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State Bar Court of California
Hearing Department
San Francisco
DISBARMENT

Counsel For The State Bar

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In Pro Per Respondent

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Bar # 194746

In the Matter of:
STERLING VOSS HARWOOD

Bar # 194746

A Member of the State Bar of California
(Respondent)

Case Number(s):
14-O-05443-PEM
14-O-05527
14-O-05695
15-O-10708
15-O-11734

For Court use only

PUBLIC MATTER

FILED

AUG 24 2016

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Submitted to: **Assigned Judge**

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

DISBARMENT

PREVIOUS STIPULATION REJECTED

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 **April 20, 1968**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (17) 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."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

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

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

- (1) Prior record of discipline
 - (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) Intentional/Bad Faith/Dishonesty: Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) Misrepresentation: Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) Concealment: Respondent's misconduct was surrounded by, or followed by concealment.
- (5) Overreaching: Respondent's misconduct was surrounded by, or followed by overreaching. See attachment, p. 13
- (6) Uncharged Violations: Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct. See attachment, page 12.
- (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. See attachment, page 13.



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

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.



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

Additional mitigating circumstances:

No prior discipline. See page 13.
Pretrial stipulation. See page 13.



D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other: Restitution. See attachment, p.15.**



of \$12,200 into his trust account. Respondent had previously received a \$1,000 medical payment check on behalf of Ms. Keo. Respondent claimed attorney fees and costs of \$4,934.10 for Ms. Sok and \$4,450 for Ms. Keo.

5. Thereafter, respondent and his staff failed to promptly notify his clients that he had received the settlement funds. Respondent failed to promptly pay Ms. Keo and Ms. Sok their share of the settlement funds and failed to promptly pay their medical care providers.

6. Therefore, respondent's trust account should have contained \$8,750 for Ms. Keo ($\$12,200 + \$1,000 - \$4,450 = \$8,750$). And respondent's trust account should have contained \$9,765.90 for Ms. Sok ($\$1,000 + \$13,700 - \$4,934.10 = \$9,765.90$). Respondent's trust account should have contained at least \$18,515.90 for two client's combined settlements ($\$9,765.90 + \$8,750 = \$18,515.90$). However, the balance in respondent's trust account fell to \$3,184.38 by June 11, 2013 and fell to one cent by November 15, 2013. Respondent thereby misappropriated Ms. Sok's and Ms. Keo's funds.

(c) The State Bar Investigation.

7. On October 14, 2014, Ms. Sok and Ms. Keo filed bar complaints.

8. On November 7, 2014, the State Bar sent respondent a letter of inquiry.

9. On November 19, 2014, respondent, Edwards, and respondent's wife met with Ms. Keo and Ms. Sok and agreed to enter the following transaction:

First, respondent agreed to pay \$3,534.39 to Ms. Keo and \$4,255.50 to Ms. Sok. These amounts coincided with respondent's calculation of the clients' shares of the settlement proceeds after deduction of attorney fees, costs, and medical liens. Respondent paid some of the money immediately, and made a final payment to the clients on February 23, 2015.

Second, it was understood that respondent would satisfy the client's outstanding medical liens.

Third, the clients signed a document releasing respondent from liability.

Fourth, Ms. Keo and Ms. Sok signed letters addressed to the State Bar, requesting that the State Bar close its investigations into the matter. The letters contained a false statement—that the complaints had been filed because of a "miscommunication." Thereafter, respondent's wife sent the letters to the State Bar.

(d) Restitution of Money Withheld to Pay Medical Bills.

10. In the accounting statements given to the clients, respondent withheld money to pay the medical bills of Ms. Sok and Ms. Keo as follows:

Regional Medical	\$2,124.40	Sok
Allen Duc Nguyen	\$3,000	Sok
Allen Duc Nguyen	\$3,000	Keo
Valley Imaging	\$269.00	Sok
Kaiser Hospital	\$2,115.51	Keo

11. Regional Medical. Respondent provided us with a copy of a cashier's check dated December 4, 2014. On February 18, 2015, however, respondent re-deposited the cashier's check into his own account.

