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State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT

Counsel for the State Bar **Kimberly G. Anderson** **Senior Trial Counsel** **845 S. Figueroa St.** **Los Angeles, CA 90017** **Telephone: (213) 765-1083** Bar # **150359**	Case Number(s): **17-O-00123-YDR** **17-O-04841-YDR** **17-O-05249-YDR** **17-O-05300-YDR**	For Court use only **PUBLIC MATTER** FILED JAN 15 2019 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent **Ellen A. Pansky** **Pansky Markle Attorneys at Law** **1010 Sycamore Ave., Suite 308** **South Pasadena, CA 91030** **Telephone: (213) 626-7300** Bar # **77688**	Submitted to: **Settlement Judge** STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT **DISBARMENT** ☐ PREVIOUS STIPULATION REJECTED	
In the Matter of: **WILLIAM WEST SEEGMILLER** Bar # **98740** 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 **August 21, 1981**.

(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 **22** pages, not including the order.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."

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(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

(6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.

(8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. It is recommended that (check one option only):

☒ 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 a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

☐ 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:

State Bar Court case nos.: 99-O-13410 and 04-O-11768
Date prior discipline effective: November 30, 2004
Rules of Professional Conduct/State Bar Act Violations: Business and Professions Code section 6068(a) for former rule 3-310(C)(1), Rules of Professional Conduct
Degree of prior discipline: One year public reproval with conditions
(See Stipulation page 18 and Exhibit 1, consisting of 10 pages.)

State Bar Court case no.: 06-J-11086
Date prior discipline effective: January 22, 2009
Rules of Professional Conduct/State Bar Act Violations: Business and Professions Code section 6049.1 and former rules 1-300(A) and 3-110(A), Rules of Professional Conduct

Degree of prior discipline: One year public reproval with conditions
(See Stipulation page 18 and Exhibit 2, consisting of 49 pages.)

State Bar Court case no.: 15-O-11411
Date prior discipline effective: February 4, 2017
Rules of Professional Conduct/State Bar Act Violations: former rule 4-100(B)(4), Rules of Professional Conduct
Degree of prior discipline: 90 days' actual suspension, one year stayed suspension and two years' probation
(See Stipulation page 18 and Exhibit 3, consisting of 52 pages).

(2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.

(3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.

(4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.

(5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.

(6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.

(7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.

(9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of Respondent's misconduct.

(10) ☐ **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of Respondent's misconduct, or to the State Bar during disciplinary investigations or proceedings.

(11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See Stipulation page 18.**

(12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.

(13) ☐ **Restitution:** Respondent failed to make restitution.

(14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.

(15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

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

(1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.

(2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.

(3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of Respondent's misconduct or to the State Bar during disciplinary 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 Respondent's 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 Respondent.

(7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.

(8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct, Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by Respondent, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

(9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond Respondent's control and which were directly responsible for the misconduct.

(10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in Respondent's personal life which were other than emotional or physical in nature.

(11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of Respondent's misconduct.

(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:

Pre-Trial Stipulation - See Stipulation page 19.

D. Recommended Discipline:

Disbarment

Respondent is disbarred from the practice of law in California and Respondent's name is stricken from the roll of attorneys.

E. Additional Requirements:

(1) **California Rules of Court, Rule 9.20:** Respondent must comply with the requirements of California Rules of Court, rule 9.20, and 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. Failure to do so may result in disbarment or suspension.

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).)

(2) ☐ **Restitution (Single Payee):** Respondent must make restitution in the amount of $, plus 10 percent interest per year from , to (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5).

(3) ☐ **Restitution (Multiple Payees):** Respondent must make restitution to each of the following payees (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5):

Payee	*Principal Amount*	*Interest Accrues From*

(4) ☐ **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements: .

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: WILLIAM WEST SEEGMILLER

CASE NUMBERS: 17-O-00123-YDR, 17-O-04841-YDR, 17-O-05249-YDR and 17-O-05300-YDR

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.

General Background Facts Relating to All Cases

FACTS:

1. At all relevant times, respondent had two client trust accounts: U.S. Bank account no. xxxxxxxx0985 ("CTA #1") which was open and active during the entire period of misconduct and U.S. Bank account no. xxxxxxxx9508 ("CTA #2") which was not opened until October 2016. Respondent used the accounts interchangeably. (Only the last four digits of the client trust accounts are identified in order to protect the accounts.)

2. During the period of misconduct, in November 2016, respondent made a $95,000.00 transfer from CTA#1 to CTA #2. This transfer of funds was not attributable to any single client, and more importantly, was not enough to cover the amounts owed to the clients whose funds were deposited into CTA #1 but paid out of CTA#2, as described in detail below.

