

FILED

MAR 04 2019 P.B.

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case Nos. 17-O-00029; 18-C-11260
)	(Consolidated)-CV
GILBERT RALPH GEILIM-MORALES,)	
)	DECISION AND ORDER OF
State Bar No. 117508)	INVOLUNTARY INACTIVE
_____)	ENROLLMENT

Introduction¹

In this consolidated, original and conviction referral disciplinary matter, Respondent Gilbert Ralph Geilim-Morales (Respondent) is charged with the following seven counts of misconduct in two separate client matters: one count of failing to maintain proper trust account records; two counts of failing to maintain client funds in trust; two counts of engaging in acts of moral turpitude by misappropriating client funds; one count of sharing legal fees with a non-lawyer; and one count of failing to notify the State Bar of the termination of employment of a disbarred member.

In the conviction referral matter, Respondent was convicted of Penal Code section 273.5, subdivision (a) [injuring a spouse, cohabitant, fiancé, boyfriend, girlfriend or child's parent].

The court finds Respondent culpable on six of the seven counts.² Specifically, the court finds Respondent culpable on one count of failing to maintain proper trust account records; two

¹ Unless otherwise indicated, all statutory references are to the Business and Professions Code.



counts of failing to maintain client funds in trust account; two counts of engaging in acts of moral turpitude by misappropriating client funds; and failing to notify the state bar of the termination of a disbarred member. The court also concludes that the facts and circumstances surrounding Respondent's conviction involve moral turpitude.

The court concludes that the appropriate level of discipline for the found misconduct is disbarment.

Significant Procedural History

On May 10, 2018, the Office of Chief Trial Counsel of the State Bar of California (OCTC) transmitted evidence of Respondent's conviction to the State Bar Court's review department. On June 1, 2018, the review department referred the matter to the State Bar Court's hearing department "for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the misdemeanor violation of [Penal Code section 273.5, subdivision (a)] involved moral turpitude or other misconduct warranting discipline."

A Notice of Hearing on Conviction was filed on June 5, 2018. Respondent filed a response to the Notice of Hearing on Conviction on July 20, 2018.

On July 18, 2018, the Notice of Disciplinary Charges (NDC) was filed in case No. 17-O-00029. Respondent filed a response to the NDC on August 21, 2018.

This case proceeded to trial on November 19, 2018. After six days of trial, the court took this matter under submission for decision on December 4, 2018.

² OCTC moved to dismiss Count 6. The motion is granted. The court dismisses that count with prejudice.

Findings of Fact and Conclusion of Law

Jurisdiction

Respondent was admitted to the practice of law in California on August 4, 1984, and has been licensed by the State Bar of California at all times since that date.

Facts

The Failure to Maintain, and Misappropriation of, Funds Matters: Case No. 17-O-00029

On December 23, 2008, Respondent opened a client trust account at City National Bank, Account Number xxxxx3494 (CTA). Respondent's sister, Brenda Geilim, was a signatory on his CTA until mid- to late-2012, when she left Respondent's employment.

Villegas Matter

After Mario Villegas (Villegas) was injured in an accident on May 19, 2009, he hired Respondent to represent him. Respondent claims that Villegas's file was destroyed by a water leak and discarded. Respondent is thus unable to produce documents and information concerning most issues, including the date he was hired by Villegas, and the amounts of the contingency fee and settlement disbursement.

Olympia Medical Center (Olympia) provided medical services totaling approximately \$81,797.50 to Villegas. On July 30, 2012, Villegas signed a hospital lien for Olympia, which Respondent signed on November 7, 2012 and returned soon thereafter.

On August 24, 2012, Villegas signed a transfer and conveyance of proceeds and security agreement (Villegas T&C) to receive an investment of \$15,000 from Golden Pear Funding (Golden Pear) in his personal injury settlement, which Respondent signed on the same date and returned to Golden Pear soon thereafter. Respondent understood that Golden Pear's investment was secured by Villegas' personal injury settlement and that he had a fiduciary duty to ensure that Golden Pear was repaid pursuant to the terms of the agreement. The Villegas T&C provided

an APR of 36%. Although Respondent argued throughout these proceedings that Golden Pear charged Villegas a usurious rate, the court notes that Respondent connected Villegas with Golden Pear.

On October 7, 2013, Respondent deposited a check for \$25,000 in settlement of the Villegas case into his CTA. Of this amount, Respondent was entitled to a contingency fee of \$10,000, and therefore, he was required to hold \$15,000 in trust for Villegas and his lienholders, including Olympia and Golden Pear.

On October 18, 2013, Respondent deposited another check for \$205,000 in settlement of the Villegas case into his CTA. Of this amount, Respondent was entitled to a contingency fee of \$80,000. Consequently, Respondent was required to hold the sum of \$125,000 plus the sum of \$15,000 from the first settlement check, or the total sum of \$140,000 in trust for Villegas and/or Villegas's lienholders. Had Respondent paid the approximate amount due of \$23,520.80 to Golden Pear after he deposited the settlement checks, Respondent would have had \$116,479.20 to pay to Villegas and his lienholders.

On approximately October 18, 2013, Respondent paid a CTA counter check to the County of San Bernardino in the sum of \$8,570.48 for health care provided to Villegas. After paying that amount, Respondent was required to hold \$131,429.52 in trust for Villegas and his lienholders.