12. Dr. Nguyen. In April 2015, Dr. Nguyen received two \$3,000 cashier's checks, which fully satisfied the clients' debts.

13. Kaiser. Respondent provided us with a copy of a cashier's check that was dated December 4, 2014. But respondent did not immediately send it to Kaiser. Kaiser cashed the check on February 24, 2015.

14. Valley Imaging. Respondent appropriately paid this expense in November 2013, before the client's case was even settled.

CONCLUSIONS OF LAW:

15. By failing to timely notify Ms. Sok that he had received the \$1,000 check, respondent wilfully violated Rule of Professional Conduct 4-100(B)(1). (Count One.)

16. By failing to timely notify Ms. Keo that he had received her settlement check in the amount of \$12,200, respondent wilfully violated Rule of Professional Conduct 4-100(B)(1). (Count Seven.)

17. By misappropriating Ms. Sok's \$9,765.90 and Ms. Keo's \$8,750, respondent committed wilful acts of moral turpitude in violation of Business and Professions Code, section 6106. (Counts Three and Nine.)

18. Respondent had an unequivocal duty to pay the clients their money, and had no right to obtain a personal release. Therefore, the agreement by which respondent obtained the release was unfair to the clients. By this unfair transaction whereby he obtained a personal release from the clients, respondent wilfully violated of Rule of Professional Conduct 3-300. (Counts Five and Eleven.)

19. By participating in a transaction whereby the clients settled their claims against respondent and, as part of the settlement, signed letters withdrawing their bar complaints, respondent wilfully violated Business and Professions Code, section 6090.5. (Counts Four and Six.)

20. By participating in a transaction whereby the clients signed letters that falsely stated that their bar complaints had been filed because of a miscommunication, and whereby these letters were transmitted to the State Bar, respondent committed an act of moral turpitude. (Counts Six and Twelve.)

2. Case no. 15-O-11734: The Chung T. Kim Nguyen Matter.

FACTS

21. On November 14, 2011, Chung Nguyen hired respondent to represent her in a slip and fall case in exchange for a 33% or 40% contingency fee.



22. In June 2014, the case settled for \$15,000. Ms. Nguyen signed the release on June 14, 2014 and authorized respondent to negotiate the settlement check.

23. Respondent received the settlement check on or before July 10, 2014, but did not timely notify his client.

24. On July 10, 2014, respondent deposited the settlement check into his trust account at Chase Bank.

25. On the same day, respondent withdrew \$5,000, which was his one-third contingency fee. Respondent was also entitled to withdraw \$435 that he had expended for court filing fees, but did not immediately remove this \$435. Thus, respondent should have been holding \$9,565 ($\$15,000 - \$5,000 - \$435 = \$9,565$) to pay Ms. Nguyen and her medical care providers. However, beginning on July 16, 2014, respondent made a series of withdrawals for purposes unrelated to Ms. Nguyen and thus respondent misappropriated her funds. As a result of these withdrawals, the balance in respondent's trust account fell to \$6,840.01 on July 16, 2014, and fell to only one cent on September 9, 2014.

26. On September 17, 2014, Ms. Nguyen visited respondent's law office to find out what had happened with the settlement. Ms. Nguyen met with respondent's wife and office manager, Tina Harwood, who provided a handwritten "Statement of Accounting." The statement of accounting wrongly claimed that respondent had earned a 40% contingent fee of \$6,000. However, respondent's fee agreement only authorized a 40% fee if the case had been set for trial, and this had not happened. Respondent was only entitled to a 33% fee, i.e., the \$5,000 he had withdrawn back in July. The accounting indicated that Ms. Nguyen's share would be \$4,282.50, once respondent had negotiated a reduction in the various medical liens.

27. Tina Harwood gave Ms. Nguyen a cashier's check for \$2,000 on account of what was owed. The cashier's check was dated September 17, 2014, and was purchased from funds in respondent's trust account. Thus, the cashier's check was purchased on September 17, 2014.

