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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>REPROVAL</b>		
<b>Counsel for the State Bar</b>  <b>Terese Laubscher</b> <b>Deputy Trial Counsel</b> <b>845 S. Figueroa St.</b> <b>Los Angeles, CA 90017</b> <b>(213) 765-1239</b>  <b>Bar # 272207</b>	<b>Case Number(s):</b> <b>17-J-07002</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>OCT 12 2018</b> <b>STATE BAR COURT</b> <b>CLERK'S OFFICE</b> <b>LOS ANGELES</b>
<b>In Pro Per Respondent</b>  <b>David M. Korrey</b> <b>624 S 9th St</b> <b>Las Vegas, NV 89101-7013</b> <b>(702) 471-0200</b>  <b>Bar # 103927</b>	<b>kwiktag®</b> <b>241 070 280</b> 	
<b>In the Matter of:</b> <b>DAVID MICHAEL KORREY</b>  <b>Bar # 103927</b>  <b>A Member of the State Bar of California</b> <b>(Respondent)</b>	<b>Submitted to: Settlement Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND</b> <b>DISPOSITION AND ORDER APPROVING</b>  <b>PUBLIC REPROVAL</b>  <input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	

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

### **A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **August 3, 1982**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **16** 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):
- ☒ It is ordered 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.
- ☐ Case ineligible for costs (private reproof).
- ☐ It is ordered 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. SELECT ONE of the costs must be paid with Respondent's membership fees for each of the following years:
- If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance will be due and payable immediately.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs."
- ☐ Costs are entirely waived.
- (9) The parties understand that:
- (a) ☐ A private reproof imposed on a Respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the Respondent's official State Bar membership records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproof was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.
- (b) ☐ A private reproof imposed on a Respondent after initiation of a State Bar Court proceeding is part of the Respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.
- (c) ☒ A public reproof imposed on a Respondent is publicly available as part of the Respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

**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:

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- (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.
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- (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.
  - (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.
  - (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.
  - (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.
  - (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See attachment at page 12.
  - (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 [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 Respondent's misconduct or to the State Bar during disciplinary investigation and proceedings. **See attachment at page 12.**
- (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 Respondent's misconduct. **See attachment at page 13.**
- (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 Respondent.
- (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 product of any illegal conduct by Respondent, 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 Respondent's control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's 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 Respondent's misconduct. **See attachment at page 12.**
- (12) ☒ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation. **See attachment at page 13.**
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Record of Discipline, see attachment at page 13.**  
**Restitution, see attachment at page 13.**  
**Prefiling Stipulation, see attachment at page 13.**

**D. Discipline:**

**Discipline – Reproval**

Respondent is **Publicly** reprovled. Pursuant to the provisions of rule 5.127(A) of the Rules of Procedure of the State Bar, this reprovial will be effective when this stipulation becomes final. Furthermore, pursuant to rule 9.19(a) of the California Rules of Court and rule 5.128 of the Rules of Procedure, the court finds that the

protection of the public and the interests of Respondent will be served by the following conditions being attached to this reproof. Failure to comply with any condition attached to this reproof may constitute cause for a separate disciplinary proceeding for willful breach of rule 1-110 of the State Bar Rules of Professional Conduct. Respondent is ordered to comply with the following conditions attached to this reproof for **one (1) year** (Reproof Conditions Period) following the effective date of the reproof.

- (1) ☒ **Review Rules of Professional Conduct:** Within 30 days after the effective date of the order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.
- (2) ☒ **Comply with State Bar Act, Rules of Professional Conduct, and Reproof Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's reproof.
- (3) ☒ **Maintain Valid Official Membership Address and Other Required Contact Information:** Within 30 days after the effective date of the order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR within ten (10) days after such change, in the manner required by that office.
- (4) ☒ **Meet and Cooperate with Office of Probation:** Within 30 days after the effective date of the order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 45 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the Reproof Conditions Period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.
- (5) ☒ **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's Reproof Conditions Period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with reproof conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) ☒ **Quarterly and Final Reports:**
  - a. **Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the Reproof Conditions Period. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten

(10) days before the last day of the Reapproval Conditions Period and no later than the last day of the Reapproval Conditions Period.

- b. **Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.
- c. **Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).
- d. **Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after the Reapproval Conditions Period has ended. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (7) ☒ **State Bar Ethics School:** Within one year after the effective date of the order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session.
- (8) ☐ **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because .
- (9) ☒ **State Bar Client Trust Accounting School:** Within one year after the effective date of the order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending this session.
- (10) ☐ **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within \_\_\_\_\_ after the effective date of the order imposing discipline in this matter, Respondent must either submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session or, in the alternative, complete \_\_\_\_\_ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity.
- (11) ☐ **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the Reapproval Conditions Period, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any

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alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.

- (12) ☐ **Minimum Continuing Legal Education (MCLE):** Within \_\_\_\_\_ after the effective date of the order imposing discipline in this matter, Respondent must complete \_\_\_\_\_ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE \_\_\_\_\_ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity.
- (13) ☐ **Other:** Respondent must also comply with the following additional reproval conditions:
- (14) ☒ **Multistate Professional Responsibility Examination Within One Year:** It is further ordered that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the order imposing discipline in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)
- (15) ☐ **The following conditions are attached hereto and incorporated:**
- ☐ Financial Conditions ☐ Medical Conditions
- ☐ Substance Abuse Conditions

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

IN THE MATTER OF:                      DAVID MICHAEL KORREY

CASE NUMBER:                              17-J-07002

**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/or Rules of Professional Conduct.

Case No. 17-J-07002 (Discipline in Other Jurisdiction)

**PROCEDURAL BACKGROUND IN OTHER JURISDICTION:**

1.      On October 13, 1997, respondent was admitted to practice in the State of Nevada.
2.      On July 19, 2016, the State Bar of Nevada issued to respondent its Findings of Fact, Conclusions of Law, and Recommendation in case number 08-143-2072. Respondent was found to have violated the following Nevada Rules of Professional Conduct: 1.3 [Diligence], 1.15(d) [Safekeeping Property], 5.3(b) [Responsibilities Regarding Non-lawyer Assistants], 5.5(a)(2) [Aiding Unauthorized Practice of Law], and 8.4(a) [Misconduct].
3.      On July 11, 2017, the Supreme Court of Nevada adopted the State Bar of Nevada's July 19, 2016 Findings of Fact, Conclusions of Law, and Recommendation in case number 70871. The Supreme Court of Nevada ordered respondent suspended for three months, stayed, and placed him on probation for six months. Thereafter, the Order became final.
4.      The disciplinary proceedings in Nevada provided fundamental constitutional protection.

