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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Eli D. Morgenstern Senior Trial Counsel State Bar of California 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1334</p> <p>Bar # 190560</p>	<p>Case Number(s): 15-O-10023 WKM 15-O-10190 15-O-10476</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.2em;">FILED</p> <p style="text-align: center;">FEB 22 2016</p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Artak Barsegyan Pansky Markle Ham LLP 1010 Sycamore Ave., Unit 308 So. Pasadena, CA 91030 (213) 626-7300</p> <p>Bar # 279064</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: THEODORE SHIN LEE</p> <p>Bar # 191848</p> <p>A Member of the State Bar of California (Respondent)</p>		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 5, 1997**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **(18)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."

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

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
- (a) State Bar Court case # of prior case **12-O-13746, 12-O-13899, 12-O-15391, 12-O-16440.**
 - (b) Date prior discipline effective **July 5, 2014.**
 - (c) Rules of Professional Conduct/ State Bar Act violations: **Rules 3-110(A), 4-100(A), 4-100(B)(1), 4-100(B)(3); and section 6106.**
 - (d) Degree of prior discipline **Two years suspension, stayed, three years' probation including one year actual suspension.**
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.

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- (7) **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.
- (8) **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. **See stipulation attachment, page 14**
- (9) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See stipulation attachment, page 15.
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution.
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9) **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances: Pre-Trial Stipulation. See stipulation attachment, page 15.

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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: THEODORE SHIN LEE

CASE NUMBERS: 15-O-10023, 15-O-10190, 15-O-10476

FACTS AND CONCLUSIONS OF LAW.

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

Background Facts

On January 16, 2014, the State Bar Court issued its Decision in *In the Matter of Theodore Lee*, Case Nos. 12-O-13746 (12-O-13899; 12-O-15391; 12-O-16440). The Court found respondent culpable of 32 counts of misconduct. The Court recommended a discipline consisting of a two-year suspension, stayed, and three-years' probation, with conditions including a one-year actual suspension; and that respondent submit written Quarterly Reports to the Office of Probation postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. The Court also recommended that respondent comply with California Rules of Court, rule 9.20, 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 order.

On June 5, 2014, the Supreme Court filed an Order (S217310) ordering that respondent comply with the discipline recommended by the State Bar Court in its January 16, 2014 Decision. On July 5, 2014, the Supreme Court's Order became effective.

Case No. 15-O-10023 (Complainant: Brenda Davila)

FACTS:

1. On April 29, 2013, Brenda Davila employed respondent to represent her on a contingency fee basis with respect to her personal injury claims arising out of an automobile accident which occurred on April 28, 2013.
2. On April 7, 2014, respondent settled Ms. Davila's personal injury claim for \$85,000.
3. On April 16, 2014, respondent deposited the \$85,000 settlement check into his client trust account at Wilshire Bank.
4. After deducting his contingency fee, respondent was required to maintain \$56,667 in trust on behalf Ms. Davila.
5. On August 11, 2014, before respondent had disbursed any funds to, or for the benefit of, Ms. Davila, the balance in respondent's client trust account was (-)\$205.55.

6. On August 11, 2014, respondent intentionally misappropriated \$56,667 of Ms. Davila's settlement funds.

7. On August 11, 2014, pursuant to Supreme Court Order S217310 (the "Supreme Court Order"), respondent filed a Rule 9.20 Compliance Declaration with the State Bar Court. In that declaration, respondent declared under penalty of perjury that he had notified all clients of his suspension, in writing, in matters that were pending on the date the Supreme Court Order was filed.

8. When respondent filed the Rule 9.20 Compliance Declaration with the State Bar Court, he knew that Ms. Davila was his client on June 5, 2014, the date the Supreme Court Order was filed. In fact, respondent never notified Ms. Davila of his suspension in writing or in any other manner, and respondent knew that he had never done so.