28. Respondent failed to pay Ms. Nguyen anything further, and failed to provide an accounting. Therefore, Ms. Nguyen filed a bar complaint. On May 7, 2015, the State Bar sent respondent a letter of inquiry.

29. On June 5, 2015, respondent sent a response to the State Bar. Respondent provided the State Bar with a new and different statement of accounting. The accounting falsely identified the \$2,000 payment as a "Loan Advance." Respondent did not personally prepare the Statement of Accounting, but was grossly negligent in causing it to be sent to the State Bar containing the "Loan Advance" statement. This new accounting indicated that all of the remaining settlement funds was owed to Ms. Nguyen's medical care providers. (The amounts owing to the providers varied on the two accountings.) According to respondent's new and different accounting, Ms. Nguyen was entitled to no additional funds.

30. Respondent also provided copies of cashier's checks, totaling \$6,544, that were payable to Ms. Nguyen's medical care providers. These cashier's checks were all dated—and thus were all purchased on—June 5, 2015. This money did not come from respondent's Chase trust account. Respondent's trust account did not contain that much money and in any event respondent had removed Ms. Nguyen's settlement funds many months before.



31. Moreover, the fact that respondent had copies of cashier's checks did not mean that he had actually turned them over to Ms. Nguyen's creditors:

- Med Chex, for Valley Radiation: \$1,979. Respondent did not send the cashier's check until the middle of November 2015. Respondent sent it to the wrong place and it was apparently returned to him. We do not know whether this money was paid to Ms. Nguyen's medical care provider.
- Rural Metro of California: \$1,368.57. Respondent paid Rural Metro on November 13, 2015.
- Morteza Farr, DO: \$1,226. Respondent paid Dr. Farr on November 13, 2015.
- Trover Solutions (representing Kaiser Hospital): \$1,970.43. Respondent did not send the cashier's check until November 2015.

32. On August 17, 2016, respondent mailed Ms. Nguyen a cashier's check for \$1,000.

CONCLUSIONS OF LAW

33. By failing to timely notify Ms. Nguyen that that he had received the \$15,000 settlement check, respondent wilfully violated Rule Professional Conduct 4-100(B)(1). (Count Thirteen.)

34. By wilfully misappropriating Ms. Nguyen's \$9,565, respondent committed an act of moral turpitude in violation of Business and Professions Code, section 6106. (Count Fourteen.)

35. By sending to the State Bar a statement of accounting that falsely identified the \$2,000 payment as a "Loan Advance," respondent through gross negligence made a misrepresentation to the State Bar in violation of Business and Professions Code, section 6106. (Count Sixteen.)

3. Case no 15-O-10708: The Binh Nguyen Matter

FACTS

36. On March 22, 2012, Binh Nguyen's wife died as a result of post-operative complications following elective surgery. Binh Nguyen contracted respondent to represent him in a wrongful death claim. On May 3, 2015, respondent and Nguyen signed a fee agreement whereby respondent agreed to pursue the wrongful death claim on a contingency fee basis.

(a) Misappropriation of \$750.

37. Mr. Nguyen gave respondent a check for \$1,500 to pay for expenses of the litigation. The notation on the check said "Lisa Pham's record review." On December 5, 2012, respondent deposited the check into his operating account, not into trust account. This was an uncharged violation of Rule of Professional Conduct 4-100(A), which will be cited in aggravation of discipline.

38. On December 6, 2012, respondent sent a check for \$750 to an expert in order to obtain a report concerning Mrs. Pham's death. Respondent did not make any more payments on behalf of Mr.

Nguyen. Respondent kept the remaining \$750 based on a mistaken but unreasonable belief that he had been paid this money to review Mr. Nguyen's records. Respondent thereby misappropriated Mr. Nguyen's \$750 by gross negligence.

39. On August 17, 2016, respondent sent Mr. Nguyen a cashier's check for \$750.00.

(b) Failure to Perform Competent Legal Services.