**FACTS FOUND IN OTHER JURISDICTION:**

5.      In January 2000, respondent closed an office located in San Diego, CA and thereafter maintained office space solely in the State of Nevada.
6.      In January 2000, respondent purchased a house located at 624 S 9<sup>th</sup> St, Las Vegas, NV 89101 and converted it into an office space which he used as a sole practitioner. Respondent also rented office space in the house to business tenants. Incoming and outgoing mail for respondent and building tenants was placed in a bin located near the entrance of the house. Incoming mail was distributed to the occupants by whichever tenant happened to be in the building when the mail was delivered.
7.      Between 2004 and 2008, respondent also rented a virtual office space in Reno, NV, which provided respondent with reception services, mail forwarding, and conference rooms when he conducted business in the Reno, NV area. Respondent used this office space approximately 10% of the time, and spent the other 90% of his time in his Las Vegas office.



8. In October 2004, respondent hired Jesse Cisneros ("Cisneros") to work as a paralegal on a contract basis. Jesse Cisneros had formerly worked as an insurance claims adjuster, and then went on to own a business called Injury Review Consultants, Inc., where he performed insurance billing consulting services and gave seminars to medical providers on utilizing insurance billing code software.
9. Between 2004 and 2008, Cisneros performed approximately 30-80 hours of work per month for respondent's personal injury practice. Cisneros would gather medical records and synthesize the records into billings which respondent used for demand letters. Cisneros was respondent's only employee during this time period. Cisneros had access to respondent's Las Vegas and Reno offices when respondent was not physically present.
10. On April 18, 2008, Dr. Michael Baron submitted a grievance to the State Bar of Nevada stating that he encountered multiple difficulties with respondent regarding payment of medical liens for three (3) patients. Dr. Baron stated there was a breakdown of communication between their offices, and numerous telephone calls were made without a return call from respondent.
11. On April 18, 2008, the State Bar of Nevada sent Dr. Baron's grievance to respondent's Las Vegas office requesting that he provide a written response within two (2) weeks.
12. On May 16, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to respondent's Las Vegas office via certified mail requesting that he provide a written response within fourteen (14) days. The certified receipt was signed by Margie Tornado. Margie Tornado was neither respondent's tenant nor his employee. Respondent does not know anyone named Margie Tornado. No response was received from respondent.
13. On July 29, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to respondent's Las Vegas office via certified mail requesting that he provide a written response within fourteen (14) days. The certified receipt was signed by Margie Tornado on July 30, 2008. No response was received from respondent.
14. On August 26, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to respondent's Las Vegas office via certified mail requesting that he provide a written response within fourteen (14) days. The certified receipt was signed by Margie Tornado on August 27, 2008. No response was received from respondent.
15. On September 30, 2008, a one page written response purportedly written by respondent was sent to the State Bar of Nevada which stated:

I have reviewed the complaint from Michael Baron, MD., and apologize for the delay in responding to this important complaint. I reviewed the letter from Dr. Michael Baron's office and have determined that we issued payment to Diagnostic Imaging for services rendered. At the request of two of the clients, the client's payment was given to them to obtain reductions, since we were not able to obtain reductions. On the third client, payment was issued based on a verbal agreement between my office and Diagnostic Imaging Centers, and payment was issued and forward for them for full and final payment. They cashed the trust check. In order to finally resolve this matter, I will forward an additional payment on this particular patient, and my client.

On the second patient, Diagnostic Imaging has been paid in full. Regarding the third patient, we have been informed that he unfortunately was found dead in his apartment, and we will stop payment on the original check, and re-issue payment to Diagnostic Imaging and Michael Baron, MD. When I receive receipts from Diagnostic Imaging/Michael Baron, MD, I will forward copies to your office in resolution of this matter.

16. On October 1, 2008, the State Bar of Nevada sent correspondence to respondent thanking him for his written response and copies of the payment checks, and informed him that the matter would be presented to the Southern Nevada Disciplinary Panel for review.

17. Nevada Bar Counsel sent a copy of respondent's September 30, 2008 correspondence to Dr. Baron for his review. Dr. Baron stated that no payment whatsoever had been made for two patients and that they do not enter into verbal agreements. Dr. Baron stated that as for the third patient which respondent's correspondence explained was to be paid in full, he would gladly accept payment in the amount of \$811.62 for that patient.

18. On October 6, 2008, respondent hand delivered a letter to the State Bar which stated:

On October 30, 2008 [sic], I received your letter dated October 1, 2008. After reviewing the letter, I promptly called the bar office as I had no record of ever receiving or responding to the above grievance. When I spoke with Yolie Michael she advised me that the Bar had received a response from me dated September 26, 2008. I indicated that I had no recollection of ever receiving the grievance or the letter. She forwarded a copy of this September 26, 2008 letter and Dr. Baron's letter dated March 24, 2008.

In fact on [sic] I was in California from Thursday, September 25, 2008, through the following Tuesday, September 30, 2008, the date of the letter was my wife's 60<sup>th</sup> birthday and I did no work. I never sent the September 26, 2008 letter responding to Dr. Baron's complaint, nor did I authorize anyone to send it.

I have a small office with one para-legal who has been doing part-time para-legal work for me for the past two (2) years. This person is not authorized to sign my name on any legal document let alone a response to a bar complaint.

19. Upon review of the September 30, 2008 letter, respondent discovered that Cisneros had signed the correspondence to Nevada Bar Counsel. Respondent reported this to the State Bar of Nevada.

20. In October 2008, after discovering that Cisneros had signed the correspondence to Nevada Bar Counsel and that Dr. Baron had not been paid, respondent fired Cisneros. Respondent then conducted a review of his client trust accounts ("CTAs") to determine what happened to the checks paid to Dr. Baron. Respondent requested detailed records from two banks where he held CTAs between 2004 and 2008: First National Holding Company (later Mutual Omaha Bank) and Community Bank of Nevada.