3. CTA #1 was active until January 17, 2017 when the balance dipped to $566.55. The balance remained $566.55 through early July 2017 as respondent was using CTA #2 instead. CTA#2 dipped to -$13,651.78 on July 31, 2017. Both of these dips occurred prior to clients and providers being paid their portions of settlement funds, as described in detail below.

4. At all relevant times, respondent had two law firms: West Alliance Injury Lawyers ("WAIL"), and the Seegmiller Law Firm.

5. Each of the misappropriations identified below occurred as a result of respondent's recklessness in failing to maintain proper client trust accounting records and failing to supervise his staff with respect to their handling of his client trust accounts. Respondent had previously been disciplined in State Bar Court case no. 15-O-11411, effective February 4, 2017, and was undergoing State Bar disciplinary proceedings in that case which was filed on December 15, 2015, when the present misconduct occurred. Case no. 15-O-11411 specifically involved respondent's mishandling of entrusted client funds and his failure to supervise his staff with respect to those funds. Despite having been on notice of problems with his handling of entrusted funds, respondent continued to fail to maintain proper records, supervision and control of his client trust accounts, as more fully described below.

6. The financial records for respondent's client trust accounts demonstrate that ultimately, all of the settlement funds in the matters set forth in this Stipulation were properly disbursed to clients and the lienholders.

Case No. 17-O-00123 (State Bar Investigation)

FACTS:

7. The General Background Facts Relating to All Cases are fully incorporated herein.

8. On December 27, 2017, the State Bar received an anonymous complaint from an employee of respondent's on behalf of a number of employees, alleging that respondent took money out of his client trust accounts and used it for his own personal expenses, while clients and lien holder medical providers were not promptly paid once a client's case settled. The informant did not provide documents or specific client names, but stated that an audit of respondent's client trust accounts at U.S. Bank would reveal the misconduct. The State Bar opened the investigation into this matter and conducted an audit of respondent's client trust accounts.

9. With respect to respondent's clients, PH, TD, SF, and LF, the State Bar investigator's audit of the bank records revealed the following misconduct relating to respondent's handling of their entrusted funds. (The four clients are only identified by their initials since they did not complain to the State Bar and were not aware of the misconduct.)

Client PH's Funds:

10. On September 2, 2016, respondent received on behalf of respondent's client, PH, a settlement draft from State Farm Insurance Company in the amount of $50,000.00 made payable to PH and respondent.

11. On September 2, 2016, respondent deposited the $50,000.00 into respondent's CTA #1 on behalf of PH. Respondent's fees and costs totaled $20,750.00, leaving $29,250.00 to pay PH and PH's medical providers.

12. On September 19, 2016, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and failing to supervise his staff, the balance in respondent's CTA #1 dipped to $16,961.18, resulting in a misappropriation of $12,288.82 (the difference between $29,250.00 and $16,961.18). At that time, respondent had not paid PH or any of PH's medical providers any portion of the settlement funds. Also at that time, respondent's CTA#2 was not yet opened.

13. After respondent misappropriated and failed to maintain the $12,288.82 belonging to PH and PH's medical provider lienholders, and between October 5, 2016 and August 28, 2017, respondent did eventually make full payment to PH and PH's medical providers through a series of payments from CTA # 1 and CTA #2.

Client TD's Funds:

14. On September 9, 2016, Respondent received a settlement check from Geico Insurance Company on behalf of client TD in the amount of $100,000.00, and deposited it into CTA#1.

Respondent's fees and costs totaled $34,008.33, leaving $65,991.67 to pay TD and TD's medical providers, which respondent wat required to maintain in trust.

15. On November 7, 2016 and November 8, 2016, respondent transferred a combined total of $95,000 from CTA#1 to CTA#2.

16. On November 16, 2016, respondent issued check no. 1061 for $5,000.00, as partial payment, to client TD, out of CTA#2. Thereafter, respondent was required to maintain $60,991.67 in a client trust account (the difference between $65,991.67 and $5,000.00) to pay TD the rest of her settlement funds, and to pay TD's medical providers.