9. Between July 24, 2014, and February 27, 2015, respondent deposited or commingled funds belonging to respondent into his client trust account at Wilshire Bank, as follows:

<u>DATE OF DEPOSIT</u>	<u>AMT. DEPOSITED</u>	<u>FORM OF DEPOSIT</u>
07/24/14	\$5,000	Cash Deposit
07/28/14	\$2,000	Cash Deposit
07/29/14	\$580	Cash Deposit
07/30/14	\$4,000	Check
08/06/14	\$3,000	Cash Deposit
08/07/14	\$2,500	Cash Deposit
08/07/14	\$1,100	Check
08/08/14	\$2,500	Check
08/12/14	\$800	Cash Deposit
08/13/14	\$1,000	Cash Deposit
08/14/14	\$4,000	Cash Deposit
08/19/14	\$300	Cash Deposit
08/20/14	\$2,250	Cash Deposit
08/25/14	\$6,500	Cash Deposit
08/27/14	\$3,000	Check
09/04/14	\$600	Cash Deposit
09/05/14	\$2,650	Cash Deposit
09/08/14	\$2,400	Cash Deposit
09/08/14	\$60	Check
09/09/14	\$1,400	Cash Deposit
09/10/14	\$1,700	Cash Deposit
09/15/14	\$1,800	Check
09/18/14	\$6,000	Cash Deposit
09/19/14	\$6,000	Cash Deposit
09/23/14	\$7,400	Cash Deposit
09/24/14	\$2,750	Cash Deposit
09/29/14	\$1,300	Cash Deposit
09/29/14	\$1,500	Cash Deposit
09/30/14	\$3,500	Cash Deposit

10/03/14	\$4,000	Cash Deposit
10/03/14	\$5,500	Check
10/07/14	\$100	Cash Deposit
10/09/14	\$2,300	Cash Deposit
10/09/14	\$4,400	Cash Deposit
10/10/14	\$6,300	Cash Deposit
10/10/14	\$3,300	Check
10/14/14	\$3,000	Cash Deposit
10/15/14	\$4,100	Cash Deposit
10/17/14	\$500	Cash Deposit
10/20/14	\$300	Cash Deposit
10/21/14	\$500	Cash Deposit
10/26/14	\$1,200	Check
10/27/14	\$1,600	Cash Deposit
10/27/14	\$5,000	Cash Deposit
10/28/14	\$400	Cash Deposit
10/29/14	\$7,800	Cash Deposit
10/30/14	\$5,900	Cash Deposit
10/31/14	\$1,200	Cash Deposit
11/04/14	\$3,100	Cash Deposit
11/05/14	\$8,300	Cash Deposit
11/06/14	\$5,500	Cash Deposit
11/07/14	\$5,600	Cash Deposit
11/20/14	\$8,200	Cash Deposit
11/20/14	\$3,800	Check
11/24/14	\$5,000	Cash Deposit
12/09/14	\$4,000	Check
12/19/14	\$1,450	Cash Deposit
12/30/14	\$8,500	Cash Deposit
12/31/14	\$5,400	Cash Deposit
12/31/14	\$400	Check
12/31/14	\$1,200	Check
01/02/15	\$2,500	Cash Deposit
01/02/15	\$400	Cash Deposit
01/05/15	\$4,000	Cash Deposit
01/06/15	\$7,800	Cash Deposit
01/07/15	\$5,000	Check
01/08/15	\$3,000	Cash Deposit
01/08/15	\$2,000	Check
01/09/15	\$5,600	Cash Deposit
01/12/15	\$9,500	Cash Deposit
01/13/15	\$9,000	Cash Deposit
01/14/15	\$4,200	Cash Deposit
01/22/15	\$2,400	Cash Deposit
01/23/15	\$4,000	Cash Deposit

01/26/15	\$7,500	Cash Deposit
01/27/15	\$3,900	Cash Deposit
01/28/15	\$3,700	Cash Deposit
01/29/15	\$2,500	Cash Deposit
02/01/15	\$4,000	Check
02/02/15	\$6,100	Cash Deposit
02/02/15	\$11,300	Check
02/03/15	\$8,150	Cash Deposit
02/04/15	\$6,000	Check
02/11/15	\$2,700	Cash Deposit
02/13/15	\$6,000	Cash Deposit
02/17/15	\$6,000	Cash Deposit
02/18/15	\$1,300	Cash Deposit
02/19/15	\$7,300	Cash Deposit
02/20/15	\$8,400	Cash Deposit
02/23/15	\$4,000	Cash Deposit
02/25/15	\$100	Cash Deposit
02/25/15	\$4,300	Cash Deposit
02/26/15	\$5,400	Cash Deposit
02/27/15	\$8,500	Cash Deposit

10. On October 8, 2014, pursuant to the Supreme Court Order, respondent filed his first Quarterly Report with the Office of Probation, which covered the period from July 5, 2014, through September 30, 2014. In that Quarterly Report, respondent declared under oath that during the reporting period, he had complied with the provisions of the State Bar Act, Rules of Professional Conduct, and the conditions of his probation. When respondent filed the Quarterly Report, he knew that he had misappropriated Ms. Davila's funds, commingled funds, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court.