21. In October 2008, respondent audited his CTA records from 2004 to 2008—the time period which Cisneros was employed—and began personally contacting his payees to determine if they had received the funds. Respondent determined that 160 checks totaling \$615,204.83 had been intercepted from his

mail and fraudulently endorsed during this time period. Respondent reported this information to the State Bar of Nevada.

22. In October 2008, respondent reported the criminal activity of Cisneros to the Las Vegas Metropolitan Police Department and fully cooperated with law enforcement during the criminal investigation, including providing bank account spreadsheets, forwarding the documents obtained during bank litigation, and testifying before a grand jury.

23. In September 2009, respondent filed a lawsuit against Wells Fargo Bank, N.A., Mutual Omaha Bank, First National Holding Company, Community Bank of Nevada, and the FDIC related to the fraudulent conversion of checks written from his CTA. A large number of the intercepted checks were deposited into various checking accounts opened at Wells Fargo Bank, N.A. Wells Fargo Bank also owned several Quick Stop Mini Marts where the smaller checks were cashed.

24. During the course of the lawsuit, respondent subpoenaed bank records and was able to determine that Cisneros had intercepted his outgoing and incoming mail, obtained checks respondent had issued to clients and medical lienholders and insurance checks issued to respondent, and provided them to an accomplice, Alicia Montelongo ("Montelongo"). Montelongo cashed the checks without providing proper identification at several check cashing Quick Stop Mini Mart locations. Montelongo deposited larger checks into multiple fraudulent bank accounts she opened at Wells Fargo Bank with the help of an accomplice who worked as a manager at the bank. Respondent provided this evidence to the State Bar of Nevada and law enforcement.

25. Between October 2008 and January 2012, respondent made full restitution to the payees from his personal funds.

26. On October 3, 2011, respondent reached a confidential settlement with Wells Fargo Bank in connection with his claims against the bank related to the fraudulent endorsement of checks issued from his CTAs.

27. On August 25, 2014, Alicia Montelongo plead guilty to forgery in Clark County District Court case number C266286-2. On the record, Montelongo admitted that she had fraudulently endorsed the checks respondent issued to his payees, that she received the checks from Jesse Cisneros, and that she deposited them into bank accounts owned and controlled by herself and Jesse Cisneros. Montelongo admitted in her plea that respondent had not authorized or participated in the scheme.

28. On May 11, 2016, Jesse Cisneros plead guilty by way of an *Alford* plea to felony theft in Clark County District Court case number C-10-266286-1.

29. On January 22, 2018, respondent successfully completed his probation period as ordered by the Nevada Supreme Court.

30. Since October 2008, respondent has made changes to his office practices to prevent the misconduct from recurring. Respondent now personally contacts each client and lienholder to confirm receipt of funds and does not rely on the bank to ensure the checks are being cashed by the appropriate payee. Respondent has not had any employees since 2008 and either hand delivers checks to payees, or uses certified mail with tracking.

31. The State Bar of Nevada's hearing panel unanimously found that respondent never intended to defraud his clients and lienholders, and that the scheme used by Cisneros and Montelongo was elaborate and difficult to detect. Nonetheless, the panel found that respondent should have known that Cisneros had gained "unfettered access" to his office which allowed Cisneros to accomplish the thefts over the course of three years.

#### CONCLUSIONS OF LAW:

32. As a matter of law, respondent's culpability of professional misconduct determined in the proceeding in Nevada warrants the imposition of discipline under the laws and rules binding upon respondent in the State of California at the time respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent's misconduct involves the failure to supervise his nonlawyer assistant, resulting in the fraudulent conversion of 160 checks issued from his client trust account and demonstrates violations of the following California rules: Rules of Professional Conduct, rules 3-110(A), 4-100(A), 4-100(B)(4), and 1-300(A). Respondent's multiple acts of misconduct are an aggravating circumstance.

#### MITIGATING CIRCUMSTANCES.

**Candor and Cooperation (Std. 1.6(e)).** Immediately upon discovering the scheme perpetrated by respondent's paralegal, respondent reported the misconduct to the State Bar of Nevada and to law enforcement. Respondent assisted the State Bar of Nevada and law enforcement extensively throughout their investigations. Respondent conducted a full audit of his client trust accounts to identify the 160 checks which had been fraudulently endorsed by personally contacting each client and lienholder he had issued checks to between 2005 and 2008. Respondent's efforts uncovered misconduct which the State Bar of Nevada had not been aware of based on Dr. Baron's bar complaint. Respondent reported the criminal activity of Cisneros to the Las Vegas Metropolitan Police Department and fully cooperated with law enforcement during the criminal investigation, including providing bank account spreadsheets, forwarding the documents obtained during the bank litigation, and testifying before a grand jury. (See *In the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411, 421 [attorney given significant mitigating credit for cooperating with the criminal prosecution of his capper aware that his testimony would result in State Bar proceedings and reported his conduct to the State Bar].)

**Extraordinary Good Character (Std. 1.6(f)).** Fourteen character references attested to respondent's good character. All fourteen of the character references have knowledge of the full extent of the underlying misconduct in Nevada. The character references represent a broad range of professional backgrounds, which include attorneys, former clients, business persons, teachers, and school administrators. The character references attested to respondent's good moral character and integrity. Character references from attorneys are entitled to serious consideration since they have a "strong interest in maintaining the honest administration of justice." (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319.)

**Prompt Objective Steps Demonstrating Remorse (Std. 1.6(g)).** Immediately upon discovering the scheme perpetrated by respondent's paralegal, respondent reported the misconduct to the State Bar of Nevada and to law enforcement. Respondent assisted the State Bar of Nevada and law enforcement extensively throughout their investigations. Respondent conducted a full audit of his client trust account to identify the 160 checks which had been fraudulently endorsed and personally contacted each client and lienholder. Respondent made full restitution to the affected clients and lienholders who were deprived of their funds. Respondent has made changes to his office practices to prevent the misconduct from recurring. Respondent now personally contacts each client and lienholder to confirm receipt of funds and does not rely on the bank to ensure the checks are being cashed by the appropriate payee. Respondent has not had any employees since 2008. Respondent now personally delivers checks to payees or uses certified mail with tracking.

**Remoteness in Time of the Misconduct and Subsequent Rehabilitation (Std. 1.6(h)).** The misconduct in this matter occurred in 2008. In the ten years that have elapsed since that time, respondent has successfully completed his probation requirements in Nevada and has not received any further discipline in the state.