17. On January 17, 2017, when respondent should have been holding $60,991.67 in trust, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and failing to supervise his staff, the balance in respondent's CTA#1 dipped to $566.55. On the same date, the balance in CTA#2 was $347,482.86. However, bank records show that Respondent deposited TD's settlement funds, along with those of other clients in this matter (PH,SF, and LF) into CTA#1, and respondent only transferred $95,000.00 from CTA#1 to CTA#2. The $95,000 transfer was not attributable to any single client matter and $95,000.00 was an insufficient amount for respondent to have been maintaining funds in CTA#2 for all four clients (PH, TD, SF and LF). The total amount of funds that respondent should have been holding collectively for all four clients was $108,000.00. Despite the high balance in CTA#2, the bank records show that only $95,000 is attributable to any of these client matters. Therefore, respondent misappropriated $60,425.12 (the difference between $60,991.67 and $566.55) of TD's funds that respondent was required to be holding in a client trust account for TD and TD's medical providers, when CTA #1 fell to $566.55, and remained at $566.55 through July, 2017.

18. On January 17, 2017, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and failing to supervise his staff, respondent recklessly misappropriated $60,425.12 from TD.

19. On July 31, 2017, CTA #2 fell to -$13,651.78. As of July 31, 2017, respondent was still required to maintain $60,991.67 for TD and TD's medical providers in a client trust account. As of July 31, 2017 CTA#1 still only had a balance of $566.55 during this period when respondent was required to be holding $60,991.67 in funds, and therefore respondent misappropriated $60,425.12 even if a portion of the funds in CTA #2 were also attributable to funds respondent was holding for TD.

20. Between August 17, 2017, respondent issued check no. 1496 to TD from CTA #2 for $27,630.00, in full satisfaction of the funds she was owed.

21. On August 28, 2017, nearly one year after respondent deposited the settlement check into CTA #1, respondent issued checks to TD's remaining medical providers in full satisfaction of payment owed to TD's medical providers.

Client SF's Funds:

22. On September 23, 2016, respondent received a settlement check on behalf of client SF from Continental Casualty Company, for $130,000.00, and deposited it into CTA#1. Respondent's fees and costs totaled $54,646.08, leaving $75,353.92 to pay SF and SF's medical providers.

23. On December 20, 2016, respondent issued a check, no. 1143 to SF for $8,471.02, out of CTA#2 . Thereafter, respondent was required to maintain $66,882.90 (the difference between $75,353.92 and $8,471.02) in a client trust account to pay SF and SF's providers. As discussed above, on November 7 and November 8, 2016, respondent had transferred a combined $95,000.00 from CTA #1 to CTA #2. However, due to respondent's failure to maintain proper accounting records, the $95,000.00 cannot be directly linked to any single client, and the amount was insufficient to cover all funds respondent was required to be holding in trust for clients PH, TD, SF and LF. The $95,000.00 transfer that occurred on November 7 and 8, 2016 was the only transfer from CTA #1 to CTA #2 between September 20, 2016 and January 2017.

24. On December 28, 2016, respondent paid two of SF's medical providers. Respondent issued check no. 1153 for $9,675.00 to Doulos Medical, and check no. 1159 for $13,000.00 to Gold Coast Orthopedics & Spine, both out of CTA#2. Thereafter, respondent was required to maintain $44,207.90 (the difference between $66,882.90 and $22,675.00) in trust, in either CTA#1 or CTA#2, for payment to SF and SF's medical providers.

25. In early 2017, respondent issued the following checks out of CTA#2:

- On January 18, 2017, respondent issued check no. 1176 for $1,701.00 to Kaiser Permanente;
- On February 1, 2017, respondent issued check no. 1190 for $10,000.00 to Starpoint Surgery Center; and
- On February 24, 2017, respondent issued check no. 1271 for $11,500 to Plaintiff Support Services.

26. Thus, after issuing the checks to some of SF's providers, respondent was still required to maintain $21,006.90 (the difference between $44,207.90 and $23,201.00) in trust, in either CTA#1 or CTA#2. On July 31, 2017, prior to paying SF the remainder of his portion of settlement funds and prior to paying SF's remaining medical providers, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, the balance in CTA#2 fell to -$13,651.78 when respondent was required to be holding $21,006.90. At the same time, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and failing to supervise his staff, on July 31, 2017, the balance in CTA#1 was $566.55. Thus, as of July 31, 2017, respondent misappropriated $20,440.35 (the difference between $21,006.90 and $566.55).

27. Following the misappropriation and respondent's failure to maintain sufficient funds in either account, respondent paid SF's remaining medical providers in full on August 28, 2017, all out of CTA#2.

Client LF's Funds:

28. On October 11, 2016, respondent deposited a settlement check from Progressive Insurance Company into CTA#1 for client LF in the amount of $15,000.00. Respondent's fees and costs totaled $5,635.43, leaving $9,364.57 to pay LF and LF's medical providers.

