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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1325 Bar # 172472	Case Number(s): 14-O-06412, 14-O-06428, 15-O-10033, 15-O-12267	For Court use only <div style="text-align: center; font-size: 24px; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center; font-size: 24px; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 18px; font-weight: bold;">JUN 06 2016</div> <div style="text-align: center; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent David S. Schneider 9595 Wilshire Blvd., Ste. 900 Beverly Hills, CA 90212 (323) 655-8283 Bar # 131578	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: DAVID SAMUEL SCHNEIDER Bar # 131578 A Member of the State Bar of California (Respondent)		

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

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 14, 1987**.
- (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."



- (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.
- (6) **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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

Additional aggravating circumstances:

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

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the 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: See Attachment, pp. 14-15.

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D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.

- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: DAVID SAMUEL SCHNEIDER

CASE NUMBERS: 14-O-06412, 14-O-06428, 15-O-10033, 15-O-12267

FACTS AND CONCLUSIONS OF LAW.

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

Case No. 14-O-06412 (Complainant: Sheila Bowden)

FACTS:

1. On February 19, 2014, Sheila Bowden and her fiancé, Alexandre Safonov, employed respondent to perform legal services, namely to represent them and their minor child ("Minor") in a personal injury action, and to pay their case-related medical expenses from the settlement funds.

2. Prior to June 13, 2014, respondent accepted settlement offers from Geico General Insurance Company ("Geico") on behalf of Safonov for \$30,000, on behalf of Bowden for \$20,000, and on behalf of Minor for \$50,000.

3. On June 13, 2014, respondent received, on behalf of Bowden, a settlement check from Geico made payable to respondent and Bowden in the sum of \$20,000.

4. On June 13, 2014, respondent stated in writing to a judge of the Superior Court, County of San Bernardino, in San Bernardino Superior Court Case No. CIVDS 1402907, entitled *Alexandre Safonov, et al. v. Benny Lomeli, et al.*, in a "Petition to Approve Compromise of Disputed Claim or Pending Action or Disposition of Proceeds of Judgment for Minor or Adult Person with a Disability" ("Safonov Petition"):

- a. that he had received a settlement offer of \$25,000 from Geico on behalf of Minor;
- b. that he had received a settlement offer of \$45,000 on behalf of Safonov, and;
- c. that he had received a settlement offer of \$30,000 on behalf of Bowden.

5. All of the statements described in the previous paragraph were false, given that the settlement offer on Minor's behalf was for \$50,000, the settlement offer on Safonov's behalf was for \$30,000, and the settlement offer on Bowden's behalf was for \$20,000. Respondent knew the statements were false at the time that he made them.

6. On June 16, 2014, respondent received, on behalf of Safonov, a settlement check from Geico made payable to respondent and Safonov in the sum of \$30,000.

7. On June 17, 2014, respondent received, on behalf of Minor, a settlement check from Geico made payable to respondent in Trust for Minor in the sum of \$50,000.

8. On June 17, 2014, respondent deposited the \$50,000 from Bowden's and Safonov's settlements into respondent's client trust account at Bank of America, account #x x x x x - 1702¹ ("CTA") on behalf of Bowden and Safonov.

9. On June 20, 2014, respondent deposited the \$50,000 from Minor's settlement into his CTA on behalf of Minor.

10. On July 18, 2014, prior to paying out any funds to Bowden, Safonov, or Minor, or on Bowden's, Safonov's, or Minor's behalf, respondent's CTA had a negative balance of -\$4,706.54.

11. Between June 19, 2014 and July 23, 2014, respondent dishonestly misappropriated for respondent's own purposes \$13,333.33 that Bowden was entitled to receive.

12. Between June 19, 2014 and July 23, 2014, respondent dishonestly misappropriated for respondent's own purposes \$20,000 that Safonov was entitled to receive.

13. Between June 27, 2014 and July 23, 2014, respondent dishonestly misappropriated for respondent's own purposes \$37,500 that Minor was entitled to receive.

14. Respondent failed to maintain a balance of \$13,333.33 on behalf of Bowden in respondent's CTA.

15. Respondent failed to maintain a balance of \$20,000 on behalf of Safonov in respondent's CTA.

16. Respondent failed to maintain a balance of \$37,500 on behalf of Minor in respondent's CTA.

17. Of the sum respondent received in settlement on behalf of Bowden, Bowden was entitled to \$7,038 for the cost of medical treatment provided to Bowden by Empire Radiology ("Empire"). On October 20, 2014, Safonov, on Bowden's behalf, requested that respondent pay Empire's bill on Bowden's behalf. Respondent did not do so until March 14, 2016.