On October 18, 2013, the County of San Bernardino, Central Collections, sent a letter to AIG with a courtesy copy to Respondent acknowledging receipt of the sum of \$8,570.48 from Respondent, but stating that Villegas remained liable for the sum of \$5,936.16. Respondent never paid the sum of \$5,936.16 to the County of San Bernardino.

On November 22, 2013, Respondent paid CTA check no. 11915 to the law firm of Daniels Fine Israel Schonbuch & Lebovits in the sum of \$912.50 for a client matter with the

memo, "Refund for fee re Mario Villegas matter." After paying that amount, Respondent was required to hold \$130,517.02 in trust for Villegas and his lienholders.

On May 1, 2014, Respondent paid CTA check no. 11996 to Villegas in the sum of \$50,000 for a client matter with the memo, "Partial Share of PI settlement on 5/19/2009 accident." After paying that partial amount, Respondent was required to hold \$80,517.02 in trust for Villegas and his lienholders.

At the time of the \$50,000 payment on May 1, 2014, Olympia had a lien for \$81,797.50 and Golden Pear had a lien for the approximate sum of \$28,085.06.

On May 25, 2016, Medical Finance LLC (Med-Fi) filed a civil complaint against Respondent and Villegas to recover the sum of \$81,797.70 owed to Olympia titled *Medical Finance LLC v. Gilbert Geilim aka Gilbert Geilim-Morales and Mario Villegas*, Los Angeles Superior Court case No. BC621452 (*Med-Fi v. Geilim*). On August 10, 2016, Med-Fi filed a Request for Default of Respondent, which the court entered on that date. The Proof of Service lists Respondent's then official membership address. Subsequently, on December 12, 2016, Med-Fi filed a Request for Default of Villegas, which the court entered on that date. Respondent subsequently settled the *Med-Fi v. Geilim* lawsuit.

On March 24, 2015, an attorney for Golden Pear sent a letter to Respondent demanding payment on the investments Golden Pear made in the lawsuits Respondent filed on behalf of Villegas.³ Respondent believes that he received the letter.

In approximately October 2016 and June 2018, Respondent contacted Golden Pear to discuss its lien on Villegas's settlement, which increased to the sum of \$60,000 as of June 13,

³ This letter also demanded payment in the Harrison matter, discussed below.

2018.⁴ At the time of trial in this matter, Respondent had not paid any sum of money to Golden Pear.

Harrison Matter

On October 22, 2012, Respondent's client, Calvin Harrison (Harrison), signed a Transfer and Conveyance of Proceeds and Security Agreement (Harrison T&C) to receive an investment of \$5,000 from Golden Pear in his personal injury settlement, which Respondent signed on the same date and returned to Golden Pear on October 23, 2012. The Harrison T&C provided an APR of 38.4%. Again, although Respondent made the argument that Golden Pear charged his client a usurious rate, Respondent connected Harrison with Golden Pear.

On October 24, 2013, Respondent deposited a settlement check for \$27,500 payable to himself and Harrison into his CTA. Assuming a contingency fee of 40%, Respondent was entitled to receive the sum of \$11,000. Consequently, Respondent was required to hold the sum of \$16,500 in trust for Harrison and Harrison's lienholders. Had Respondent paid the approximate amount due of \$7,807.47 to Golden Pear after he deposited the settlement check, Respondent would have had the approximate sum of \$8,692.53 to pay to Harrison and other lienholders, if any.

On October 30, 2013, Respondent paid CTA check no. 11913 to Harrison in the sum of \$5,000 with the memo, "full and final share of settlement of PI matter 4/7/2011." Notwithstanding Respondent's memo, the court finds that Respondent was required to hold \$11,500 in trust for Harrison and his lienholders.

On January 17, 2014, Golden Pear sent a letter to Respondent responding to his request for the payoff figures for the Harrison investment. This letter stated that the payoff amount was \$8,855.82 if paid before February 22, 2014. Respondent received the letter.

⁴ Respondent's inquiries to Golden Pear in June 2018 pertained to the Villegas matter and to the Harrison matter, discussed below.

At the time of trial, Respondent had not paid any sum to Golden Pear on behalf of Harrison, and as of June 18, 2018, the repayment amount grew to the approximate sum of \$25,000.

Respondent's Fees

On September 18, 2013, Respondent paid CTA check no. 11892 to himself in the sum of \$8,500 with the memo, "Partial Fee re Mario Villegas."

On October 21, 2013, Respondent transferred the sum of \$40,000 from his CTA to City National Bank Account, xxxx6127.

On or about October 24, 2013, Respondent paid CTA check no. 11912 to himself in the sum of \$27,500 "fee on Villegas & Harrison matters."

Mohammad Reza Nadim

By order dated December 5, 2011, the State Bar Court hearing department placed Mohammad Reza Nadim (Nadim) on inactive status after it recommended that he be disbarred in consolidated case Nos. 08-O-01300 and 10-O-01087. On April 26, 2013, the Supreme Court disbarred Nadim from the practice of law.

At some point in early- or mid-2013, Respondent hired Nadim and filed with the State Bar of California a notice pursuant to former Rules of Professional Conduct, rule 1-311 (Notice of Employment of Disbarred, Suspended, Resigned or Involuntary Inactive Member). In 2016, Respondent terminated Nadim but never notified the State Bar that Nadim was no longer employed by his office.

On November 30, 2018, OCTC and Respondent stipulated that, although the following CTA checks were paid to Nadim, neither Respondent's handwriting nor his signature is present on the checks.

