professional Conduct, requires any attorney whose employment has been terminated to refund promptly any part of a fee paid in advance that has not been earned. According to Respondent’s August 7, 2014, accounting, he had only performed 2.8 hours of work on Ms. LeGrande’s matter as of the date of she terminated his services. After his services were terminated, Respondent performed 7.1 hours of work on a petition. At \$250 per hour, Respondent should have refunded Ms. LeGrande advanced unearned attorney’s fees of at least \$1,775.

Although the State Bar did not charge Respondent with violating rule 3-700(D)(2), Respondent’s failure to refund his former client the advanced unearned attorney’s fees she paid is an aggravating factor.

**Mitigation**

It is Respondent’s burden to prove mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating circumstances.

**Candor/Cooperation to Victims/State Bar (Std. 1.6(e).)**

Respondent entered into two stipulations of facts that expedited the trial, but most of the admissions could have been easily proven. Therefore, Respondent is afforded limited weight in mitigation for his cooperation. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

**Emotional Difficulties or Physical Disabilities (Std. 1.6(d).)**

Respondent points to his wife's dementia and his hearing disability as mitigating factors. Respondent did not, however, offer any expert testimony to establish these conditions or the impact that either condition had on his conduct during the period of charged misconduct.<sup>7</sup> (See std. 1.6(d); (*In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, 136.)

**Good Character (Std. 1.6(f).)**

Respondent presented character testimony from two attorneys. Although each attorney attested that Respondent is an ethical, honest and hardworking attorney, their testimony does not establish any mitigation credit for good character because two witnesses do not constitute "a wide range of references in the legal and general communities." (See std. 1.6(f); *In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 290 [no mitigation credit is afforded for testimony from only two character witnesses].)

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<sup>7</sup> During the proceeding, the court observed Respondent's hearing challenges and finds Respondent's testimony regarding his hearing disability to be credible but Respondent failed to demonstrate any causal connection between his disability and his misconduct. In addition, Respondent failed to provide any evidence regarding his wife's dementia now, or at the time of the charged misconduct.

### Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

In this case, the standards provide sanctions ranging from a three month actual suspension to disbarment, depending upon the gravity of the offenses and the harm to the victim. Standards 1.7, 1.8(b), 2.1(b) and 2.2(a), apply in this matter.<sup>8</sup>

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<sup>8</sup> Standard 1.7(a) provides that, when a member commits two or more acts of misconduct and the standards specify different sanctions for each act, the most severe sanction must be imposed. However, standard 1.7(b) provides that if aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities in the future. Standard 2.2(a) provides that an actual suspension of three months is appropriate for commingling or failing to promptly pay out entrusted funds.

Citing to the standards, the State Bar requested that Respondent be suspended for three years, stayed, three years probation with conditions including a two-year actual suspension and until he provides proof of rehabilitation, attends and passes State Bar Client Trust Accounting School, Ethics School and pays restitution of \$2,460 to Ms. LeGrande. Respondent, on the other hand, argued that a dismissal is appropriate.

The most relevant standards are standards 1.8(b) and 2.1(b). Std. 1.8(b) provides in pertinent part, that unless the most compelling mitigating circumstances clearly predominate “or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct,” disbarment is appropriate where: (1) actual suspension was ordered as a prior discipline; (2) the prior disciplines, coupled with the current matter, demonstrate a pattern of misconduct; or (3) the prior discipline together with the current misconduct “demonstrate the member’s unwillingness or inability to conform to ethical responsibilities.”

In the second of Respondent’s two prior disciplines, he was actually suspended, but the actual suspension was 30 days and, although his priors and current disciplinary proceedings do not demonstrate a pattern, they do demonstrate Respondent’s unwillingness or inability to conform to his ethical responsibilities. However, disbarment is not mandatory in every case of two or more prior disciplines, even when the criteria of standard 1.8(b) is met and no exception applies. (See, e.g. *Conroy v. State Bar* (1991) 53 Cal.3d 495 [one-year suspension; analysis under former std. 1.7(b)]; *Blair v. State Bar* (1989) 49 Cal.3d 762 [two-year suspension; analysis under former std. 1.7(b)].) Instead, the standard is applied “with an eye to the nature and extent of the prior record. [Citations.]” (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 217.)

Both of Respondent's priors involve serious misconduct. (See *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1147 [honesty is "a fundamental rule of ethics. . . without which the profession is worse than valueless in the place it holds in the administration of justice].) However, ten years have passed since Respondent's last prior discipline and while his misconduct is serious, based on the timing of his last misconduct, disbarment is not justified.

Respondent is not an attorney who has engaged in repeated acts of misconduct over lengthy periods of time – his misconduct has occurred during three distinct periods and was not prolonged. (Cf. *Gary v. State Bar* (1988) 44 Cal.3d 820 [attorney with three priors disbarred where he was culpable of misconduct occurring in 10 of his first 13 years of practice]; *Morgan v. State Bar* (1990) 51 Cal.3d 598 [Supreme Court disbarred attorney with four priors where during 31 years of practice, attorney was under suspension for a total of two years and on probation for eleven].) Moreover, Respondent does not have a history of failing to participate in State Bar Court proceedings or a poor probation performance. (See *Barnum v. State Bar* (1990) 52 Cal.3d 104 [attorney with three priors demonstrated an inability to comply with probation conditions and had defaults entered in two disciplinary proceedings].) The court concludes that the nature and extent of Respondent's prior disciplines do not justify disbarment. (*In the Matter of Buckley* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 201, 205, fn. 2 [even on third discipline, disbarment not proper if manifestly disproportionate to cumulative misconduct].)