40. The expert reviewed the materials, reported back to respondent, and offered to provide services. Respondent determined that he needed one or more additional experts. However, respondent did not employ additional experts. Respondent decided to withdraw from employment because of the expense of hiring experts, but did not notify Mr. Nguyen prior to the expiration of the statute of limitations. Between May 2012 and December 2014, Mr. Nguyen contacted respondent's office and asked for status information. Respondent's staff assured him that the case was being processed.

41. In fact, respondent did not file a lawsuit before the statute of limitations to expired. (See Code of Civ. Proc. 335.5 [Wrongful death action against a health care provider must be filed within three years after death or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first].)

42. In December 2014, Mr. Nguyen met personally with respondent. Respondent refused to return the remainder of Mr. Nguyen's money unless he agreed to release respondent from liability.

CONCLUSIONS OF LAW

43. By misappropriating Mr. Nguyen's \$750, respondent committed an act of moral turpitude in wilful violation of Business and Professions Code, section 6106. (Count Seventeen.)

44. By failing to pursue Mr. Nguyen's lawsuit and allowing the statute of limitations to expire, respondent wilfully and recklessly failed to perform competent legal services in violation of Rule of Professional Conduct 3-110(A). (Count Eighteen.)

4. Case no. 14-O-05443: The Moon Nguyen Matter

FACTS

45. On October 21, 2011, respondent substituted into a civil case that had been filed on behalf of Moon Nguyen for injuries allegedly suffered in a slip and fall. During the course of the proceeding, the defendant offered to settle the case for \$8,000. Respondent sought between \$15,000 and \$35,000.

46. On February 27, 2013, the court scheduled trial for May 28, 2013. In order to prove his case, respondent was required to present expert testimony. (See, e.g., *Jones v. Ortho Pharmaceutical Corp.* (1985) 163 Cal.App.3d 396, 402 ["The law is well settled that in a personal injury action causation must be proven within a reasonable medical probability based upon competent expert testimony."].) On March 5, 2013, defense counsel served a demand for exchange of expert witness. Respondent ignored the demand, and thereby effectively waived his client's right to have an expert testify. (See Code of Civ. Proc., § 2034.300.)



47. On May 21, 2013, respondent's submitted an ex parte motion to continue the trial, claiming that a witness deposition was needed. The court denied the motion.

48. Respondent did not file a pretrial statement, did not file pretrial motions, and did not respond to pretrial motions. In particular, respondent did not respond to a defense motion, filed on May 24, 2014, to preclude respondent from presenting expert testimony.

49. On May 28, 2013, the defendant appeared ready for trial. However, respondent was able to have the trial delayed temporarily by filing a bankruptcy petition on behalf of his client.

50. At the status conference of November 14, 2013, the court ruled that discovery would remain closed.

51. Nevertheless, on December 13, 2013, respondent filed a motion inter alia to reopen discovery, specifically, so that respondent could designate an expert. In his declaration, respondent claimed that he had operated on the mistaken belief that he could use the treating physician as an expert without designating an expert. Yet, despite the passing months, respondent still did not name an expert, much less make arrangements for that expert's deposition. The court denied the motion by order dated January 21, 2014, noting:

“...Defendant filed a motion in limine on May 24, 2013, raising this issue. Plaintiff did nothing at that time to address the issue...”

52. On January 28, 2014, respondent dismissed the case. On the same day, respondent met with Ms. Nguyen, admitted his mistake, and agreed to pay Ms. Nguyen \$8,000. Respondent promised to pay \$1,000 immediately and to pay the remainder payable at the rate of \$1,000 per month. Ms. Nguyen agreed. Ms. Nguyen signed a document releasing the slip-and-fall defendant from all claims. In exchange, the defendant waived the right to collect anything from respondent or Ms. Nguyen, for example, litigation costs. Ms. Nguyen and respondent also entered a written agreement wherein Ms. Nguyen settled her malpractice claims against respondent. Respondent paid Ms. Nguyen the initial \$1,000, but then failed to pay the remaining \$7,000.