DATE	CHECK	AMT.	MEMO
9/3/13	11884	\$2,000	"bonus on Adjian matter"
9/6/13	11889	\$500	"Bonus on S. Gonzales."
9/18/13	11893	\$1,500	"Bonus/Partial/Mario Villegas."
10/8/13	11901	\$3,000	"Bonus on Caridad Davis."
10/18/13	11902	\$1,450	"Bonus re Isidro Sanchez."
10/18/13	11905	\$900	"Bonus on Bertha Alvarez."
10/21/13	11909	\$9,500	"Bonus on Villegas, Mario."
10/24/13	11911	\$2,500	"Bonus re Harrison & Villegas [illegible]."
12/19/13	11939	\$3,500	"Bonus/Martinez."
12/24/13	11953	\$300	"Bonus on Herrera, B."
1/10/14	11955	\$3,000	"Bonus – Advance M. Herrera."
1/23/14	11961	\$1,000	"fee/picking up [sic] file Munoz."
2/24/14	11967	\$2,000	"Bonus on Brenda Martinez & Scott."
3/18/14	11972	\$2,458	"Bonus on Maugasaryan [illegible] & Venegas.)."
3/26/14	11978	\$9,800	"Bonus – Herrera #1." ⁵
4/2/14	11981	\$9,000	"Bonus on Herrera, M 4/14/11 #3."
4/8/14	11989	\$1,500	"Bonus on Bahean [sic]."
4/14/14	11990	\$8,700	"Bonus on M. Herrera [illegible] #4."
11/28/14	12059	\$1,700	"Adv. r/Pay [illegible]."
12/18/14	12064	\$2,000	"Cash for Client Edward Babakhulos [sic] & Deliver - PI – DOA 9/9/2012."
5/1/15	12101	\$1,200	"To pay [sic] on 2 cases Reyes & Bryant."
8/28/15	12135	\$2,108	"for Yardis Chiropractic on Rojas – 12/2/2014 per doctor's instructions."
10/28/15	12151	\$900	"Adv. M to Client."
11/17/15	12163	\$1,500	"Adv. on Med Pay to [illegible] – for client C. Morieta [sic]."
11/30/15	12188	\$1,000	"[illegible]."
12/24/15	12138	\$500	"Advance in Claudia Noriega to Stu-8 [sic]."

Throughout his deposition, Respondent repeatedly stated "I don't know," "I don't recall," and "I don't remember" in response to why he made multiple "bonus" payments to Nadim. Respondent contended at trial that what he should have responded was that he, in fact, had not made any of the "bonus" payments to Nadim, and that Nadim made the payments to himself without Respondent's knowledge or consent. Nadim testified that although he wrote the checks to himself and signed Respondent's signature on the checks, it was done with Respondent's

⁵ In CTA check 11979, dated March 28, 2014, Nadim was paid the sum of \$8,500 for a client matter with the memo, "Bonus/M. Herrera #2." This check was not a subject of the parties' stipulation.

knowledge and at his direction. Neither Respondent nor Nadim are credible, but the court finds that Respondent's utter abdication of his supervision duties over his CTA, and his abandonment of his practice and relinquishment of control of his CTA to Nadim makes Respondent's version of the facts more credible than Nadim's.

State Bar Investigation

On February 16, 2017, OCTC sent a letter to Respondent requesting that he respond to allegations of misconduct in case No. 17-O-00029. Respondent received the letter. At that time, Respondent was aware that he owed "a substantial amount of money that had not been paid out on behalf of Mr. Villegas," including but not limited to a lien of \$80,000 held by Olympia Medical Center and a lien in excess of \$20,000 held by Golden Pear. Respondent believed he could settle these liens for \$50,000.

Summary of CTA Balance and Court Findings

Between approximately February 18, 2014 and March 19, 2014, the balance in Respondent's CTA dipped below the sum of \$130,517.02 to be held in trust for Villegas and his lienholders plus the \$11,500 to be held on behalf of Harrison and his lienholders, for the total sum to be held in trust of \$142,017.02, on the following occasions:⁶

DATE	CHECK	AMT.	PAYEE	BALANCE
2/18/14	Transfer	\$20,000	Respondent	\$128,510.52
2/19/14	11963	\$500	3 rd party	\$128,010.52
2/20/14	Transfer	\$10,000	Respondent	\$118,010.52
2/24/14	Multiple with \$10,000 to Respondent			\$111,377.52
2/25/14	Transfer	\$2,000	Respondent	\$109,337.52
2/26/14	Transfer	\$10,000	Respondent	\$99,337.52
3/5/14	11965	\$2,683	3 rd party	\$96,694.52
3/18/14	Multiple with \$48,541 to Respondent			\$74,770.52
3/19/14	Multiple			\$66,818.52

⁶ The chart does not include all deposits and debits, only those that cause the balance to dip below the prior lowest balance.

Respondent failed to maintain in trust and misappropriated the approximate sum of \$75,198.50 held for Villegas, Harrison and their lienholders (\$142,017.02 - \$66,818.52 = \$75,198.50).

