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**State Bar Court of California
Hearing Department
San Francisco
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Johnna G. Sack Senior Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357</p> <p>Bar # 270534</p>	<p>Case Number(s): 15-O-15110 -LMA 16-O-12207 16-O-13594 17-O-05053</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center; font-size: 1.2em;">MAY 11 2018</p> <p style="text-align: center; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p>Danny Duane Brace, Jr. 901 H Street #500 Sacramento, CA 95814 (916) 552-6660</p> <p>Bar # 114466</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: DANNY DUANE BRACE, Jr.</p> <p>Bar # 114466</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 3, 1984**.
- (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 (13) 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
 - (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) **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. (See page 10.)
- (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 page 10.)
- (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 page 10.)
- (12) **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) **Restitution:** Respondent failed to make restitution. Respondent failed to make restitution to Claude Owens in the amount of \$101,825.74. (See page 11.)
- (14) **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable. See page 10.
- (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 \$ 14,256.35 on October 31, 2014 in restitution to Kimberly Thurs without the threat or force of disciplinary, civil or criminal proceedings. Further, respondent paid \$25,000 on January 26, 2016 to Jeffrey and Melissa Weiss on behalf of his client, Rush Avery. (See page 10.)
- (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

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would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

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

Additional mitigating circumstances:

Pretrial Stipulation, see page 10.

No Prior Record of Discipline, see page 10.

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 **Claude Owens, Jr.** in the amount of **\$ 101,825.74** plus 10 percent interest per year from **August 15, 2017**. If the Client Security Fund has reimbursed **Claude Owens, Jr.** 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 **90** days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

6. During Mr. Owens' incarceration, he gave respondent permission to use the funds held in trust to send goods to Mr. Owens in prison. Between 2008 and 2017, respondent withdrew \$5,869.64 at Mr. Owens' request.

7. Prior to receiving the final annuity payment, Mr. Owens instructed respondent to give the entire final payment to his wife, and he asked respondent to confirm he would be receiving a final annuity payment for \$100,000. Respondent told him that his final payment would be for around \$50,000, which respondent knew was false. Mr. Owens repeatedly requested that respondent provide an accounting for these annuity payments, but respondent failed to provide Mr. Owens with an accounting.

8. On August 14, 2017, respondent received Mr. Owens' fourth and final annuity payment of \$101,953.80 and deposited it into his CTA. On August 14, 2017, when respondent went to deposit the fourth annuity check into his CTA there should have been \$46,630.36 in trust for Mr. Owens. On August 14, 2017, respondent's CTA had a balance of \$10.22. Respondent had previously misappropriated \$46,630.14 of Ms. Owens' funds.

9. After depositing Mr. Owens' final annuity payment into his CTA, respondent should have been holding \$148,584.16 in trust for Mr. Owens.

10. In September 2017, respondent telephoned Mrs. Owens and told her that she would be receiving \$46,000 from her husband's final annuity payment, and instructed her to pick the check up at his office. On September 5, 2017, respondent issued a check to Dominique Owens for \$46,758.42. Mrs. Owens went to respondent's office that day to collect the check; and, when she did, respondent had Mrs. Owens sign a letter acknowledging receipt of the funds.

11. The letter respondent had Mrs. Owens sign on September 5, 2017 stated, "A deposit of Claude Owens; [sic] last annuity payment from 1st Colonial Life Insurance Company was made August 23, 2017 in the amount of \$51,953.80. Attorney's fees pursuant to our contract at 10% in the amount of \$5,195 was deducted. The balance remaining is \$46,758.42...By your signature below, you acknowledge receipt of the remaining trust funds in the amount of \$46,758.42."

12. Respondent falsely stated in the September 5, 2017 letter that he received the final annuity payment on August 23, 2017 for \$51,953.80, when respondent knew that he received the final annuity payment on August 14, 2017 for \$101,953.80. Further, respondent and Mr. Owens never had a fee agreement paying respondent attorney's fees for holding Mr. Owens' annuity funds in his CTA. Moreover, Mr. Owens never authorized respondent to take fees from the CTA as payment for holding Mr. Owens' funds in respondent's CTA.

13. Respondent never informed Mr. Owens or his wife that the final annuity payment was actually \$101,953.80, not \$51,953.80.

14. After paying Mrs. Owens \$46,758.42 from Mr. Owens' funds, respondent should have had \$101,825.74 remaining in his CTA for Mr. Owens.