11. On January 14, 2015, pursuant to the Supreme Court Order, respondent filed his second Quarterly Report with the Office of Probation, which covered the period from October 1, 2014, through December 31, 2014. On April 13, 2015, pursuant to the Supreme Court Order, respondent filed his third Quarterly Report with the Office of Probation, which covered the period from January 1, 2015, through March 31, 2015. In each of the Quarterly Reports, respondent declared under oath that during the reporting periods of the respective Quarterly Reports, he had complied with the provisions of the State Bar Act, Rules of Professional Conduct, and the conditions of his probation. When respondent filed the Quarterly Reports, he knew that he had commingled funds.

12. On January 27, 2015, February 26, 2015, March 20, 2015, and April 22, 2015, the State Bar mailed letters to the address listed on respondent's membership record, asking him to respond in writing to allegations of misconduct raised by Ms. Davila's complaint against him. At no time did respondent respond to the letters, or otherwise cooperate in the State Bar's investigation.

13. On February 16, 2016, respondent had a cashier's check issued to Ms. Davila in the amount of \$67,055.95.

CONCLUSIONS OF LAW:

14. By intentionally misappropriating \$56,667 belonging to Ms. Davila, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

15. By commingling funds belonging to respondent in his client trust account at Wilshire Bank, respondent willfully violated Rules of Professional Conduct, rule 4-100(A).

16. By failing to provide the written notice required by California Rules of Court, rule 9.20(a)(1), to all of his clients, specifically Ms. Davila, on the date the Supreme Court Order was filed, respondent violated the Supreme Court Order, in willful violation of Business and Professions Code, section 6103.

17. By knowingly making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court on August 11, 2014, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

18. By failing to comply with the Rules of Professional Conduct and the State Bar Act, including misappropriating Ms. Davila's funds, commingling funds, failing to comply with an order from the Supreme Court, and making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent failed to comply with the conditions of his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

19. By stating under oath in the Quarterly Report that he filed with the Office of Probation on October 8, 2014, that he had complied with the State Bar Act, Rules of Professional Conduct, and the conditions of his probation, when he knew that he had misappropriated Ms. Davila's funds, commingled funds, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

20. By stating under oath in the Quarterly Reports that he filed with the Office of Probation on January 14, 2015, and April 13, 2015, that he had complied with the State Bar Act, Rules of Professional Conduct, and the conditions of his probation, when he knew that he had commingled funds, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

21. By failing to respond to the State Bar's letters, respondent failed to cooperate in a State Bar investigation in willful violation of Business and Professions Code, section 6068(i).

Case No. 15-O-10190 (Complainant: Erasmo Juarez)

FACTS:

22. On November 25, 2013, Erasmo Juarez employed respondent to represent him on a contingency fee basis with respect to his personal injury claims arising out of an automobile versus bicycle accident which occurred on November 17, 2013.

23. On July 3, 2014, respondent settled Mr. Juarez's personal injury claim for \$15,000.

24. On July 31, 2014, respondent deposited the \$15,000 settlement check into his client trust account at Wilshire Bank.

25. After deducting his contingency fee, respondent was required to maintain \$10,000 in trust on behalf Mr. Juarez.

26. On August 11, 2014, before respondent had disbursed any funds to, or for the benefit of, Mr. Juarez, the balance in respondent's client trust account was (-)\$205.55.

27. On August 11, 2014, respondent intentionally misappropriated \$10,000 of Mr. Juarez's settlement funds.

28. On August 11, 2014, pursuant to Supreme Court Order S217310 (the "Supreme Court Order"), respondent filed a Rule 9.20 Compliance Declaration with the State Bar Court. In that declaration, respondent declared under penalty of perjury that he had notified all clients of his suspension in writing in matters that were pending on the date the Supreme Court Order was filed.

29. When respondent filed the Rule 9.20 Compliance Declaration with the State Bar Court, he knew that Mr. Juarez was his client on June 5, 2014, the date the Supreme Court Order was filed. In fact, respondent never notified Mr. Juarez of his suspension in writing or in any other manner, and respondent knew that he had never done so.