Between approximately June 19, 2014 and December 30, 2015, the balance in Respondent's CTA dipped below the \$80,517.02 to be held in trust for Villegas and his lienholders plus the \$11,500 for Harrison and his lienholders for the total sum to be held in trust of \$92,017.02 on the following occasions:⁷

DATE	CHECK	AMOUNT	PAYEE	BALANCE
2/18/14	Transfer	\$20,000	Respondent	\$128,510.52
6/19/14	12007	\$5,270	3 rd party	\$61,118.86
6/25/14	Multiple with \$3,000 to		Respondent	\$54,118.86
7/1/14	12010	\$4,000	3 rd party	\$50,118.86
7/2/14	12013	\$400	3 rd party	\$49,718.86
7/11/14	Multiple			\$47,363.86
7/16/14	12019	\$3,000	3 rd party	\$44,363.86
7/21/14	1802	\$5,000	Cash	\$39,363.86
9/26/14	12032	\$16,643.36	Respondent	\$33,504.86
9/29/14	12031	\$1,000	3 rd party	\$32,504.86
10/3/14	12033	\$7,510	Respondent	\$24,994.86
10/7/14	12030	\$1,500	3 rd party	\$23,494.86
1/12/15	Transfer	\$20,000	Respondent	\$7,418.86
3/6/15	12079	\$1,754	3 rd party	\$5,032.86
3/9/15	12080	\$250	3 rd party	\$4,782.86
3/10/15	12076	\$2,500	3 rd party	\$2,282.86
12/29/15	2888	\$10,000	Respondent	\$463.84
12/30/15	12195	\$2,000	3 rd party	-\$1,573.16
1/5/16				\$100 ⁸

Respondent failed to maintain in trust and misappropriated the approximate sum of \$92,017.02 held for Villegas, Harrison, and their lienholders.

At trial, Respondent admitted that he did not prepare a written account journal, client ledgers, and monthly reconciliations for his CTA as alleged in Count One. If he had kept such

⁷ The balance starts out at \$61,118.86 because that amount was the next balance after the dip below the prior lowest balance of \$66,818.52 as set forth above.

⁸ On January 5, 2016, Respondent transferred the sum of \$1,673.16 from the Deposit Account ending 6127 (his general account) into his CTA to make up for insufficient funds, resulting in a balance of \$100.

records, this shortfall of funds in the CTA could not have occurred. He also readily admitted that he did not notify the State Bar that he terminated Nadim as alleged in Count Seven.

Respondent did not deny the allegations that he failed to maintain client funds in the CTA, nor the misappropriation of client funds. Rather, Respondent argued that due to physical pain caused by shoulder and back injuries and surgeries, the related use of powerful pain narcotics, and the drama of his abusive relationship with his third wife, he negligently mismanaged his law practice and client trust account and was not aware that Nadim was stealing money from Respondent in the form of writing "bonus" checks to himself.

Respondent abandoned his law practice and his non-delegable fiduciary duty to his clients for approximately three years, between September 2013 and July 2016. During this time, Nadim prepared CTA checks and simulated Respondent's signature on them. Respondent denied authorizing Nadim to prepare the checks and to simulate his signature on them. However, Respondent's testimony in this regard is not credible.⁹ The court finds that Respondent knowingly and intentionally turned a blind eye to the management of his law practice and his CTA. Indeed, Nadim prepared and simulated Respondent's signature on approximately 88 of 91 CTA checks during the six-month period between September 1, 2013 and March 31, 2014. It is not credible for Respondent to argue that he was unaware of this. Moreover, Respondent himself was not preparing the checks, no other person on his staff was delegated to do so, and Respondent signed at least a couple of the checks that Nadim prepared. It is not credible to believe that 67 CTA checks totaling \$293,409.57 were deposited into Respondent's general account without his preparation, signature, or authorization.

⁹ Nadim's testimony is similarly lacking in credibility. The court finds that Respondent relinquished all control over his CTA to Nadim, and Nadim took advantage of his authority to write and sign checks in order to personally profit knowing that Respondent had abandoned all supervision over his CTA and his law practice.

Respondent's allegation that Nadim embezzled funds from his CTA without his authorization is not credible. Respondent was placed on notice throughout this time that the checks were being written on the CTA and that the CTA dipped below the amount required to be kept on deposit for his clients. Yet, Respondent failed to investigate, hire an accountant, question Nadim, or take control over the CTA until July 2016 when he terminated Nadim. Respondent's culpability is further evidenced by his failure to file a police report on Nadim for suspected embezzlement until immediately prior to trial in this case, two years after he fired Nadim and months after his deposition in this case wherein Respondent was presented with the checks that Nadim prepared and simulated his signature on. The court finds that Respondent allowed Nadim to take money from the CTA, and that Respondent himself personally profited from the misappropriation of funds from the CTA.

Tellingly, as of January 2016, Respondent's CTA balance dipped to \$100, and this was only after Respondent had transferred funds from his general account into his CTA to make up for insufficient funds. At this time, Respondent should have held in his CTA a total of \$92,017.02 for Villegas and Harrison and their lienholders. Even if all of the checks with "bonus" written in the memo line to Nadim constituted embezzled funds, they total \$70,108, leaving the amount of \$21,909.02 unaccounted for. The court finds that Respondent himself misappropriated that balance at the very least.

Conclusions of Law

In view of the foregoing, Respondent is culpable as to Count One, failing to prepare and maintain trust account records as required under former Rules of Professional Conduct, rule 4-100(B)(3). Respondent is also culpable as to Counts Two and Four, failing to maintain client funds in his trust account sufficient to cover the amount owed to Villegas and Harrison and their lien holders until such time as they were paid.

The court also determines that Respondent is culpable as to Counts Three and Five, misappropriating funds received on behalf of Villegas and Harrison. As stated above, Respondent's CTA balance dipped between February 24, 2014 and March 19, 2014, from \$142,017.02 to \$66,818.52, which resulted in a misappropriation of \$75,198.50 of the combined funds held in trust for Villegas, Harrison, and/or their lien holders. The bonus checks to Nadim totaled \$70,108, leaving the amount of \$21,909.02 unaccounted for, resulting in a misappropriation of funds by Respondent himself.