**No Prior Record of Discipline:** On August 3, 1982, the State Bar of California admitted respondent to the practice of law in California. On October 13, 1997, the State Bar of Nevada admitted respondent to the practice of law in Nevada. Respondent has no prior record of discipline in Nevada prior to these matters, and no prior record of discipline in California. At the time of the misconduct, respondent had practiced law in Nevada for seven years without discipline, which is worth slight weight in mitigation. (See *In the Matter of Aguiluz* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32 [attorney's seven years of practice in California prior to his misconduct should be accorded only slight weight in mitigation].)

**Restitution:** Between October 2008 and January 2012, respondent reissued checks to each of the clients and lienholders who were deprived of funds as a result of the paralegal's conversion scheme.

**Prefiling Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*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]; *In the Matter of Spait* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### **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).)

In this matter, the Nevada Supreme Court found respondent culpable of professional misconduct in the State of Nevada, and to determine the appropriate sanction in this proceeding, it is necessary to consider the equivalent rule or statutory violation under California law. Specifically, respondent's misconduct in the State of Nevada demonstrates violations of Rules of Professional Conduct, rules 3-110(A), 4-100(A), 4-100(B)(4), and 1-300(A).

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 is found in Standard 2.2(a) which provides that the presumed sanction for failure to promptly pay out entrusted funds is a period of three months actual suspension.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. In aggravation, respondent committed multiple violations. However, respondent has significant factors in mitigation, including his discipline free practice, candor and cooperation, remorse and atonement, good character, restitution and subsequent rehabilitation. The balance of these factors suggests that a deviation from the Standards is warranted.

Furthermore, case law also supports a deviation. In *Sternleib v. State Bar* (1990) 52 Cal. 3d 317, the Supreme Court ordered an attorney suspended for thirty days for misappropriating, failing to account, and failing to maintain records over \$4,000 in trust that belonged to her client and the client's husband, the opposing party in a divorce that the attorney was handling. The Supreme Court found that the evidence did not support a finding of moral turpitude, but that the attorney's belief she was entitled to the funds was not reasonable. The attorney was afforded substantial mitigating credit, including no prior record of discipline, good character, and remorse.

In *Dudujian v. State Bar* (1991) 52 Cal. 3d 1092, the Supreme Court reduced the discipline of two attorneys from 30 and 90 days' actual suspension, respectively, and ordered that both attorneys be public reprimanded for violating former rule 8-101 by retaining settlement funds to their own account and by refusing to pay the funds to the clients in the mistaken belief that the clients had authorized the attorneys to retain the funds in partial payment of their fees. The Court afforded significant mitigation to both attorneys based upon their honest, but mistaken belief that the clients had authorized the attorneys to retain the funds in partial payment of fees. The Court also ordered that the attorney pay restitution to the clients.

In *In the Matter of Cacioppo* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128, a pre-Standards and pre-Silverton case, the Review Department recommended six months' stayed suspension and one year probation for an attorney who was found culpable of failing to account and failing to communicate where the attorney claimed a fire had destroyed his records. The court noted that it would have recommended a reproof had the attorney not had a prior record of discipline. In *Caccioppo*, the attorney had applied money from the daughter's personal injury settlement to pay fees for legal services rendered to the client and her family members in other matters. While the Review Department did not find a misappropriation, the court had found the attorney culpable of failing to account and failing to communicate. The attorney in *Caccioppo* paid the money back after the client obtained a small claims judgment against him.

As with the attorneys in *Sternlieb*, *Dudujian* and *Caccioppo*, respondent's conduct in failing to maintain client funds in trust does not involve moral turpitude. Unlike the attorneys in *Sternlieb*, *Dudujian* and *Caccioppo*, respondent did not remove funds from trust for his own use, but was the victim of a sophisticated crime that resulted from his failure to supervise his non-attorney staff, and respondent paid full restitution after uncovering the extent of the crime. Respondent does not have a prior record of discipline and there are significant mitigating factors present to suggest respondent's misconduct will not recur. Respondent has been credited with more significant mitigation than either the attorneys in *Sternlieb*, *Dudujian* or *Caccioppo*, including respondent's payment of full restitution, cooperation with the State Bar of Nevada and law enforcement, remorse, good character, and subsequent rehabilitation. Given the compelling weight of the factors in mitigation, an appropriate level of discipline is a public reproof. This discipline is sufficient to achieve the purposes of discipline expressed in Standard 1.1, including protecting the public, maintenance of high professional standards, and preservation of public confidence in the legal profession.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of September 25, 2018, the discipline costs in this matter are \$2,585. 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.

(Do not write above this line.)

In the Matter of: DAVID MICHAEL KORREY	Case Number(s): 17-J-07002
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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.

9-27-2018  
Date

  
Respondent's Signature


David M. Korrey  
Print Name

                      
Date

                      
Respondent's Counsel Signature

                      
Print Name

9-28-18  
Date

  
Deputy Trial Counsel's Signature

Terese Laubscher  
Print Name



(Do not write above this line.)

In the Matter of: <b>DAVID MICHAEL KORREY</b>	Case Number(s): <b>17-J-07002</b>
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### REPROVAL ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, 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 REPROVAL IMPOSED.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.
- ☐ All court dates in the Hearing Department are vacated.

The parties failed to attach to the stipulation a copy of rule 1.3 of the Nevada Rules of Professional Conduct, as required by General Order 17-07. Rather than reject the stipulation for that deficiency, the court takes judicial notice of that rule, as set out in the attached exhibit, which is referred to and incorporated herein by reference and added to the attachments already submitted by the parties.

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 Rules Proc. of State Bar, rule 5.58(E) & (F).) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

10/12/18  
Date

  
DONALD F. MILES  
Judge of the State Bar Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
DAVID M. KORREY, BAR NO. 6385.

No. 70871

**FILED**

JUL 11 2017

PNZKEETHA A. BROWN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
CHIEF DEPUTY CLERK

**ORDER OF SUSPENSION WITH PROBATION**

This is an automatic review, pursuant to SCR 105(3)(b), of a Southern Nevada Disciplinary Board hearing panel's recommendation, on remand, that attorney David M. Korrey be given a three-month suspension for his violation of multiple Rules of Professional Conduct.