30. On October 8, 2014, pursuant to the Supreme Court Order, respondent filed his first Quarterly Report with the Office of Probation, which covered the period from July 5, 2014, through September 30, 2014. In that Quarterly Report, respondent declared under oath that during the reporting period, he had complied with the provisions of the State Bar Act, Rules of Professional Conduct, and the conditions of his probation. When respondent filed the Quarterly Report, he knew that he had misappropriated Mr. Juarez's funds, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court.

31. On January 27, 2015, February 16, 2015, and March 20, 2015, the State Bar mailed letters to the address listed on respondent's membership record, asking him to respond in writing to allegations of misconduct raised by Mr. Juarez's complaint against him. At no time did respondent respond to the letters, or otherwise cooperate in the State Bar's investigation.

32. On February 9, 2016, respondent had a cashier's check issued to Mr. Juarez in the amount of \$11,583.

CONCLUSIONS OF LAW:

33. By intentionally misappropriating \$10,000 belonging to Mr. Juarez, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

34. By failing to provide the written notice required by California Rules of Court, rule 9.20(a)(1), to all of his clients, specifically Mr. Juarez, on the date the Supreme Court Order was filed, respondent violated the Supreme Court Order, in willful violation of Business and Professions Code, section 6103.

35. By knowingly making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court on August 11, 2014, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

36. By failing to comply with the Rules of Professional Conduct and the State Bar Act, including misappropriating Mr. Juarez's funds, failing to comply with an order from the Supreme Court, and making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent failed to comply with the conditions of his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

37. By stating under oath in the Quarterly Report that he filed with the Office of Probation on October 8, 2014, that he had complied with the State Bar Act, Rules of Professional Conduct, and the conditions of his probation, when he knew that he had misappropriated Mr. Juarez's funds, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

38. By failing to respond to the State Bar's letters, respondent failed to cooperate in a State Bar investigation in willful violation of Business and Professions Code, section 6068(i).

Case No. 15-O-10476 (Complainants: Daniel Camacho and Jose Muniz)

FACTS:

39. In 2013, Daniel Camacho and Jose Muniz employed respondent to represent them on a contingency fee basis with respect to their respective personal injury claims arising out of an automobile accident which occurred on September 29, 2013.

40. Messrs. Camacho and Muniz sought treatment from a chiropractor for the injuries that they sustained in connection with the automobile accident.

41. The chiropractor maintained a medical lien against Mr. Camacho's settlement in the amount of \$4,810. The chiropractor maintained a medical lien against Mr. Muniz's settlement in the amount of \$3,980.

42. In June 2014, respondent settled Messrs. Camacho and Muniz's respective personal injury claims for \$15,000 apiece.

43. On July 3, 2014, respondent deposited the following two settlement checks into his client trust account at Wilshire Bank: (i) a check made payable to respondent and Mr. Camacho in the sum of \$15,000; and (ii) a check made payable to respondent and Mr. Muniz in the sum of \$15,000.

44. After subtracting respondent's contingency fee, respondent was required to maintain \$20,000 in his client trust account on behalf of Messrs. Camacho and Muniz and the medical lienholder.

45. On July 17, 2014, an employee of the chiropractor sent a facsimile to respondent's office agreeing to reduce the chiropractor's lien against: (i) Mr. Camacho's settlement to \$1,800; and (ii) Mr. Muniz's settlement to \$1,600. Respondent received the demand. Respondent did not satisfy the chiropractor's lien.

46. On August 11, 2014, before respondent had disbursed any funds to, or on behalf of, Messrs. Camacho and Muniz, the balance in respondent's client trust account was (-)\$205.55.

47. On August 11, 2014, respondent knowingly misappropriated \$20,000 belonging to Messrs. Camacho and Muniz and their medical lienholder.

48. On August 11, 2014, pursuant to Supreme Court Order S217310 (the "Supreme Court Order"), respondent filed a Rule 9.20 Compliance Declaration with the State Bar Court. In that declaration, respondent declared under penalty of perjury that he had notified all clients of his suspension in writing in matters that were pending on the date the Supreme Court Order was filed.