53. The settlement agreement was not fair and reasonable, as required by Rule of Professional Conduct 3-300, because respondent did not have the ability to make any further payments and respondent did not provide Ms. Nguyen with any security interest to assure that the debt would be paid. Respondent made this promise in order to convince Ms. Nguyen to sign the release.

CONCLUSIONS OF LAW

54. By failing to designate an expert and by failing to take adequate remedial measures after defense counsel filed the motion to preclude expert testimony, respondent recklessly failed to perform competent legal services in wilful violation of Rule of Professional Cond. 3-110(A). (Count Nineteen.)

55. By entering a settlement agreement with his client that was not fair and reasonable, respondent wilfully violated Rule of Professional Conduct 3-300.



AGGRAVATING CIRCUMSTANCES

- 1. Uncharged Violations.** As set forth above in numbered paragraphs 2 and 37, respondent committed uncharged violations of Rules of Professional Conduct 3-310(C)(1) (failure to obtain conflict waiver and 4-100(B)(1) (commingling).
- 2. Trust Violation.** Respondent has been unable to account for some of the money he has received. In two instances, we still do not know whether respondent has satisfied his clients' medical care liens.
- 3. Harm.** Two of the clients, Binh Nguyen and Moon Nguyen, lost their causes of action.
- 4. Multiple Acts.** This case involves five separate clients and seventeen disciplinary violations.
- 5. Restitution Still Owed.** Respondent owes restitution to three clients, totaling more than \$11,000.
- 6. Vulnerable Clients.** Respondent's clients were members of the Southeast Asian community, some of whom have limited proficiency in English.
- 7. Overreaching.** As indicated in paragraph 42, by refusing to return the remainder of Mr. Nguyen's money unless he agreed to release respondent from liability, respondent engaged in an act of overreaching.

MITIGATING CIRCUMSTANCES

- 1. No Prior Discipline.** Respondent, who has been a member of the State Bar for more than 18 years, is entitled to mitigation credit for his lack of prior discipline over many years of practice. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)
- 2. Pretrial 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 Spaith* (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 Silvertan* (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).)

The following standards apply to respondent’s conduct, each of which supports a disbarment recommendation:

Standard	Violation	Sanction
Std. 2.1(b)	Misappropriation	“Actual suspension is the presumed sanction for misappropriation involving gross negligence.” Respondent recklessly removed money from his trust account without knowing that the money belonged to his clients.
Std. 2.4	Adverse Interest	“Suspension is the presumed sanction for improperly entering into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case reproof is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate.”
Std. 2.11	Moral Turpitude	“Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member’s practice of law.”
Std. 2.18	Violation of Business and Professions Code 6090.5 (agreement to withdraw bar complaint).	“Disbarment or actual suspension is the presumed sanction for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards.”

Here, respondent’s misconduct is mitigated by his lack of prior discipline and his cooperation in agreeing to this stipulation. However, the gravity of the misconduct in five client matters—including misappropriations totaling nearly \$29,000 in client funds, inability to account for the funds, other acts of

moral turpitude and interference with the State Bar investigations—warrants disbarment. Respondent has made partial restitution, but only after being respondent learned about the bar complaints.

In *Connor v. State Bar* (1990) 50 Cal.3d 1047—which involved one client matter—the respondent was found culpable of obtaining interests adverse to the client, failing to promptly return a client file, collection of unconscionable fees, and misappropriation of more than \$26,000. Although Connor had no prior record of discipline in twelve years of practice, the Review Department recommended disbarment and the Supreme Court followed the recommendation. Respondent’s misconduct, which involves multiple clients, is similar or perhaps more serious to that involved in *Connor*. Therefore, disbarment is the appropriate sanction in this case.

DISMISSALS.

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

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
14-O-05527	Two	Rule Prof. Cond. 4-100(A)
14-O-05695	Eight	Rule Prof. Cond. 4-100(A)
15-O-11734	Fourteen	Rule Prof. Cond. 4-100(A)

RESTITUTION.