15. On December 4, 2017, respondent had a balance of \$14.64 in his CTA and thereby in total misappropriated \$101,811.10 of Ms. Owens' funds. Respondent intentionally misappropriated the \$101,811.10 that he was supposed to hold in his CTA on behalf of Mr. Owens.

16. To date, respondent has not paid Mr. Owens the \$101,825.74 in funds that respondent should have been holding in his CTA on his behalf.

CONCLUSIONS OF LAW:

17. By intentionally withdrawing \$101,811.10 from respondent's CTA, and using the funds for respondent's personal use when he was supposed to hold those funds in trust for Claude Owens, respondent intentionally committed an act involving moral turpitude, dishonesty, or corruption, and willfully violated Business and Professions Code, section 6106.

18. By failing to maintain a balance of \$148,584.16 in his CTA on August 14, 2017 on behalf of Claude Owens, respondent failed to maintain client funds in trust, and willfully violated Rules of Professional Conduct, rule 4-100(A).

19. By misrepresenting to Mr. Owens' wife that the final annuity payment was \$51,953.80, that he received the final payment on August 23, 2017, that respondent was entitled to 10% of that payment for attorney's fees, and by not telling Mr. Owens that the final annuity payment was for \$101,953.80, respondent intentionally committed acts involving moral turpitude, dishonesty, or corruption, and willfully violated Business and Professions Code, section 6106.

CASE NO. 15-O-15110 (Complainant: Honorable Charles Wachob)

FACTS:

20. Respondent represented Rush Avery in a criminal matter in Placer County Superior Court, case no. 62-106616. Mr. Avery was charged and convicted of driving under the influence of alcohol. At the time that Mr. Avery was driving under the influence, he drove his pickup truck into the home of Jeffery and Melissa Weiss (collectively "the Weisses") causing property damage to their home.

21. On February 18, 2014, as part of Mr. Avery's probation, the court ordered him to pay \$211,414.15 in restitution to the Weisses. Mr. Avery called United Services Automobile Association ("USAA") on February 27, 2014 and informed the insurance company of the restitution order. On June 13, 2014, Mr. Avery asked USAA to send a check for \$25,000, which was his insurance policy limit for property damage, to respondent for respondent to hold in a trust account. Mr. Avery explained to USAA that he intended to use the funds to pay the court's restitution order on a monthly basis.

22. On or around June 17, 2014, USAA sent respondent a check for \$25,000 to partially satisfy Mr. Avery's restitution order. Respondent received the check for \$25,000. Thereafter, on June 24, 2014, respondent deposited the \$25,000 from USAA into his CTA and paid himself attorney's fees for \$8,334. Respondent should have held the remaining funds of \$16,666 in his CTA on behalf of Mr. Avery so he could use the funds to make payments towards the restitution order; however, respondent did not give Mr. Avery his funds.

23. On July 30, 2014, respondent received a settlement check for \$45,000 on behalf of his client Kimberly Thurs and deposited the funds into his CTA. Subsequently, respondent paid Ms. Thurs \$5,000 from the settlement funds, and told her he would pay her the remaining \$14,256.35 after he paid his attorney's fees, her prior attorney's fees, litigation costs, and any medical liens. Respondent was obligated to hold \$14,256.35 in his CTA on behalf of Ms. Thurs from July 30, 2014, the date he received the settlement funds, until the date he paid Ms. Thurs.

24. On October 7, 2014, respondent should have been holding \$30,922.35 in his CTA on behalf of his clients Mr. Avery and Mr. Thurs (\$16,666 on behalf of Mr. Avery and \$14,256.35 on behalf of Ms. Thurs). That day, respondent had \$11,648.38 in his CTA and thereby misappropriated \$19,273.97 in funds belonging to his clients.

25. On October 31, 2014, respondent paid his client Ms. Thurs \$14, 256.35. Then, on January 26, 2016, a year and a half after he received Mr. Avery's money from USAA, respondent paid the Weisses \$25,000 on behalf of Mr. Avery pursuant to the court's restitution order.

CONCLUSIONS OF LAW:

26. By withdrawing \$19,273.97 from respondent's CTA and using the funds for respondent's personal use, when the funds belonged to his clients Mr. Avery and Ms. Thurs, respondent intentionally committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Codes, section 6106.

27. By failing to maintain a balance of \$30,922.35 on October 7, 2014 in his CTA on behalf of his clients Mr. Avery and Ms. Thurs, and instead had a CTA balance of \$11,648.38, respondent failed to maintain client funds held in trust, and willfully violated Rules of Professional Conduct, rule 4-100(A).