Due to Korrey's failure to adequately supervise his nonlawyer assistants, ultimately resulting in the conversion of client and provider funds, violations were upheld against Korrey as to RPC 1.3 (diligence), RPC 1.15(d) (safekeeping property), RPC 5.3(b) (responsibilities regarding non-lawyer assistants), RPC 5.5(a)(2) (unauthorized practice of law), and RPC 8.4(a) (misconduct). *See In re: Discipline of David Korrey*, Docket No. 63973 (Order Rejecting Panel Recommendation and Remanding for Further Proceedings, September 29, 2015). This court then remanded the matter to the Southern Nevada Disciplinary Board "to reassess the discipline in this matter," *id.*, and a new hearing panel determined that because Korrey improperly "gave unfettered access to his office" to his nonlawyer assistant, he should have known about the assistant's ongoing and systemic scheme to divert checks from their intended beneficiaries. The panel noted that the thefts happened several years ago and recommended that a three-month suspension be imposed. *See In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008)

(discussing factors to consider when imposing discipline); Annotated Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.12 (Am. Bar Ass'n 2015) (recommending suspension for lawyers who knew or should have known that they are dealing improperly with client property).

After reviewing the record, we conclude that the panel's additional findings are supported by the evidence and that the recommended three-month suspension generally is commensurate with the conduct at issue. SCR 105(3)(b). Considering the mitigating factors both new and previously found, including Korrey's diligent and successful efforts to protect his clients and their providers from further harm and his asserted modification of office procedures to prevent such thefts from occurring in the future, however, we stay that suspension subject to a term of probation.<sup>1</sup> We thus suspend attorney David Korrey from the practice of law in Nevada for a period of three months, commencing from

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<sup>1</sup>We have considered Korrey's due process arguments and conclude that his due process rights were not violated by the panel's refusal to consider new evidence and the complete record of the prior proceeding, as the first panel did not credit the perjured testimony and the violations were determined in the prior appeal. See *J.D. Constr., Inc. v. IBEX Int'l Grp.*, 126 Nev. 366, 376, 240 P.3d 1033, 1040 (2010) ("In determining whether a procedure meets the due process requirements of notice and an opportunity to be heard, . . . we note that 'due process is flexible and calls for such procedural protections as the particular situation demands.'" (quoting *Burleigh v. State Bar of Nev.*, 98 Nev. 140, 145, 643 P.2d 1201, 1204 (1982))); *Persing v. Reno Stock Brokerage Co.*, 30 Nev. 342, 96 P. 1054 (1908) ("Due process of law, not only requires that a party shall be properly brought into court, but that he shall have the opportunity when in court to establish any fact which, according to the usages of the common law or the provisions of the Constitution, would be a protection to himself or property.").

the date of this order, with that suspension stayed in favor of six months of probation. The stay is conditioned on the following probationary terms: Korrey must commit no additional violations of the RPC that result in professional discipline during the probationary period. Additionally, Korrey shall pay the costs of the disciplinary proceeding within 30 days of receipt of the State Bar's memorandum of costs. See SCR 120. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Cherry, C.J.  
Cherry

Douglas, J.  
Douglas

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

cc: Chair, Southern Nevada Disciplinary Board  
Law Offices of David M. Korrey  
C. Stanley Hunterton, Bar Counsel, State Bar of Nevada  
Kimberly K. Farmer, Executive Director, State Bar of Nevada  
Perry Thompson, Admissions Office, United States Supreme Court

**CERTIFIED COPY**

This document is a full, true and correct copy of  
the original on file and of record in my office.

DATE: August 23, 2017

Supreme Court Clerk, State of Nevada

By D. Richards Deputy

Case No.: 08-143-2072



**FILED**

JUL 19 2016

STATE BAR OF NEVADA  
BY: *[Signature]*  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

**SOUTHERN NEVADA DISCIPLINARY BOARD**

STATE BAR OF NEVADA,

Complainant,

vs.

DAVID M. KORREY, ESQ.,  
NV BAR No. 6385

Respondent.

**FINDINGS OF FACT**  
**CONCLUSIONS OF LAW AND**  
**RECOMMENDATION**

This matter originally came before a designated Formal Hearing Panel ("Panel") of the Southern Nevada Disciplinary Board at 9:51 a.m. on October 11, 2012, continued on October 12, 2012, and concluded on November 19, 2012. At the conclusion of the hearing, the Panel found that David Korrey ("Respondent") violated certain Rules of Professional Conduct (RPC), and recommended that Respondent receive a Public Reprimand for his actions. Upon de novo review by Nevada Supreme Court, the findings of the original panel were upheld in part, overturned in part and the matter was remanded to the Southern Nevada Disciplinary Board to reassess the discipline in the matter. The Nevada Supreme Court order, dated September 29, 2015, specifically found that Respondent violated RPC 1.3 (Diligence), RPC 1.15(d) (Safekeeping Property), RPC 5.3(b) (Responsibilities Regarding Nonlawyer Assistants), RPC 5.5(a) (Unauthorized Practice of Law), and RPC 8.4 (Misconduct).

Pursuant to the Nevada Supreme Court order of September 29, 2015, another Panel met to reconsider the recommended discipline for Respondent on April 26, 2016. This Panel

1 consisted of Panel Chair Jeffery Sloane, Panel Chair, Dawn Lozano, Panel Member, and Nick  
2 Miller, Layperson. The State Bar of Nevada ("State Bar") was represented by Assistant Bar  
3 Counsel Jason Dworin and Tiffany Bradley Paralegal/Investigator. David M. Korrey was also  
4 presented and represented himself at the hearing. James Wade, Marc Nelson Segel Esq., and  
5 Manuel Montelongo Esq., were present and testified on behalf of Respondent.

6 Based upon the pleadings filed, witness testimony, the documents admitted into  
7 evidence and the legal arguments presented, the Panel, based on a unanimous decision,  
8 submits the following Findings of Fact, Conclusion of Law and Recommendation<sup>1</sup>.

9 **FINDINGS OF FACT**

10 1. Respondent is now, and at all times pertinent herein was, a licensed attorney in  
11 the State of Nevada. Respondent, at all times pertinent herein, had a place of business for the  
12 practice of law in Clark County, Nevada.

13 2. In addition, a substantial portion of the activities at issue in this matter took  
14 place in Washoe County, Nevada.