Finally, Respondent has admitted that he failed to notify the State Bar when he terminated the employment of Nadim, and therefore the court determines that Respondent is culpable as to Count Seven.

As the court stated previously, Count Six is dismissed pursuant to OCTC's motion.

The Conviction Referral Matter¹⁰

On June 11, 2015, at approximately 1:25 p.m., Beverly Hills Police Officer Myers responded to a call at an Urgent Care. Respondent's spouse Marguerie Finneran-Geilim (Finneran) told the officer that Respondent had smashed Finneran's face against the travertine tile floor and kicked her three times – once in the head and twice in the back. Finneran suffered a concussion as a result of the battery. Respondent reported to the Beverly Hills Police Station later that day and was arrested.

On June 16, 2015, Finneran filed a Request for Domestic Violence Restraining Order against Respondent in her dissolution of marriage case, titled *Marguerie Finneran Geilim v. Gilbert Geilim*, LASC Case No. SD034210 (*Finneran Geilim*). On July 30, 2015, the Superior Court granted the requested restraining order and ordered the Domestic Violence Restraining

¹⁰ The following facts are derived from the exhibits and testimony admitted into evidence at trial. In light of the credible and corroborated testimony presented by the police officers, the court found that certain aspects of Respondent's testimony lacked credibility, as discussed *infra*.

Order to expire on July 30, 2020. On August 28, 2015, at 5:10 p.m., Sergeant Robert Maycott served the Domestic Violence Restraining Order on Respondent, and on September 15, 2015, proof of service of the Domestic Violence Restraining Order on Respondent was filed in *Finneran-Geilim*.

On October 1, 2015, a misdemeanor complaint alleging Respondent violated Penal Code section 273.5, subdivision (a) [injuring a spouse, cohabitant, fiancé, boyfriend, girlfriend or child's parent] was filed against Respondent arising from his criminal conduct on June 11, 2015, in the Superior Court of California, County of Los Angeles, titled *The People of the State of California v. Gilbert Geilim*, Case No. 5WA32497. (*People v. Geilim I*).

On December 28, 2015, at approximately 1:04 a.m., Beverly Hills Police Officer Newman responded to a call at Finneran's residence. Despite the restraining order against him, Respondent had entered the dwelling without notice, threatened to harm Finneran, pushed Finneran to the floor twice, slapped her face, and destroyed pictures. Respondent was arrested at the scene.

On December 30, 2015, a felony complaint alleging Respondent violated: (A) Penal Code section 459 [first degree residential burglary]; (B) Penal Code section 422, subdivision (a) [criminal threats]; and (C) Penal Code section 166, subdivision (a)(4) [disobeying court order] was filed against Respondent arising from his criminal conduct on December 28, 2015, in the Superior Court of California, County of Los Angeles, titled *The People of the State of California v. Gilbert Geilim*, Case No. SA091934. (*People v. Geilim II*).

On April 13, 2016, Respondent pled no contest to one count of violating Penal Code section 273.5, subdivision (a) [injuring a spouse, cohabitant, fiancé, boyfriend, girlfriend or child's parent] in *People v. Geilim II*. Respondent was sentenced to, among other things: (A) summary probation for a period of three years; (B) serve two days in the Los Angeles County

Jail, less two days credit; (C) not use or threaten to use force or violence against any other person; (D) enroll within 30 days in and successfully complete a 52-week domestic violence treatment program; and (E) attend 26 Alcoholics Anonymous meetings at the rate of one meeting per week.

Also on April 13, 2016, the People dismissed *People v. Geilim I* in furtherance of justice pursuant to Penal Code section 1385 based on Respondent's plea and conviction in *People v. Geilim II*.

At trial, Respondent testified that he has been arrested six times between 2013 and 2015 for acts of domestic violence against Finneran. Respondent sought to justify his behavior by arguing at trial that Finneran was equally violent towards him, and that she too had been arrested for domestic violence against him. Moreover, Respondent disputed the fact that he committed domestic violence and argued that Finneran "fell" on the floor as the result of slipping on the slippery surface with wet feet, and that she "fell" into the bushes and scratched her own face.

The court finds that Respondent's criminal conduct involved a serious breach of a duty owed to another and a flagrant disrespect for the law and for societal norms. The court further finds that public confidence in and respect for the legal profession would likely be undermined by knowledge of Respondent's criminal conduct. Finally, the court finds that the facts and circumstances surrounding the criminal conduct involved a lack of honesty and candor, character traits necessary for the practice of law. Respondent placed partial blame on the victim attempting to cast her as an alcoholic, drug addict, and spouse abuser herself, as he claimed that she beat up on him regularly. At the time of trial, despite the restraining order against him that remains in effect until 2020, Respondent admitted that he remains in contact with Finneran on a frequent basis.

Conclusion of Law

In attorney disciplinary proceedings, “the record of [an attorney's] conviction [is] conclusive evidence of guilt of the crime of which he or she has been convicted.” (§ 6101, subd. (a); *In re Gross* (1983) 33 Cal.3d 561, 567.) Stated differently, an attorney’s conviction is conclusive proof that the attorney committed all of the acts necessary to constitute the crime of which he or she was convicted. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 110.) In fact, a “hearing judge may not reach conclusions, even if based on evidence found to be credible, that are inconsistent with the conclusive effect of Respondent’s conviction.” (*In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588.) Thus, Respondent cannot attempt to undermine his criminal conviction by claiming that he acted in self-defense, or that he too was at times a victim.