18. Of the sum respondent received in settlement on behalf of Safonov, Safonov was entitled to \$7,038 for the cost of medical treatment provided to Safonov by Empire. On October 20, 2014, Safonov requested that respondent pay Empire's bill on Safonov's behalf. Respondent did not do so until March 14, 2016.

19. On November 23, 2015, respondent stated in writing to Sofia Dovlatyan, a lien collector employed by Paramount Management Services who was attempting to collect the amounts owed by Bowden and Safonov to Empire for Bowden's and Safonov's medical treatment, that Bowden's and Safonov's settlement checks had been "recently deposited" and that respondent had been waiting for the checks to clear, when respondent knew the statement was false, that the settlement checks had been deposited in June 2014, and that respondent had already misappropriated the funds for his own use.

¹ Full account number redacted for privacy purposes

20. Despite repeated requests to respondent from Bowden and Safonov that respondent pay all of their and Minor's medical expenses from the settlement funds, as of March 13, 2016, respondent had not done so.

21. On December 15, 2014, the State Bar opened an investigation following a complaint by Bowden.

22. On July 29, 2014, respondent paid Bowden and Safonov in full, in the amount of \$24,700.

23. On June 23, 2014, respondent paid Minor in full, in the amount of \$15,568.03.

24. Respondent failed to provide a substantive response to the State Bar's letters of January 13, 2015 and January 28, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 14-O-06412.

CONCLUSIONS OF LAW:

25. By stating in the writing to a judge of the Superior Court in the Safonov Petition that he had received a settlement offer of \$25,000 from Geico on behalf of Minor, when respondent knew that the statement was false, in that the settlement offer on Minor's behalf was for \$50,000, respondent sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

26. By stating in the writing to a judge of the Superior Court in the Safonov Petition that he had received a settlement offer of \$45,000 on behalf of Safonov, when respondent knew that the statement was false, in that the settlement offer on Safonov's behalf was for \$30,000, respondent sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

27. By stating in the writing to a judge of the Superior Court in the Safonov Petition that he had received a settlement offer of \$30,000 on behalf of Bowden, when respondent knew that the statement was false, in that the settlement on Bowden's behalf was for \$20,000, respondent sought to mislead the judge or judicial officer by an artifice or false statement of fact or law, in willful violation of Business and Professions Code, section 6068(d).

28. By dishonestly misappropriating for his own purposes \$13,333 that Bowden was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

29. By dishonestly misappropriating for his own purposes \$20,000 that Safonov was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

30. By dishonestly misappropriating for his own purposes \$37,500 that Minor was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

31. By failing to maintain a balance of \$13,333.33 on behalf of Bowden in respondent's CTA, respondent failed to maintain his client's funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

32. By failing to maintain a balance of \$20,000 on behalf of Safonov in respondent's CTA, respondent failed to maintain his client's funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

33. By failing to maintain a balance of \$37,500 on behalf of Minor in respondent's CTA, respondent failed to maintain his client's funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

34. By failing to pay Bowden's, Safonov's, and Minor's medical expenses from the settlement funds until March 14, 2016, despite repeated requests from Bowden and Safonov that he do so, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

35. By failing to pay Empire for the cost of the treatment Empire had provided to Bowden until March 14, 2016, respondent failed to pay promptly, as requested by respondent's client, any portion of the \$7,038 in respondent's possession, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

36. By failing to pay Empire for the cost of the treatment Empire had provided to Safonov until March 14, 2016, respondent failed to pay promptly, as requested by respondent's client, any portion of the \$7,038 in respondent's possession, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

37. By stating in writing to a lien collector that Bowden's and Safonov's settlement checks had been "recently deposited" and that respondent had been waiting for the checks to clear, when respondent knew the statement was false, and that the settlement checks had been deposited in June 2014 and that he had already misappropriated the funds for his own purposes, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

38. By failing to provide a substantive response to the State Bar's letters of January 13, 2015 and January 28, 2015, respondent failed to cooperate and participate in a disciplinary investigation pending against respondent, in willful violation of Business and Professions Code, section 6068(i).

Case No. 14-O-06428 (Complainant: James Richardson)

FACTS:

39. On November 29, 2012, respondent received on behalf of respondent's client, James Richardson, a settlement check from Farmers Insurance Exchange made payable to respondent and Richardson in the sum of \$6,999. On November 29, 2012, respondent deposited the \$6,999 from Richardson's settlement into respondent's CTA on behalf of Richardson.