15 3. Respondent was first licensed to practice law in the State of Nevada on October  
16 13, 1997.

17 4. Based upon the Nevada Supreme Court Order the Panel only considered the facts  
18 adopted in the September 29, 2015 order.

19 5. The Panel considered the testimony of Respondent as to mitigation and whether  
20 his conduct was intentional or merely negligent.

21 6. The Panel reviewed the American Bar Association Standards for Imposing  
22 Lawyer Sanctions ("ABA standards") and applied those standards to Respondent's conduct  
23 when making their recommendation.  
24

25  

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<sup>1</sup> This Panel did not review or consider the record of prior proceedings held in 2012.

1           7.     The Findings of Facts as to Respondents underlying conduct are adopted as  
2 previously approved by the Nevada Supreme Court. They are as follows:

3                                   **COUNT 1**

4                                   **08-143-2072 / Dr. Michael Baron**

5           7.     On April 18, 2008, Dr. Michael Baron submitted a grievance to the State Bar of  
6 Nevada.

7           8.     Dr. Baron stated he encountered multiple difficulties with Respondent regarding  
8 payment of medical liens for three (3) patients.

9           9.     Dr. Baron stated there was a breakdown of communication between their  
10 offices, numerous telephone calls were made without a return call from Respondent.

11          10.    On April 18, 2008, the State Bar of Nevada sent Dr. Baron's grievance to  
12 Respondent requesting that he provide a written response within two (2) weeks.

13          11.    On May 16, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to  
14 Respondent via certified mail requesting that he provide a written response with fourteen (14)  
15 days. The certified receipt was signed for Margie Tirnado. No response was received from  
16 Respondent.

17          12.    On July 29, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to  
18 Respondent via certified mail requesting that he provide a written response with fourteen (14)  
19 days. The certified receipt was signed for Margie Tirnado on July 30, 2008. No response was  
20 received from Respondent.

21          13.    On August 26, 2008, the State Bar of Nevada again sent Dr. Baron's grievance to  
22 Respondent via certified mail requesting that he provide a written response with fourteen (14)  
23 days. The certified receipt was signed for Margie Tirnado on August 27, 2008. No response  
24 was received from Respondent.



1 14. On September 30, 2008, Respondent provided a one page written response  
2 which stated:

3 I have reviewed the complaint from Michael Baron, MD., and apologize for  
4 the delay in responding to this important complaint. I reviewed the letter from  
5 Dr. Michael Baron's office and have determined that we issued payment  
6 to Diagnostic Imaging for services rendered. At the request of two of the clients,  
7 the client's payment was given to them to obtain reductions, since we were not  
8 able to obtain any reductions. On the third client, payment was issued based  
9 on a verbal agreement between my office and Diagnostic Imaging Centers, and payment  
10 was issued and forwarded for them for full and final payment. They  
11 cashed the trust check. In order to finally resolve this matter, I will forward an  
12 additional payment on this particular patient, and my client.

13 On the second patient, Diagnostic Imaging has been paid in full. Regarding  
14 the third patient, we have been informed that he unfortunately was found dead  
15 in his apartment, and we will stop payment on the original check, and re-issue payment  
16 to Diagnostic Imaging and Michael Baron, MD. When I receive receipts from Diagnostic  
17 Imaging/Michael Baron, MD, I will forward copies to your office in resolution to this  
18 matter.

19 15. The liens had not been satisfied at this time.

20 16. On October 1, 2008, the State Bar of Nevada sent correspondence to Respondent  
21 thanking him for his written response and copies of the payment checks, and informed him  
22 that the matter would be presented to the Southern Nevada Disciplinary Panel for review.

23 17. On October 6, 2008, Respondent hand delivered a follow up letter to the State  
24 Bar which stated:

25 On October 30 2008, I received your letter dated October 1, 2008. After  
reviewing the letter, I promptly called the bar office as I had no record of  
ever receiving or responding to the above grievance. When I spoke with  
Yolie Michael she advised me that the Bar had received a response letter  
from me dated September 26, 2008. I indicated that I had no recollection of  
either the grievance or the letter. She forwarded a copy of this September 26,  
2008, letter and Dr. Baron's letter dated March 24, 2008.

In fact on [sic] I was in California from Thursday, September 25, 2008, through  
the following Tuesday, September 30, 2008. September 26, 2008, the date of  
the letter was my wife's 60<sup>th</sup> birthday and I did no work. I never sent the  
September 26, 2008 letter responding to Dr. Baron's complaint, nor did I  
authorize anyone to send it.

1 I have a small office with one para-legal who has been doing part-time para-  
2 Legal work for me for the past two (2) years. This person is not authorized to  
3 sign my name on any legal document let alone a response to a bar complaint.

4 18. Upon review, Respondent discovered that his part-time paralegal had signed the  
5 correspondence to Bar Counsel.

6 19. A copy of Respondent's September 30, 2008, correspondence had been sent to  
7 Dr. Baron for his review. Dr. Baron stated that no payment whatsoever had been made for Mr.  
8 Freeman or Mr. Riordon and that they do not enter into verbal agreements. Dr. Baron stated  
9 that as for the third patient which Respondent's correspondence explained was to be paid in  
10 full, he would gladly accept payment in the amount of \$811.62 for that patient.

11 20. Upon the State Bar of Nevada's review of the checks, the first check made  
12 payable to Dr. Baron in the amount of \$3,896.00 had actually been cashed at a "quick stop  
13 mini-mart" check cashing service.

14 21. Respondent also identified another four (4) checks made payable to medical  
15 providers that were stolen from the mail and cashed at the same check cashing place.

16 22. Respondent informed the State Bar that each provider has been contacted.

17 A. The providers never received the funds and Respondent had arranged to  
18 secure stolen check/fraudulent endorsement affidavits from them to  
19 allow the bank to re-credit the funds so that replacement checks can be  
20 issued.

21 B. Respondent explained to the State Bar that from about December 29,  
22 2005, through October 31, 2006, approximately eighteen (18) checks  
23 were written to various healthcare providers who were owed monies for  
24 services provided to clients.