An attorney’s conviction for domestic violence, however, does not establish moral turpitude per se. And, since Respondent’s offenses do not involve moral turpitude per se, this court must first determine whether the facts and circumstances surrounding Respondent’s conviction involved moral turpitude.

The term moral turpitude “cannot be defined with precision.” (*Baker v. State Bar* (1989) 49 Cal.3d 804, 815, fn. 3.) It has consistently been described as any “act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. [Citation.]” (*In re Craig* (1938) 12 Cal.2d 93, 97.) “It is measured by the morals of the day [citation] and may vary according to the community or the times. [Citation.]” (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 214.)

The California Supreme Court has further explained that “[c]riminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a

deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession." (*In re Lesansky* (2001) 25 Cal.4th 11, 16.)

While in the past, domestic violence may have been overlooked or even condoned, today there is less tolerance for, and more societal awareness of, domestic violence. Domestic violence involves a breach of trust between intimate partners and is evidence of disrespect for societal norms. This matter involved cruel behavior by an attorney that deviated from societal norms and which resulted in serious injury to the attorney's wife.

Respondent's conduct was contrary to the accepted and customary rules one individual must exhibit toward another individual - especially towards an individual with whom he shared an intimate relationship. Furthermore, although Respondent's criminal conduct did not involve the practice of law, it involved (1) a serious breach of a duty owed to another; (2) a flagrant disrespect for the law and for societal norms, and (3) the undermining of public confidence in, and respect for, the legal profession. Moreover, the court finds that the repeated violations of protective orders evidence a lack of respect for the courts and the law, which does in fact relate to the practice of law. The court therefore finds that the facts and circumstances surrounding Respondent's conviction of violating Penal Code section 273.5, subdivision (a), involved moral turpitude.

Aggravation¹¹

Aggravating circumstances must be established by the State Bar by clear and convincing evidence. (Std. 1.5.)

¹¹ All references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Prior Record of Discipline (Std. 1.5(a).)

Although Respondent has a prior record of discipline, it was over 21 years ago, and the court concludes that it is too attenuated in time to consider it a significant aggravating factor in this case. (Cf. *In the Matter of Shinn* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96, 105 [private reproof imposed 20 years prior to current misconduct deemed too remote in time to merit significant weight].)

Multiple Acts of Misconduct (Std. 1.5(b).)

Respondent has been found culpable of two counts of misappropriation and two counts of failing to maintain client funds in his trust account, both in two different client matters, as well as one count of failing to prepare and maintain trust account records, and one count of failing to notify the State Bar at the time that he terminated the employment of a disbarred attorney. In addition, Respondent engaged in criminal misconduct. The court additionally notes that Respondent allowed his CTA to dip below the amount that he was required to hold in it for his clients Villegas and Harrison and their lienholders numerous times. The court finds these multiple acts of misconduct to be a significant circumstance in aggravation. (Cf. *In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 279 [one count of misappropriation along with 65 uncharged improper CTA withdrawals constitute multiple acts of misconduct and are significant aggravation].)

Pattern of Misconduct (Std. 1.5(c).)

Respondent's misconduct in failing to oversee his trust account and abandoning those nondelegable duties to a nonattorney for a period of several years constitutes a pattern of misconduct. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 638.) However, for purposes of determining the level of discipline, whether the court finds multiple acts of misconduct or a pattern of misconduct, the result is the same. (*Ibid.*)

Harm to Client/Public/Administration of Justice (Std. 1.5(j).)

Due to the high APR's in the Golden Pear funding agreements, Villegas and Harrison owe much more now than they would have owed had Respondent paid their liens when due. Moreover, now Villegas has had a default entered against him in a lawsuit as a result of Respondent's failure to pay his lienholder, causing him great distress. In addition, Finneran has sustained physical injuries and has been forced to obtain a Domestic Violence Restraining Order against Respondent due to his criminal misconduct as well as obtain the assistance of the local police. The court concludes that the harm Respondent caused Villegas, Harrison, and Finneran, warrants significant weight in aggravation.

Lack of Candor and Cooperation (Std. 1.5(l).)

As previously stated, the court finds that Respondent's testimony at trial lacked candor. Respondent attempted to deny his guilt in the criminal matter, claiming that his wife slipped and fell to sustain her injuries, and attempted to blame all of the lost funds in the original disciplinary matter on Nadim, while the evidence at trial established that Respondent allowed his CTA balance to drop below the amount of funds that Nadim took from the account. This lack of candor is a "strong aggravating circumstance." (*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269.)

Failure to Make Restitution (Std. 1.5(m).)

As stated in the court's discussion of the original disciplinary proceeding, as of the time of trial, Respondent had made no attempt to pay any amount to Golden Pear in satisfaction of its liens against his clients and had failed to complete payments on behalf of Villegas to the County of San Bernardino. This failure is a factor in aggravation.

Mitigation

Mitigating circumstances must be established by Respondent by clear and convincing evidence. (Std. 1.6.)

Extreme Emotional Difficulties (Std. 1.6(d).)