40. Of the \$6,999 deposited into respondent's CTA on behalf of Richardson, Richardson was entitled to \$1,716.

41. Of the \$6,999 deposited into respondent's CTA on behalf of Richardson, Dr. John S. Zimmerman, Richardson's medical provider, was entitled to \$2,619, pursuant to a lien held against Richardson's recovery signed by respondent.

42. On December 3, 2012, prior to paying out any funds to Richardson or on Richardson's behalf, respondent's CTA had a balance of \$128.53.

43. Between November 30, 2012 and December 3, 2012, respondent dishonestly misappropriated for respondent's own purposes \$1,587.47 that Richardson was entitled to receive.

44. Between November 30, 2012 and December 3, 2012, respondent dishonestly misappropriated for respondent's own purposes \$2,619 that Dr. Zimmerman was entitled to receive.

45. Respondent failed to maintain a balance of \$1,716 on behalf of Richardson in respondent's CTA.

46. Respondent failed to maintain a balance of \$2,619 on behalf of Dr. Zimmerman in respondent's CTA.

47. On February 4, 2013, Richardson terminated respondent's employment.

48. Following Richardson's termination of respondent's employment, respondent failed to render an appropriate accounting to Richardson regarding the funds deposited on Richardson's behalf.

49. On February 4, 2013, respondent paid Richardson in full, in the amount of \$2,185.

50. Respondent paid Dr. Zimmerman \$2,000 on December 12, 2014, after Dr. Zimmerman agreed to a reduction in his lien, more than two years after the settlement funds were in respondent's possession.

CONCLUSIONS OF LAW:

51. By dishonestly misappropriating for his own purposes \$1,587.47 that Richardson was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

52. By dishonestly misappropriating for his own purposes \$2,619 that Dr. Zimmerman was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

53. By failing to maintain a balance of \$1,716 on behalf of Richardson in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

54. By failing to maintain a balance of \$2,619 on behalf of Dr. Zimmerman in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

55. By failing to render an accounting to Richardson regarding the funds deposited on Richardson's behalf, following Richardson's termination of respondent's employment, respondent failed to render an appropriate accounting to the client regarding those funds, in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

56. By paying Dr. Zimmerman's lien more than two years after the settlement funds were in respondent's possession, respondent failed to pay client funds promptly, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

Case No. 15-O-10033 (Complainant: Stephanie Galicia)

FACTS:

57. On April 30, 2012, respondent received on behalf of respondent's client, Stephanie Galicia, a settlement check from Farmers Insurance Exchange made payable to respondent and Galicia in the sum of \$10,000. On April 30, 2012, respondent deposited the \$10,000 from Galicia's settlement into his CTA on behalf of Galicia.

58. Of the \$10,000 deposited into respondent's CTA on behalf of Galicia, Galicia was entitled to \$3,389.

59. Of the \$10,000 deposited into respondent's CTA on behalf of Galicia, Dr. Zimmerman was entitled to \$1,973, pursuant to a lien held against Galicia's recovery signed by respondent.

60. Of the \$10,000 deposited into respondent's CTA on behalf of Galicia, San Gabriel Valley Diagnostic Center was entitled to \$841, pursuant to a lien held against Galicia's recovery signed by respondent.

61. On May 31, 2012, prior to paying out any funds to Galicia or on Galicia's behalf, respondent's CTA had a negative balance of -\$3,868.67.

62. Between April 30, 2012 and May 31, 2012, respondent dishonestly misappropriated for respondent's own purposes \$3,389 that Galicia was entitled to receive.

63. Between April 30, 2012 and May 31, 2012, respondent dishonestly misappropriated for respondent's own purposes \$1,973 that Dr. Zimmerman was entitled to receive.

64. Between April 30, 2012 and May 31, 2012, respondent dishonestly misappropriated for respondent's own purposes \$841 that San Gabriel Valley Diagnostic Center was entitled to receive.

65. Respondent failed to maintain a balance of \$3,389 on behalf of Galicia in respondent's CTA.

66. Respondent failed to maintain a balance of \$1,973 on behalf of Dr. Zimmerman in respondent's CTA.

67. Respondent failed to maintain a balance of \$841 on behalf of San Gabriel Valley Diagnostic Center in respondent's CTA.

68. Respondent paid Dr. Zimmerman \$1,500 on December 7, 2013 after Dr. Zimmerman agreed to a reduction in his lien, more than one and one half years after the settlement funds were in respondent's possession.

69. On February 4, 2013, Galicia terminated respondent's employment.

70. On February 4, 2013, respondent paid Galicia in full, in the amount of \$3,500.

71. Following Galicia's termination of respondent's employment, respondent failed to render an appropriate accounting to Galicia regarding the funds deposited on Galicia's behalf.