25 C. The checks were deposited into the office mail and addressed to each of  
the providers.

- 1 D. Respondent stated that each check was stolen by his office staff directly  
2 from the mail and taken to a Quick Stop Mini Mart and fraudulently  
3 endorsed then deposited into the Mini Mart's bank account.
- 4 E. Respondent informed the State Bar he that did not discover the  
5 fraudulent activity until October 10, 2008, when he was advised by one of  
6 the payees on the checks.
- 7 F. Respondent explained to the State Bar he then undertook an audit of his  
8 IOLTA trust account and determined there was a total of eighteen (18)  
9 checks totaling \$49,454.00 from between 2005 and October 2008.
- 10 23. In 2004 Respondent entered into a business and contractual relationship with  
11 his friend Jesse Cisneros ("Cisneros"), a nonlawyer.
- 12 24. Cisneros owned a company called Injury Review Consultants, Inc. wherein he  
13 was to perform paralegal services for the benefit of Respondent's personal injury cases in  
14 exchanged for compensation.
- 15 25. At the time, Respondent and Cisneros were friends who played golf together,  
16 dined together with their spouses and their families also celebrated holidays together.
- 17 26. Cisneros owned and operated Injury Review Consultants, Inc. at the same  
18 business address as Respondent's law firm.
- 19 27. Cisneros introduced Respondent to Alicia Montelongo ("Montelongo").  
20 Montelongo was the former office manager for her brother, Manuel Montelongo's, law firm.
- 21 28. Respondent and Manuel Montelongo had shared office space at 1475 Terminal  
22 Way, Suite A-2, Reno, Nevada 89502-3225.
- 23 29. The relationship between Respondent and Cisneros soured on or about October  
24 2008 after Respondent accused Cisneros and Montelongo of stealing 160 checks over a three-  
25 year period.

30. Cisneros and Montelongo improperly endorsed these checks and converted the funds.

31. The funds were deposited into different accounts which Cisneros and Montelongo had opened at Wells Fargo.

32. Respondent produced three schedules of checks based upon his review of his bank accounts:

a. Ninety-four (94) of the one hundred sixty (160) checks, totaling \$352,562.32, were written by Respondent to various payees on his checking account at Mutual of Omaha.

b. Thirty-five (35) of the one hundred sixty (160) checks, totaling \$114,579.51, were written by Respondent to various payees on his checking account at Community Bank of Nevada.

c. Thirty-one (31) of the one hundred sixty (160) checks, totaling \$148,063.00, were written by insurance companies to Respondent's purported clients and Respondent's law firm. Of the 31 checks only 26 named Respondent as a payee.

33. Respondent testified that he had no idea what happened to the checks during the three year period.

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Panel hereby issues the following  
Conclusions of Law:

1. The Southern Nevada Disciplinary Board has jurisdiction over Respondent and the subject matter of these proceedings pursuant to SCR 99.

2. The Panel adopts the previous finding that Respondent violated the following Rules of Professional Conduct ("RPC") as follows:

1                   a.     **Count 1 - Grievance File No. 08-143-2072 (Baron):** As to Count 1 of  
2 the Complaint, the Panel found unanimously by clear and convincing evidence that Respondent  
3 violated RPC 1.3 (Diligence), RPC 1.15(d) (Safekeeping Property), RPC 5.3 (b) (Responsibilities  
4 Regarding Nonlawyer Assistants: A lawyer having direct supervisory authority over the  
5 nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible  
6 with the professional obligations of the lawyer), RPC 5.5 (a)(2) (Unauthorized Practice of Law:  
7 Assist another person in the unauthorized practice of law) and RPC 8.4(a) (Misconduct).

8                   3.     Pursuant to SCR 102.5 (Aggravation and mitigation), the Panel adopted  
9 following aggravating factors in this matter as previously adopted:

10                   a.     A pattern of misconduct, resulting from several instances of Respondent  
11 failing to communicate with his clients and fulfilling his obligations. SCR 102.5(1)(c).

12                   b.     Multiple offenses, as the Panel found that Respondent's misconduct  
13 constituted eight (8) violations of the Rules of Professional Conduct. SCR 102.5(1)(d).

14                   c.     Refusal to acknowledge the wrongful nature of conduct. SCR 102.5(1)(g).

15                   d.     Vulnerability of victims. SCR 102.5(1)(h).

16                   e.     Substantial experience in the practice of law. SCR 102.5(1)(i).

17                   4.     Pursuant to SCR 102.5 (Aggravation and mitigation), the Panel adopted the  
18 previously adopted mitigating factors in this matter:

19                   a.     Absence of a prior disciplinary record. SCR 102.5(2)(a).

20                   b.     Timely good-faith effort to make restitution or rectify consequences of  
21 misconduct. SCR 102.5(2)(d). Indeed, the Panel found that Respondent's efforts to initiate  
22 legal action and repay as many victims as he could determine to be the most significant factor  
23 in assessing the appropriate disciplinary sanction.

24                   c.     Full and free disclosure to disciplinary authority and cooperative  
25 attitude toward proceedings. SCR 102.5(2)(e).

1           5.     The Panel acknowledged that it was their unanimous belief that Respondent  
2 never intended to defraud his clients or the lien holders. The Panel further acknowledged  
3 that the scheme Cisneros and Montelongo used to divert the checks from their intended  
4 recipients was elaborate and as such discovering the extent the scheme was difficult.

5           6.     The Panel was however cognizant that Respondent gave unfettered access to  
6 his office to Cisneros which allowed him to accomplish the theft.

7           7.     The Panel concluded that it was Respondent's "lack of responsibilities in  
8 adhering to the rules," did "substantially cause harm."

9           8.     ABA Standard 4.12 provides that "[l]awyers who do not have knowledge that  
10 they are dealing improperly with clients' property may nonetheless face suspension if proven  
11 that they should have known they are doing so and the client suffers injury or potential  
12 injury."

13          9.     The Panel found that Respondent should have known that Cisneros was  
14 engaged in a systematic scheme to divert checks from their intended targets based upon the  
15 systematic and ongoing nature of the scheme. As such ABA Standard 4.12 was the  
16 appropriate standard when determining the appropriate recommendation for sanction.

17          10.    The Panel did note that the length of time between the theft and the present did  
18 weigh in Respondent's favor.