Standard 1.6(d) provides that an attorney may be entitled to mitigating credit for extreme emotional difficulties that he or she suffered at the time of the misconduct, which difficulties are established by expert testimony as being directly responsible for the misconduct. That standard also provides that, in order to receive mitigating credit, the attorney must establish by clear and convincing evidence that the difficulties no longer pose a risk of causing the lawyer to commit further misconduct. Here, Respondent presented no expert testimony to establish that his misconduct in either the original disciplinary matter or the criminal matter was caused by emotional or physical difficulties. Moreover, he has failed to establish that his difficulties, particularly the difficulties with his wife, no longer pose a risk for future misconduct. Under these circumstances, the court will not give mitigating credit for extreme emotional difficulties.

Good Character (Std. 1.6(f).)

Respondent presented the evidence of five witnesses to establish his good character: one attorney, his sister, an employee, his housemate of one year, and a friend. These witnesses testified to Respondent's ethics, honesty, professional reputation, trustworthiness, community service and pro bono work. However, the court gives only limited weight in mitigation to Respondent's evidence of good character, as it was not attested to by a wide-range of references (std. 1.6(f); *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [testimony of three attorneys and three clients familiar with the charges entitled to limited mitigation as not broad range of references]), and the references were not aware of the full extent

of the misconduct (*In re Aquino* (1989) 49 Cal.3d 1122, 1131 [testimony of witnesses unfamiliar with misconduct details not given significant weight in mitigation]).

Pro Bono Work and Community Service (Std. 1.6(f).)

Respondent has donated money to, performed pro bono work for, and engaged in community service to the Latino immigrant community. Starting in January 2017, Respondent fulfilled his 300-hour community service requirement through One Stop Immigration and Education Center. However, the executive director of that organization testified that Respondent has assisted him and the organization for over 20 years taking between four to six cases per year on a pro bono basis. The court gives some weight in mitigation to this evidence.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but is instead (1) to protect the public, the courts, and the legal profession; (2) to maintain the highest possible professional standards for attorneys; and (3) to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar, supra*, 49 Cal.3d at p. 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The court then looks to the decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silvertan* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the Review Department noted more than two decades ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419, even though the standards are not to be applied in a

talismanic fashion, they are to be followed unless there is a compelling reason that justifies not doing so. (Accord, *In re Silverton*, *supra*, 36 Cal.4th at p. 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *Gary v. State Bar* (1988) 44 Cal.3d 820, 828; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

ORIGINAL DISCIPLINARY PROCEEDING

With regard to the original disciplinary proceeding, standard 2.2(b) provides that, for trust account violations such as those involved here, suspension or reproof is the presumed sanction. Standard 2.19 provides that suspension of three years or less, or reproof, is the presumed sanction for an otherwise unspecified violation, such as Respondent's failure to notify the State Bar of his termination of Nadim's employment. The standard applicable to the charges of misappropriation of funds is standard 2.1. Standard 2.1(a) provides that disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or compelling mitigating circumstances clearly predominate. Standard 2.1(b) provides that actual suspension is the presumed sanction for misappropriation involving gross negligence.

As the foregoing standards show, Respondent's misappropriation of client funds is the most serious of his misconduct in the original disciplinary proceeding. The question is whether the misappropriation here was negligent or something more. The court determines that this case is similar to *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In that case, Sklar grossly neglected his client trust account over several years resulting in numerous dips below the amount required to be held in trust for Sklar's clients. (*Id.* at p. 618.) The court concluded that "[t]he numerous instances in which funds were totally or nearly totally depleted

from respondent's trust account over several years, the delay in repayment until the client was sued or until after the State Bar was contacted and the lack of credibility of his explanation support the . . . conclusion that respondent dishonestly used the money for his own purposes."

(*Ibid.*)

In this case, Respondent similarly neglected his CTA entirely over several years such that Nadim was able to write himself numerous checks from the account. Moreover, the account dipped numerous times below the amount owed to Respondent's clients Villegas and Harrison and their lienholders, at one time even dipping below zero. Also, Respondent did not repay some of the lienholders until after he and his clients were sued and the State Bar was involved. Under these circumstances, the court concludes, as in *Sklar*, that Respondent's misappropriations were dishonest.

Accordingly, the standards call for Respondent's disbarment unless the amount of the misappropriation is insignificant or the mitigation is compelling. Here, on the contrary, Respondent misappropriated tens of thousands of dollars over many years, failed to pay full restitution even as of the time of trial, greatly harmed his clients, particularly Villegas, and showed a lack of candor. The court concludes that the original disciplinary proceeding alone would warrant disbarment.

CONVICTION PROCEEDING

The standard applicable in the criminal conviction matter is standard 2.15(c). Standard 2.15(c) states, "Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude." Furthermore, standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. In a conviction referral proceeding, "discipline is imposed according to the gravity of the crime and the circumstances of the case.

[Citation.] In examining such circumstances, the court may look beyond the specific elements of a crime to the whole course of an attorney's conduct as it reflects upon the attorney's fitness to practice law." (*In the Matter of Katz, supra*, 1 Cal. State Bar Ct. Rptr. at p. 510.) All relevant factors must be considered in determining the appropriate discipline. (*Grim v. State Bar* (1991) 53 Cal.3d 21, 35.) It is the court's responsibility to impose a discipline that will protect the public from potential harm from Respondent. (*In re Kelley* (1990) 52 Cal.3d 487, 496.)

Respondent contends that the discipline in this matter should not be greater than a term of actual suspension. OCTC recommends that Respondent be disbarred in this matter. The court agrees that disbarment is the appropriate discipline.