72. On May 2, 2014, respondent stated to Dr. Zimmerman that Galicia's case had settled for \$9,000, when respondent knew the statement was false, and that the settlement had been for \$10,000.

73. Respondent paid San Gabriel Valley Diagnostic Center \$550 on July 2, 2015 after San Gabriel Valley Diagnostic Center agreed to a reduction in its lien, more than three years after the settlement funds were in respondent's possession.

CONCLUSIONS OF LAW:

74. By dishonestly misappropriating for his own purposes \$3,389 that Galicia was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

75. By dishonestly misappropriating for his own purposes \$1,973 that Dr. Zimmerman was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

76. By dishonestly misappropriating for his own purposes \$841 that San Gabriel Valley Diagnostic Center was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

77. By failing to maintain a balance of \$3,389 on behalf of Galicia in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

78. By failing to maintain a balance of \$1,973 on behalf of Dr. Zimmerman in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

79. By failing to maintain a balance of \$841 on behalf of San Gabriel Valley Diagnostic Center in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

80. By paying Dr. Zimmerman's lien more than one and one half years after the settlement funds were in respondent's possession, respondent failed to pay client funds promptly, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

81. By paying San Gabriel Valley Diagnostic Center's lien more than three years after the settlement funds were in respondent's possession, respondent failed to pay client funds promptly, in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

82. By failing to render an accounting to Galicia regarding the funds deposited on Galicia's behalf, following Galicia's termination of respondent's employment, respondent failed to render an appropriate accounting to the client regarding those funds, in willful violation of Rules of Professional Conduct, rule 4-100(B)(3).

83. By stating to Dr. Zimmerman that Galicia's case had settled for \$9,000, when respondent knew the statement was false, and that the settlement had been for \$10,000, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

Case No. 15-O-12267 (State Bar Investigation)

FACTS:

84. From February 19, 2015 to March 17, 2015, respondent issued the following checks drawn upon respondent's CTA when respondent knew that there were insufficient funds in the CTA to pay them:

<u>CHECK NO.</u>	<u>CHECK DATE</u>	<u>CHECK AMT.</u>	<u>RETURNED/PAID</u>
7849	Feb. 19, 2015	\$1,717.70	Returned
7855	Feb. 21, 2015	\$6,398	Returned
7882	Mar. 17, 2015	\$9,000	Paid NSF
7883	Mar. 17, 2015	\$4,000	Returned

85. On January 7, 2015, respondent received on behalf of respondent's client, Amber Seifert, a settlement check from Infinity Insurance Company made payable to respondent and Seifert in the sum of \$15,000. On January 7, 2015, respondent deposited the \$15,000 from Seifert's settlement into respondent's CTA on behalf of Seifert.

86. Of the \$15,000 deposited on behalf of Seifert, Seifert was entitled to \$9,000.

87. On March 20, 2015, prior to paying out any funds to Seifert or on Seifert's behalf, respondent's CTA had a negative balance of -\$641.

88. Between January 7, 2015 and March 20, 2015, respondent dishonestly misappropriated for respondent's own purposes \$9,000 that Seifert was entitled to receive.

89. Respondent failed to maintain a balance of \$9,000 on behalf of Seifert in respondent's CTA.

90. On March 17, 2015, respondent paid Seifert in full, in the amount of \$9,000.

91. On February 9, 2015, respondent received on behalf of respondent's client, Angelo Tepedino, a settlement check made payable to respondent and Tepedino in the sum of \$10,499. On

February 9, 2015, respondent deposited the \$10,499.70 from Tepedino's settlement into respondent's CTA on behalf of Tepedino.

92. Of the \$10,499.70 deposited on behalf of Tepedino, Tepedino was entitled to \$4,000.

93. On March 20, 2015, prior to paying out any funds to Tepedino or on Tepedino's behalf, respondent's CTA had a negative balance of -\$4,641.

94. Between February 9, 2015 and March 20, 2015, respondent dishonestly misappropriated for respondent's own purposes \$4,000 that Tepedino was entitled to receive.

95. On March 17, 2015, respondent paid Tepedino in full, in the amount of \$4,000.

96. Respondent failed to maintain a balance of \$4,000 on behalf of Tepedino in respondent's CTA.

CONCLUSIONS OF LAW:

97. By issuing four checks drawn upon respondent's CTA when respondent knew that there were insufficient funds in the CTA to pay them, respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

98. By dishonestly misappropriating for his own purposes \$9,000 that Seifert was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

99. By failing to maintain a balance of \$9,000 on behalf of Seifert in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

100. By dishonestly misappropriating for his own purposes \$4,000 that Tepedino was entitled to receive, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

101. By failing to maintain a balance of \$4,000 on behalf of Tepedino in respondent's CTA, respondent failed to maintain client funds in trust, in willful violation of Rules of Professional Conduct, rule 4-100(A).