CASE NO. 16-O-13594 (State Bar Investigation)

FACTS:

28. Between March 2014 and January 2016, respondent maintained two separate trust accounts, a Bank of the West CTA and a Wells Fargo Bank CTA.

29. Between March 2014 and May 2015, respondent made 11 personal payments with funds from his Bank of the West CTA. Respondent used these funds to pay his home mortgage and credit card bill. The payments totaled \$18,041.51. Additionally, between June 2014 and January 2015, respondent deposited \$5,095.27 of personal funds into his Bank of the West CTA. Respondent's personal use of his Bank of the West CTA coincided with the deposits and disbursements of client funds.

30. Between October 2015 and January 2016, respondent made three personal payments with funds from his Wells Fargo Bank CTA. Respondent used these funds to pay his personal and business expenses, including his income taxes, mortgage, and credit card. The payments totaled \$16,309.27. Further, between October 2015 and August 2016, respondent made 15 deposits of personal funds into his Wells Fargo Bank CTA totaling \$20,549.65. During this time, respondent was holding client funds in his Wells Fargo Bank CTA.

CONCLUSIONS OF LAW:

31. By depositing his personal funds into his Bank of the West CTA between June 2014 and January 2015, and withdrawing funds from his Bank of the West CTA for the payment of personal and business expenses between March 2014 and May 2015, respondent misused his Bank of the West CTA as a personal and business account and commingled funds in his Bank of the West CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

32. By depositing his personal funds into his Wells Fargo Bank CTA between October 2015 and August 2016, and withdrawing funds from his Wells Fargo Bank CTA for the payment of personal and business expenses between October 2015 and January 2016, respondent misused his Wells Fargo Bank CTA as a personal and business account and commingled funds in his Wells Fargo Bank CTA, in willful violation of Rules of Professional Conduct, rule 4-100(A).

AGGRAVATING CIRCUMSTANCES.

Significant Harm to Clients. Respondent's client, Mr. Owens, wanted his wife to receive his final annuity payment for \$101,953.80 so she would have money to support herself while Mr. Owens is in prison. Respondent's misappropriation of \$101,811.10, which includes the funds from the final annuity payment, has caused serious harm to respondent's client and his client's wife. Mr. Owens' wife still has not received the total proceeds from the fourth annuity payment, which respondent received in August 2017. (See *In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 409, 413 [significant client harm for six-month delay in distributing \$5,618 in medical malpractice settlement proceeds].)

Multiple Acts of Wrongdoing (Std. 1.5(b)). Respondent's failures to maintain funds for multiple clients, misappropriation of client funds, commingling, and misrepresentations to his client constitute multiple acts of misconduct. (*In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273 [65 improper CTA withdrawals as multiple acts of misconduct that constitute significant aggravation]; *In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594 [multiple acts in aggravation for one count of moral turpitude where attorney made 11 misrepresentations over two years].)

High Level of Vulnerability of the Victim (Std. 1.5(n)). Respondent's client Claude Owens was incarcerated at the time respondent misappropriated his client's funds.

Failure to Make Restitution (Std. 1.5(m)). Respondent's failure to pay restitution of \$101,825.74 to his client Claude Owens is an aggravating factor.

Concealment (Std. 1.5(f)). Respondent concealed the total amount of funds that his client Claude Owen's received from his final annuity payment. Mr. Owens only learned that his final annuity payment was actually for \$101,953.80, and not \$51,953.80, during the State Bar's investigation.

MITIGATING CIRCUMSTANCES.

Pretrial Stipulation. Respondent is entitled to mitigation for entering into a stipulation with the Office of Chief Trial Counsel prior to trial in the above referenced disciplinary matter, thereby saving 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 was admitted to the practice of law on December 3, 1984 and had been practicing for 30 years without any discipline prior to the current misconduct. Respondent should receive limited mitigation since his misconduct is serious and there is no evidence to suggest that the

misconduct will not recur. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [no prior record of discipline is relevant where the misconduct is aberrational and unlikely to recur].)

Restitution. (Std. 1.6(j)). Prior to the State Bar's investigation into these matters, respondent made restitution by paying \$25,000 to the Weisses on behalf of his client Rush Avery and paying \$14,256.35 to his client Kimberly Thurs. However, the weight of this mitigation is diminished by his failure to make restitution to Claude Owens.

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 Silvertown* (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).)

Standard 1.7(a) provides that, "If 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." Here, respondent has committed multiple acts of misconduct. The most severe sanction applicable to respondent's misconduct is Standard 2.1(a) for misappropriation.

Standard 2.1 states, "Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate."