Although cases involving assaultive behavior have often resulted in various periods of actual suspension,¹² this has not always been the case. (See *In the Matter of Burns, supra*, 3 Cal. State Bar Ct. Rptr. 406 [two years' stayed suspension and two years' probation for felony conviction of assault with a firearm, with enhancement for discharging a firearm at an occupied motor vehicle, causing great bodily injury to another].) However, these decisions were filed more than 20 years ago and did not involve a finding of moral turpitude. "The concept of moral turpitude depends upon the state of public morals, and may vary according to the community or the times." [(Citation.)]" (*In re Hatch* (1937) 10 Cal.2d 147, 151.) As discussed earlier, today there is less tolerance and more societal awareness of domestic violence than in the past.

¹² See, e.g., *In re Larkin* (1989) 48 Cal.3d 236 [attorney's misdemeanor convictions of assault with a deadly weapon and conspiracy to commit such a crime resulted in one-year actual suspension]; *In re Otto* (1989) 48 Cal.3d 970 [attorney convicted of felony violations of assault by means likely to produce great bodily injury and infliction of corporal punishment on a cohabitant of the opposite sex resulting in a traumatic condition resulted in six-month actual suspension]; *In re Hickey* (1990) 50 Cal.3d 571 [attorney culpable of improper withdrawal and convicted of carrying a concealed weapon in which facts and circumstances surrounding violation revealed assaultive behavior received 30-day actual suspension]; *In the Matter of Stewart* (1994) 3 Cal. State Bar Ct. Rptr. 52 [attorney convicted of misdemeanor battery on a police officer received 60-day actual suspension]; *In re Mostman* (1989) 47 Cal.3d 725 [attorney actually suspended for two years for felony conviction of solicitation to commit serious assault on former client which involved moral turpitude].

Domestic violence involves a breach of trust between intimate partners and is evidence of disrespect for societal norms. Accordingly, after considering the nature of Respondent's criminal acts and the facts and circumstances surrounding the criminal conduct, including the fact that he blamed the victim and ignored protective orders, the court finds that the facts and circumstances surrounding Respondent's conviction involved moral turpitude. Accordingly, the court does not find these earlier cases instructive on the level of discipline.

Nevertheless, "holding that an attorney's act constitutes moral turpitude characterizes the attorney as unsuitable to practice law." (*In re Strick* (1983) 34 Cal.3d 891, 902.) In cases of serious crimes involving moral turpitude, disbarment, rather than suspension, has been the rule rather than the exception. (*In the Matter of Rech* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 310, 317.)

The attorney discipline system has a responsibility to preserve the legal profession's integrity. (*In the Matter of Burns, supra*, 3 Cal. State Bar Ct. Rptr. at p. 416.) Respondent's criminal act was vicious, repugnant, and caused serious harm to Finneran. Worse yet, Respondent lacks insight into his misconduct and has failed to demonstrate any true remorse or atonement for his criminal conduct. Even now, years after the incident and after his criminal conviction, Respondent continues to place blame on the victim.

Furthermore, there are significant aggravating circumstances in this matter, and the mitigating circumstances are hardly compelling. "Where an attorney's criminal act involves actual physical harm to a particular individual, the necessary showing of mitigating circumstances increases accordingly." (*In re Nevill* (1985) 39 Cal.3d 729, 735.)

Respondent's acts impugn public confidence in the legal profession and undermine the integrity of, and respect for, the legal profession. Therefore, after considering the facts and circumstances surrounding Respondent's conviction, which involved moral turpitude, the

significant aggravating circumstances in this matter, the limited evidence in mitigation, the standards, and the case law, this court is convinced that Respondent is unfit to practice law.

SUMMARY

Accordingly, in order to maintain public confidence in the legal profession and to maintain the high standards and the utmost integrity of the legal profession, this court recommends that Respondent be disbarred. Such actions as set forth in this decision, when committed by a member of this profession, must not be tolerated.

Recommendations

Discipline - Disbarment

It is recommended that respondent Gilbert Ralph Geilim-Morales, State Bar Number 117508, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

It is further recommended that Respondent make restitution to the following payees (or to the Client Security Fund to the extent of any payment from the Fund to any of them, in accordance with Business and Professions Code section 6140.5):

- (1) County of San Bernardino in the amount of \$5,936.16 plus 10 percent interest per year from October 30, 2013;
- (2) Golden Pear Funding in the amount of \$60,000 plus 10 percent interest per year from June 13, 2018, or another amount which has been agreed upon by Golden Pear Funding and Respondent to extinguish the lien as to Mario Villegas;¹³ and
- (3) Golden Pear Funding in the amount of \$25,000 plus 10 percent interest per year from June 18, 2018, or another amount which has been agreed upon by Golden Pear Funding and Respondent to extinguish the lien as to Calvin Harrison.

¹³ Respondent submitted to the court a notice after trial that he has paid liens to Golden Pear. However, this notice is outside the record at this point in time. Nevertheless, if Respondent has satisfied the liens as to his two clients who are the subject of this case to the satisfaction of Golden Pear, Respondent need not pay additional restitution to Golden Pear on these liens.

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.¹⁴ Failure to do so may result in disbarment or suspension.

Costs

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the

//

¹⁴ For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: March 4, 2019



CYNTHIA VALENZUELA
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 Los Angeles, on March 4, 2019, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

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

SAMUEL P. PLUNKETT
1522 W GLENOAKS BLVD STE D
GLENDALE, CA 91201 - 1913

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

CHARLES T. CALIX, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 4, 2019.



Paul Barona
Court Specialist
State Bar Court