AGGRAVATING CIRCUMSTANCES.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): Bowden and Safonov suffered damaged credit by virtue of the collection activity on their unpaid medical liens. Respondent's misrepresentations to the court in the Safonov Petition significantly harmed the administration of justice.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent committed numerous acts of misappropriation, with multiple failures to maintain client funds in trust, promptly pay out, and provide accounting, in addition to misrepresentations, a failure to perform, and a failure to cooperate.

MITIGATING CIRCUMSTANCES.

Prefiling Stipulation: Respondent has entered into a full stipulation as to facts and culpability prior to the filing of disciplinary charges (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

No Prior Discipline: Although respondent's misconduct is serious, he is entitled to mitigation for having practiced law for 28 years without a prior record of discipline prior to the instant misconduct. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the Standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The most severe sanction applicable to respondent's misconduct is found in Standard 2.1(a), which provides that "Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate." Respondent's misappropriations total just under \$80,000 in the aggregate, and are significant. The mitigating circumstances proffered by respondent, while not insignificant, are not compelling.

The Supreme Court has consistently held that misappropriation generally warrants disbarment in the absence of clearly mitigating circumstances. *Kelly v. State Bar, supra*; *Waysman v. State Bar* (1986) 41 Cal.3d 452, 457; *Cain v. State Bar* (1979) 25 Cal.3d 956, 961. The Supreme Court has imposed disbarment on attorneys with no prior record of discipline in cases involving a single misappropriation.

(See, e.g., *In re Abbott* (1977) 19 Cal.3d 249 [taking of \$ 29,500, showing of manic-depressive condition, prognosis uncertain].) In *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, an attorney with over 11 years of practice and no prior record of discipline was disbarred for misappropriating approximately \$ 29,000 in law firm funds over an 8-month period. In *Chang v. State Bar* (1989) 49 Cal.3d 114, an attorney misappropriated almost \$ 7,900 from his law firm, coincident with his termination by that firm, and was disbarred. (See also *In the Matter of Blum, supra*, 3 Cal. State Bar Ct. Rptr. 170 [no prior record of discipline, misappropriation of approximately \$ 55,000 from a single client]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr 511 [misappropriation of nearly \$40,000, misled client for a year, no prior discipline].)

Respondent's 28 years of practice without discipline and his agreement to enter into this stipulation prior to the filing of disciplinary charges notwithstanding, these mitigating factors cannot be considered either compelling or predominating. In light of the nearly \$80,000 in aggregate misappropriations and the significant harm to his clients and the administration of justice, any deviation from the presumed disciplinary level of disbarment is unsupportable. Disbarment is the only resolution appropriate to protect the public.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of April 29, 2016, the prosecution costs in this matter are \$6,000. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of: DAVID SAMUEL SCHNEIDER	Case number(s): 14-O-06412, 14-O-06428, 15-O-10033, 15-O-12267
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

5/12/16 _____ Date Respondent's Signature David S. Schneider Print Name

_____ Date Respondent's Counsel Signature _____ Print Name

5.12.16 _____ Date Deputy Trial Counsel's Signature Timothy G. Byer Print Name

(Do not write above this line.)

In the Matter of: DAVID SAMUEL SCHNEIDER	Case Number(s): 14-O-06412, 14-O-06428, 15-O-10033, 15-O-12267
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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 4 of the Stipulation, at "Additional mitigating circumstances," "See Attachment, pp. 14-15" is deleted, and in its place is inserted "See Attachment, p. 15."
2. On page 13 of the Stipulation, at paragraph 91, line 2, "\$10,499" is deleted, and in its place is inserted "\$10,499.70."

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 David Samuel Schneider 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.

June 3, 2016
Date

Rebecca Meyer Rosenberg
REBECCA MEYER ROSENBERG, JUDGE PRO TEM
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on June 6, 2016, I deposited a true copy of the following document(s):

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

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

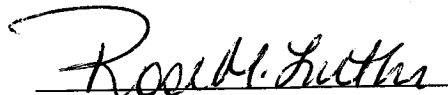
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID S. SCHNEIDER
LAW OFFICES OF DAVID SCHNEIDER
9595 WILSHIRE BLVD STE 900
BEVERLY HILLS, CA 90212

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

TIMOTHY BYER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 6, 2016.



Rose M. Luthi
Case Administrator
State Bar Court