Disbarment is the usual discipline for even a single, first-time act of misappropriation. (See *Kelly v. State Bar*, (1988) 45 Cal.3d 649, 656; *Baca v. State Bar* (1990) 52 Cal.3d 294, 304 [disbarment for \$2,300 misappropriated, no prior discipline]; *Read v. State Bar* (1991) 53 Cal.3d 394, 426 [disbarment

for \$4,100 misappropriated, no prior discipline]; *Kennedy v. State Bar* (1989) 48 Cal.3d 610, 617 [disbarment for \$10,000 misappropriated, no prior discipline]; *Gordon v. State Bar* (1982) 31 Cal.3d 748 [disbarment for \$30,000, no prior discipline]; *In re Naney* (1990) 51 Cal.3d 186, 190 [disbarment for \$18,000 misappropriated, no prior discipline].)

In *Chang v. State Bar* (1989) 49 Cal.3d 114, 128, the Supreme Court disbarred an attorney for misappropriating \$7,898.44 of his client's funds. The Supreme Court disbarred Chang for an "isolated instance of misappropriation" despite the fact that Chang had no prior record of discipline, because he never acknowledged his impropriety, made no efforts at reimbursing his client, and displayed a lack of candor. Those factors made the likelihood he would engage in other misconduct sufficiently high to warrant disbarment.

In *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, Spaith was found culpable of misappropriating approximately \$40,000 in a single client matter and of intentionally misleading the client for over a period of approximately one year as to the status of his client's funds. The court gave little weight in mitigation to Spaith's financial and emotional problems, and his confession and repayment of the money; and gave some weight in mitigation to his 15 years of practice. However, the court had concerns about future similar misconduct and found that disbarment was the appropriate level of discipline for public protection.

In *In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, Song was found culpable of failure to maintain client funds in trust and moral turpitude for intentionally misappropriating \$112,293 in a single client matter. In aggravation, the court found Song committed multiple acts of misconduct for making at least 65 unauthorized withdrawals from his CTA over a three-year period, and lacked remorse. The court gave Song mitigation for good character, community service, and cooperation, and limited mitigation for his 12 years of discipline free practice. When balancing Song's mitigation against the seriousness of his misconduct, the court found that his mitigation was not compelling and disbarment was appropriate.

In light of the foregoing, considering all the mitigating and aggravating factors and the purposes of attorney discipline, disbarment is the appropriate level of disbarment.

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
16-O-12207	Five	Rules of Professional Conduct, rule 3-700(D)(2)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 13, 2018, the prosecution costs in this matter are \$7,793. 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: DANNY DUANE BRACE, Jr.	Case number(s): 15-O-15110-LMA, 16-O-12207, 16-O-13594, 17-O-05053
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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.

4-13-18 _____ Danny Duane Brace, Jr.
Date Respondent's Signature Print Name

_____ Johnna G. Sack
Date Respondent's Counsel Signature Print Name
4-13-18 _____ Johnna G. Sack
Date Deputy Trial Counsel's Signature Print Name

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In the Matter of: DANNY DUANE BRACE, Jr.	Case Number(s): 15-O-15110-LMA; 16-O-12207-LMA; 16-O-13594-LMA; 17-O-05053-LMA
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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.

On page 3 of the Stipulation, paragraph (13), "page 11" is deleted and "page 10" is inserted.

On page 3 of the Stipulation, paragraph (5), "page 10" is deleted and "page 11" is inserted.

On page 9 of the Stipulation, paragraph 24., line 2, "Mr. Thurs" is deleted and "Ms. Thurs" is inserted.

On page 10 of the Stipulation, after "Significant Harm to Clients", "(Std. 1.5(j))." is inserted.

On page 12 of the Stipulation, fourth paragraph, line 2, "level of disbarment" is deleted and "level of discipline" is inserted.

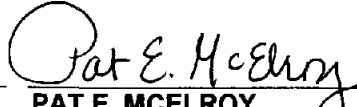
On page 12 of the Stipulation, the parties request that the court dismiss Count Five in case No. 16-O-12207. The court grants the parties' request. In the interest of justice, Count Five is dismissed with prejudice.

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 DANNY DUANE BRACE, Jr. 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.

(Do not write above this line.)

Date May 11, 2018


PAT E. MCELROY
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on May 11, 2018, I deposited a true copy of the following document(s):

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

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

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

DANNY DUANE BRACE, JR.
LAW OFC DANNY D BRACE JR
901 H ST #500
SACRAMENTO, CA 95814

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

JOHNNA G. SACK, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 11, 2018.



Bernadette Molina
Court Specialist
State Bar Court