Respondent must make restitution in the following amounts to the following payees plus ten percent interest from the dates set forth and provide satisfactory proof of payment to the Office of Probation:

Payee	Amount	Date From Which Interest Accrues
Dany Sok	\$2,124.40, or the amount withheld to pay Regional Medical.	May 16, 2013
Chung Nguyen	\$1,979.00, for the amount withheld for the Valley Radiation billing.	July 10, 2014
Moon Nguyen	\$7,000	January 28, 2014

Alternatively, respondent may provide satisfactory proof to the Office of Probation that respondent previously paid the client or the client’s medical care provider. If the Client Security Fund (“CSF”) has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) identified below, respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of July 29, 2016, the prosecution costs in this matter are \$11,613 pursuant to the cost formula, plus out-of-

pocket expenses incurred for court records and bank records \$89.87. 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.

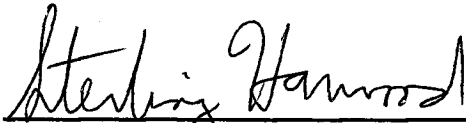
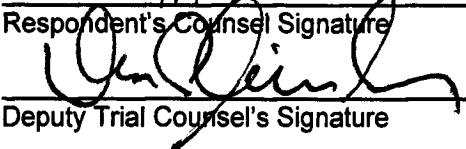
A handwritten signature in black ink, appearing to be 'HMS', is located in the bottom right corner of the page.

(Do not write above this line.)

In the Matter of Sterling Voss Harwood	Case number(s): 14-O-5443-PEM
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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 Fact, Conclusions of Law and Disposition.

<u>August 17, 2016</u> Date	 Respondent's Signature	<u>STERLING VOSS HARWOOD</u> Print Name
<u>N/A</u> Date	<u>N/A</u> Respondent's Counsel Signature	<u>N/A</u> Print Name
<u>August 17, 2016</u> Date	 Deputy Trial Counsel's Signature	<u>DONALD R. STEEDMAN</u> Print Name

(Do not write above this line.)

In the Matter of: STERLING VOSS HARWOOD	Case Number(s): 14-O-05443-PEM
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DISBARMENT ORDER

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


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

1. On page one of the Stipulation, in the lower right box, "Submitted to: Assigned Judge" is deleted and in its place is inserted "Submitted to: Settlement Judge";
2. On page 8 of the Stipulation, numbered paragraph 11, "Respondent provided us" is deleted, and in its place is inserted "Respondent provided the State Bar";
3. On page 8 of the Stipulation, numbered paragraph 13, "Respondent provided us" is deleted, and in its place is inserted "Respondent provided the State Bar";
4. On page 11 of the Stipulation, numbered paragraph 41, "statute of limitations to expired" is deleted, and in its place is inserted "statute of limitations expired";
5. On page 15 of the Stipulation, in the first paragraph, "but only after being respondent learned" is deleted, and in its place is inserted "but only after respondent learned"; and
6. On page 15 of the Stipulation, in the Restitution box relating to the Amount for Dany Sok, "\$2,124.40, or the amount withheld to pay Regional Medical" is deleted, and in its place is inserted "\$2,124.40, for the amount withheld to pay Regional Medical".

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

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

Aug. 24, 2016
Date



 LUCY ARMENDARIZ
 Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 24, 2016, 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 San Francisco, California, addressed as follows:

STERLING V. HARWOOD
LAW OFC STERLING HARWOOD
96 N 3RD ST STE 550
SAN JOSE, CA 95112

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

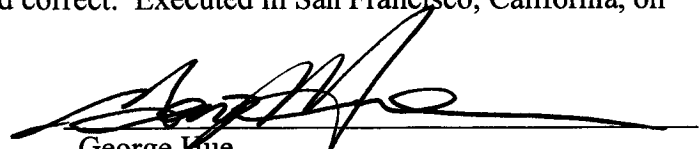
by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Donald R. Steedman, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 24, 2016.



George Hue
Case Administrator
State Bar Court