49. When respondent filed the Rule 9.20 Compliance Declaration with the State Bar Court, he knew that Messrs. Camacho and Muniz were his clients on June 5, 2014, the date the Supreme Court Order was filed. In fact, respondent never notified Messrs. Camacho and Muniz of his suspension in writing or in any other manner, and respondent knew that he had never done so.

50. On October 8, 2014, pursuant to the Supreme Court Order, respondent filed his first Quarterly Report with the Office of Probation, which covered the period from July 5, 2014, through September 30, 2014. In that Quarterly Report, respondent declared under oath that during the reporting period, he had complied with the provisions of the State Bar Act, Rules of Professional Conduct, and the conditions of his probation. When respondent filed the Quarterly Report, he knew that he had misappropriated Messrs. Camacho and Muniz's funds, failed to pay funds owed to a medical lienholder, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court.

51. On February 26, 2015, March 20, 2015, and May 11, 2015, the State Bar mailed letters to the address listed on respondent's membership record, asking him to respond in writing to allegations of misconduct raised by Messrs. Camacho and Muniz's complaint against him. At no time did respondent respond to the letters, or otherwise cooperate in the State Bar's investigation.

52. On February 9, 2016, respondent had a cashier's check issued to Mr. Camacho in the amount of \$9,866. On February 9, 2016, respondent had a cashier's check issued to Mr. Muniz in the amount of \$10,066. On February 10, 2016, respondent had two cashier's checks issued to the chiropractor to satisfy the medical liens for Messrs. Muniz and Camacho, in the amount of \$1,600 and \$1,800, respectively.

CONCLUSIONS OF LAW:

53. By intentionally misappropriating \$20,000 belonging to Messrs. Camacho and Muniz and their medical lienholder, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

54. By failing to pay promptly, at the request of the medical lienholder, any portion of the lien that the medical lienholder maintained against Messrs. Camacho and Muniz's settlement funds, respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4).

55. By failing to provide the written notice required by California Rules of Court, rule 9.20(a)(1), to all of his clients, specifically Messrs. Camacho and Muniz, on the date the Supreme Court Order was filed, respondent violated the Supreme Court Order, in willful violation of Business and Professions Code, section 6103.

56. By knowingly making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court on August 11, 2014, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

57. By failing to comply with the Rules of Professional Conduct and the State Bar Act, including misappropriating Messrs. Camacho and Muniz's funds, failing to pay their medical lienholder, failing to comply with an order from the Supreme Court, and making a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent failed to comply with the conditions of his disciplinary probation, in willful violation of Business and Professions Code, section 6068(k).

58. By stating under oath in the Quarterly Report that he filed with the Office of Probation on October 8, 2014, that he had complied with the State Bar Act, Rules of Professional Conduct, and the conditions of his probation, when he knew that he had misappropriated Messrs. Camacho and Muniz's funds, failed to pay their medical lienholder, failed to comply with an order from the Supreme Court, and made a misrepresentation under oath in the Rule 9.20 Compliance Declaration that he filed with the State Bar Court, respondent committed an act of moral turpitude, dishonesty, or corruption in violation of Business and Professions Code, section 6106.

59. By failing to respond to the State Bar's letters, respondent failed to cooperate in a State Bar investigation in willful violation of Business and Professions Code, section 6068(i).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has a prior record of discipline. On June 5, 2014, the Supreme Court filed an order (Order S217310/Case Nos. 12-O-13746 (12-O-13899; 12-O-15391; 12-O-16440)) ordering that respondent be suspended from the practice of law for two years; that execution of the suspension be stayed; and that respondent be placed on three-years' probation, with conditions including a one-year actual suspension. Respondent's misconduct involved, among other things, misappropriating funds from 13 different clients between 2010 and 2012. Respondent also issued 17 checks from his client trust account against insufficient funds between 2011 and 2012.

Harm (Std. 1.5(f)): By delaying approximately 18 months before paying his clients their portion of their respective settlement funds, and by making only a partial payment to Ms. Davila, respondent caused financial harm to his clients. In the instant matters, respondent misappropriated his clients' funds while on disciplinary probation for having committed the same misconduct. Respondent's current misconduct harmed the integrity and reputation of the legal profession and negatively impacted the public's trust.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent's multiple acts of serious misconduct, which includes misappropriating funds from four different clients, disobeying a court order, and making misrepresentations to the State Bar Court and the Office of Probation, is a significant aggravating factor.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation: By entering into this stipulation, which serves to resolve this matter fully without the necessity of a disciplinary trial, 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].) However, the mitigation is tempered by respondent's failure to cooperate in the State Bar's investigations.