19                               **DECISION AND RECOMMENDATION**

20           Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel concludes  
21 and respectfully recommends to the Supreme Court of the State of Nevada the following in  
22 order to protect the public and the integrity of the bar:

23       /////

24       /////

25       /////

1. That Respondent receive a **THREE MONTH SUSPENSION**.
2. That, pursuant to SCR 120 (Costs), Respondent be ordered to pay the costs of these proceedings within thirty (30) days of his receipt of the State Bar's Memorandum of Costs in this matter.

DATED this 20<sup>th</sup> day of June, 2016.

By: 

Jeffrey Sloane, Esq.  
Former Hearing Panel Chair  
Southern Nevada Disciplinary Board

Respectfully submitted:

STATE BAR OF NEVADA

By: 

Jason A. Dworin, Assistant Bar Counsel  
3100 W. Charleston Boulevard, Suite 100  
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Attorney for the State Bar of Nevada



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Nevada Court Rules NEVADA RULES OF PROFESSIONAL CONDUCT CLIENT-LAWYER RELATIONSHIP**Rule 1.15. Safekeeping Property**

- (a) A lawyer shall hold funds or other property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All funds received or held for the benefit of clients by a lawyer or firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts designated as a trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property in which clients or third persons hold an interest shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.
- (b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.
- (c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.
- (d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
- (e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property as to which the interests are not in dispute.

**History**

Added eff. 5-1-06

**Annotations**

MICHIE'S NEVADA COURT RULES ANNOTATED

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Nevada Court Rules NEVADA RULES OF PROFESSIONAL CONDUCT LAW FIRMS AND ASSOCIATIONS**Rule 5.3. Responsibilities Regarding Nonlawyer Assistants**

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) A partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- (b) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) A lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
  - (1) The lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
  - (2) The lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

**History**

Added eff. 5-1-06

**Annotations**

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Nevada Court Rules NEVADA RULES OF PROFESSIONAL CONDUCT LAW FIRMS AND ASSOCIATIONS**Rule 5.5. Unauthorized Practice of Law****(a) General.** A lawyer shall not:

- (1) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or
- (2) Assist another person in the unauthorized practice of law.

**(b) Exceptions.** A lawyer who is not admitted in this jurisdiction, but who is admitted and in good standing in another jurisdiction of the United States, does not engage in the unauthorized practice of law in this jurisdiction when:

- (1) The lawyer is authorized to appear before a tribunal in this jurisdiction by law or order of the tribunal or is preparing for a proceeding in which the lawyer reasonably expects to be so authorized;
- (2) The lawyer participates in this jurisdiction in investigation and discovery incident to litigation that is pending or anticipated to be instituted in a jurisdiction in which the lawyer is admitted to practice;
- (3) The lawyer is an employee of a client and is acting on behalf of the client or, in connection with the client's matters, on behalf of the client's other employees, or its commonly owned organizational affiliates in matters related to the business of the employer, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction;
- (4) The lawyer is acting with respect to a matter that is incident to work being performed in a jurisdiction in which the lawyer is admitted, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction;
- (5) The lawyer is engaged in the occasional representation of a client in association with a lawyer who is admitted in this jurisdiction and who has actual responsibility for the representation and actively participates in the representation, provided that the out-of-state lawyer's representation of the client is not part of a regular or repetitive course of practice in this jurisdiction;
- (6) The lawyer is representing a client, on an occasional basis and not as part of a regular or repetitive course of practice in this jurisdiction, in areas governed primarily by federal law, international law, or the law of a foreign nation; or
- (7) The lawyer is acting as an arbitrator, mediator, or impartial third party in an alternative dispute resolution proceeding.

**(c) Interaction with Supreme Court Rule 42.** Notwithstanding the provisions of paragraph (b) of this Rule, a lawyer who is not admitted to practice in this jurisdiction shall not represent a client in this state in an action or proceeding governed by Supreme Court Rule 42 unless the lawyer has been authorized to appear under Supreme Court Rule 42 or reasonably expects to be so authorized.**(d) Limitations.**

- (1) No lawyer is authorized to provide legal services under this Rule if the lawyer:
  - (i) Is an inactive or suspended member of the State Bar of Nevada, or has been disbarred or has received a disciplinary resignation from the State Bar of Nevada; or
  - (ii) Has previously been disciplined or held in contempt by reason of misconduct committed while engaged in the practice of law permitted under this Rule.
- (2) A lawyer who is not admitted to practice in this jurisdiction shall not:

- (i) Establish an office or other regular presence in this jurisdiction for the practice of law;
- (ii) Solicit clients in this jurisdiction; or
- (iii) Represent or hold out to the public that the lawyer is admitted to practice law in this jurisdiction.

(e) **Conduct and discipline.** A lawyer admitted to practice in another jurisdiction of the United States who acts in this jurisdiction pursuant to paragraph (b) of this Rule shall be subject to the Nevada Rules of Professional Conduct and the disciplinary jurisdiction of the Supreme Court of Nevada and the State Bar of Nevada as provided in Supreme Court Rule 99.

## History

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Added eff. 5-1-06

### Annotations

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[Nevada Court Rules](#) [NEVADA RULES OF PROFESSIONAL CONDUCT](#) [MAINTAINING THE INTEGRITY OF THE PROFESSION](#)**Rule 8.4. Misconduct**

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

**History**

Added eff. 5-1-06; amended and eff. 2-10-2017; Amended and eff. 2-10-2017

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**NEVADA RULES OF PROFESSIONAL CONDUCT**

ADOPTED  
BY THE  
SUPREME COURT OF NEVADA

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Effective May 1, 2006  
and Including  
Amendments Through February 5, 2018

**NEVADA RULES OF PROFESSIONAL CONDUCT**

...

**Rule 1.3. Diligence.** A lawyer shall act with reasonable diligence and promptness in representing a client.

[Added; effective May 1, 2006.]

## 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 Los Angeles, on October 12, 2018, I deposited a true copy of the following document(s):

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

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

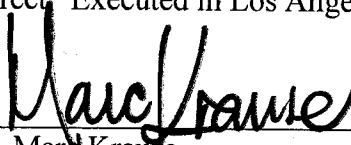
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID MICHAEL KORREY  
LAW OFCS OF DAVID M KORREY  
624 S 9TH ST  
LAS VEGAS, NV 89101 - 7013

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

TERESE E. LAUBSCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 12, 2018.

  
\_\_\_\_\_  
Marc Krause  
Court Specialist  
State Bar Court