In determining that disbarment is not warranted, the court is guided by *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615. *Koehler* involved an attorney with a prior record of discipline, who was actually suspended for six months with a three-year stayed suspension and a five-year probation for misusing his trust account as a personal account, failing to refund unearned costs and failing to perform legal services competently. He also had a prior

record of discipline (a private reproof), which was considered an aggravating circumstance, notwithstanding its imposition seven years prior to his most recent misconduct.

The court also considered *In the Matter of Doran, supra*, 3 Cal. State Bar Ct. Rptr. 871. The *Doran* respondent was actually suspended for six months with an 18-month stayed suspension and a three-year probation. He was culpable of using his two client trust accounts for personal business affairs for almost three years, issuing 28 NSF checks, and of abandoning two clients. The Review Department noted that were the trust account violations the only matters before the court, it would have recommended a 90-day actual suspension.

Like *Doran* and *Koehler*, Respondent's misconduct involved misusing his Bank of the West CTA as a personal account. Respondent's violations of rule 4-100(A) were repeated, showing his lack of understanding of the rule or his unwillingness to comply with its dictates. (*In the Matter of Koehler, supra*, 1 Cal. State Bar Ct. Rptr. 615, 628.) However, here, unlike *Doran* and *Koehler*, Respondent misappropriated client funds and lacks remorse and/or insight into his wrongdoing.

Although a disbarment recommendation is not warranted, Respondent's misconduct calls for a lengthy period of suspension. First, Respondent has misappropriated entrusted client funds.<sup>9</sup> Second, it is particularly disconcerting that Respondent lacks insight into his misconduct. Apparently, he fails to comprehend his ethical obligations to his clients and his responsibilities regarding his client trust account.

The Supreme Court has generally imposed one to two years of actual suspension for grossly negligent misappropriation even where the attorney has committed other misconduct.

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<sup>9</sup> Standard 2.1(b) provides "[a]ctual suspension is the presumed sanction for misappropriation involving gross negligence."

(See, e.g., *McKnight v. State Bar* (1991) 53 Cal.3d 1025 [one-year suspension for misappropriation by gross negligence from one client for withdrawing \$17,165 in client funds without authority; aggravated by failure to pay restitution and mitigated by some good character, aberrational misconduct, and manic-depressive episode]; *Sugarman v. State Bar* (1990) 51 Cal.3d 609 [one-year suspension for \$15,317 misappropriation by gross negligence from one client and improper business transaction with another; mitigated by family problems and good faith efforts to improve office procedures]; *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357 [two-year suspension for negligent misappropriation of \$1,355.75 combined with misrepresentation to client but mitigated by marital problems and restitution paid after client threatened to file complaint with State Bar].) While the attorneys in *Sugarman* and *McKnight* had more mitigation than Respondent, Respondent misappropriated far less of his client's funds. Additionally, Respondent's misappropriation was not surrounded by misrepresentations to his client as in *Lawhorn*.

To determine the appropriate level of discipline, the court also considers *Hipolito v. State Bar* (1989) 48 Cal.3d 621. In *Hipolito*, the attorney misappropriated \$2,000 from one client, and abandoned a second client. The Supreme Court imposed only the minimum level of actual suspension called for by the standards, even though the amount misappropriated was not "insignificantly small." In ordering the attorney suspended for one year, the court noted: "This conclusion is consistent with our prior cases, in which only the most serious instances of repeated misconduct and multiple instances or misappropriation have warranted actual suspension, much less disbarment. [Citations.] 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.” (*Hipolito v. State Bar, supra*, 48 Cal.3d at p. 628, citing *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367-1368.)

In recommending discipline, the “paramount concern is protection of the public, the courts and the integrity of the legal profession.” (*Snyder v. State Bar* (1990) 49 Cal.3d 1302.) In view of Respondent’s misconduct, the case law, the aggravating and mitigating evidence, and the standards, the court concludes that placing Respondent on an actual suspension for one year would be appropriate to protect the public and to preserve public confidence in the profession.

### **Recommendations**

It is recommended that respondent Albert Miklos Kun, State Bar Number 55820, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that Respondent be placed on probation<sup>10</sup> for a period of two years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first year of probation, and Respondent will remain suspended until the following requirements are satisfied:
  - i. He makes restitution to Dana LeGrande in the amount of \$1,775 plus 10 percent interest per year from July 7, 2014 (or reimburse the Client Security Fund, to the extent of any payment from the fund to Dana LeGrande, in accordance with Business and Professions Code section 6140.5) and furnish proof to the State Bar’s Office of Probation in Los Angeles; and
  - ii. If Respondent remains suspended for two years or more as a result of not satisfying the preceding requirement, he must also provide satisfactory proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law before his actual suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

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<sup>10</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation.
3. Within 30 days after 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.
4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including Respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
5. During the probation period, Respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, Respondent must state in each report whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of Respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with Respondent's probation conditions.
7. Within one year after the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and of the State Bar's Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)
8. At the expiration of the probation period, if Respondent has complied with all conditions of probation, Respondent will be relieved of the stayed suspension.

**Multistate Professional Responsibility Exam**

It is recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

**California Rules of Court, Rule 9.20**

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

**Costs**

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

Dated: June 2, 1016



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YVETTE D. ROLAND  
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 June 2, 2016, I deposited a true copy of the following document(s):

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

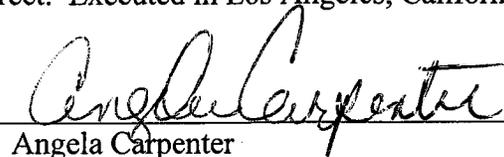
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALBERT MIKLOS KUN  
517 GREEN ST  
SAN FRANCISCO, CA 94133

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

Manuel Jimenez, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 2, 2016.



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Angela Carpenter  
Case Administrator  
State Bar Court