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 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's misconduct is found in Standard 2.1(a), which applies to respondent's misappropriation of client funds. Standard 2.1(a) provides that disbarment is the presumed sanction for intentional misappropriation of entrusted funds, unless the

amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate.

Respondent misappropriated a total of approximately \$86,667 from four of his clients, an amount that is not insignificantly small. (See *Chang v. State* (1989) 49 Cal.3d 114, 128 [Supreme Court finding misappropriation of over \$7,000 to be significant].) And, respondent's agreement to enter into this stipulation does not constitute compelling mitigating evidence. (See *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [State Bar Court recommended that the attorney be disbarred for misappropriating \$40,000 from his client despite the attorney's stipulation to the facts and his culpability].)

Further, the aggravating circumstances surrounding respondent's misconduct are significant. Respondent committed the instant misconduct while on probation for prior misconduct consisting of, among other things, the misappropriation of his clients' funds. Respondent's current misconduct, which also involves the misappropriation of his clients' funds, caused financial harm to his clients.

Further still, in addition to misappropriating client funds, respondent violated a Supreme Court order, and committed acts of dishonesty by knowingly making misrepresentations to the State Bar Court and the Office of Probation.

Respondent's multiple acts of serious misconduct warrant disbarment in order to serve the purposes of these proceedings.

The case law also supports disbarment. The California Supreme Court has repeatedly held that the "usual" discipline for willfully misappropriating client funds is disbarment. (*Edwards v. State Bar* (1990) 52 Cal.3d 28; *Howard v. State Bar* (1990) 51 Cal. 3d 215, 221; see also *Kelly v. State Bar* (1988) 45 Cal. 3d 649, 656 [intentional misappropriation generally warrants disbarment]; *Friedman v. State Bar* (1990) 50 Cal.3d 235, 244-245 [disbarment generally is warranted].)

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
15-O-10476	ONE	Rules of Professional Conduct, rule 4-100(A)
15-O-10476	SEVEN	Business and Professions Code, section 6106
15-O-10190	EIGHT	Rules of Professional Conduct, rule 4-100(A)
15-O-10023	SEVENTEEN	Business and Professions Code, section 6106
15-O-10023	EIGHTEEN	Rules of Professional Conduct, rule 4-100(A)

COSTS OF DISCIPLINARY PROCEEDINGS.


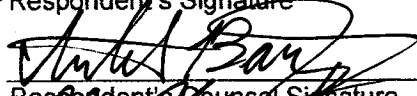
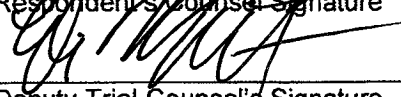
Respondent acknowledges that the Office of Chief Trial Counsel has informed him that as of February 17, 2016, the prosecution costs in this matter are \$7,636. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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In the Matter of: THEODORE SHIN LEE	Case number(s): 15-O-10023, 15-O-10190, 15-O-10476
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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>2/17/16</u> Date	 Respondent's Signature	<u>Theodore Shin Lee</u> Print Name
<u>2-17-16</u> Date	 Respondent's Counsel Signature	<u>Artak Barsegyan</u> Print Name
<u>2-17-16</u> Date	 Deputy Trial Counsel's Signature	<u>Eli D. Morgenstern</u> Print Name

(Do not write above this line.)

In the Matter of: THEODORE SHIN LEE	Case Number(s): 15-O-10023, 15-O-10190, 15-O-10476
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DISBARMENT ORDER

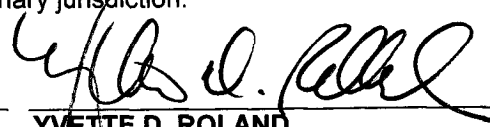
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

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

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

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

February 22, 2016
Date


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 February 22, 2016, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

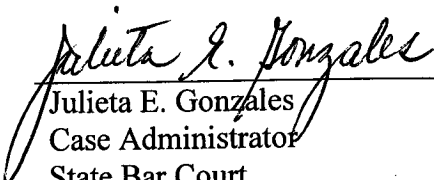
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARTAK BARSEGYAN
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
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

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 22, 2016.



Julieta E. Gonzales
Case Administrator
State Bar Court