29. On December 9, 2016, respondent issued check no. 1119 for $2,114.57 to client LF, out of CTA#2. Thereafter, Respondent was required to maintain $7,250.00 ($9,364.57-$2,114.57) in a client trust account to pay LF's medical providers. As discussed above, on November 7 and November 8, 2016, respondent had transferred a combined $95,000.00 from CTA #1 to CTA #2. However, due to respondent's failure to maintain proper accounting records, the $95,000.00 cannot be directly linked to any single client, and the amount was insufficient to cover all funds respondent was required to be holding in trust for clients PH, TD, SF and LF. The $95,000.00 transfer that occurred on November 7 and 8, 2016 was the only transfer from CTA #1 to CTA #2 between September 20, 2016 and January 2017.

30. On January 17, 2017, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, the balance in CTA#1 dipped to $566.55 and remained at $566.55 through July 2017. However, the balance in CTA#2 on January 17, 2017 was $352,482.86. Thereafter, on July 31, 2017, prior to paying LF's providers, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, the balance in CTA#2 fell to -$13,651.78 when respondent was required to be holding $7,250.00 in one of the two CTAs. Thus, respondent failed to maintain sufficient funds in either CTA, and by July 31, 2017, respondent had misappropriated $6,683.45 (the difference between $7,250.00 and $566.55).

31. On August 28, 2017, respondent paid LF's remaining funds out of CTA#2 to LF's remaining medical providers.

CONCLUSIONS OF LAW:

32. By recklessly misappropriating $12,288.82 that he was to hold in trust to pay PH and PH's medical providers on September 19, 2016, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

33. By failing to maintain a balance of $29,250.00 on behalf of PH and PH's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

34. By recklessly misappropriating $60,425.12 that he was to hold in trust to pay TD and TD's medical providers on January 17, 2017, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

35. By failing to maintain a balance of $60,991.67.00 on behalf of TD and TD's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

36. By recklessly misappropriating $20,440.35 that he was to hold in trust to pay SF and SF's medical providers , respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

37. By failing to maintain a balance of $21,006.90 on behalf of SF and SF's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

38. By recklessly misappropriating $6,683.45 that he was to hold in trust to pay LF and LF's medical providers on January 17, 2017, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

39. By failing to maintain a balance of $7,250.00 on behalf of LF and LFs medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct

Case No. 17-O-04841 (Complainant: Erika Quintero)

FACTS:

40. The General Background Facts Relating to All Cases are fully incorporated herein.

41. On January 17, 2017, respondent deposited a settlement check from USAA Insurance Company into CTA#2 in the amount of $297,00.00 on behalf of his client Erika Quintero ("Quintero"). Respondent's fees and costs totaled $121,006.36, leaving $175,993.64 to pay Quintero and Quintero's medical providers.

42. On April 22, 2017, respondent sent Quintero the final settlement disbursement letter with a breakdown of the funds and how they were to be disbursed. Quintero's medical providers had not been paid at that time.

43. On June 1, 2017, respondent issued check no. 1370 out of CTA#2, for $11,056.00, to Doulos Medical. Thereafter, respondent was required to maintain $164,937.64 (the difference between $175,993.64 and $11,056.00 he had paid to Doulos Medical) in trust for payment to Quintero and Quintero's remaining medical providers.

44. On June 5, 2017, Quintero emailed respondent's case manager, requesting a status update regarding the disbursement of the settlement funds.

45. On June 16, 2017, when Quintero had not received a response to her June 5, 2017 email, Quintero emailed respondent's case manager again, requesting a status update regarding the disbursement of the settlement funds and stating that she had not yet received her settlement funds.

46. On June 19, 2017, respondent's case manager informed Quintero that he would, "contact accounting" to find out if the check had gone out.

47. On July 10, 2017, Quintero emailed the respondent's case manager again, asking when she would receive her portion of the settlement. The case manager received the email, but did not respond to it.

48. On July 31, 2017, the balance in CTA#2 dipped to $-13,651.78, prior to paying Quintero or the remaining seven medical providers. At the same time, on July 31, 2017, the balance in CTA#1 was $566.55. Thus, by July 31, 2017, as a result of not having maintained proper accounting records and having failed to properly supervise his staff, respondent recklessly misappropriated $164,371.09 (the difference between $164,937.64 and $566.55).

49. On August 18, 2017, about seven months after respondent received and deposited Quintero's settlement check into CTA#2, respondent issued check no. 1493 out of CTA#2, to Quintero, for $98,953.64.

50. Between August 16, 2017 and August 28, 2017, Respondent paid Quintero's remaining medical providers the remaining entrusted funds.

CONCLUSIONS OF LAW:

51. By recklessly misappropriating $164,371.09 that he was to hold in trust to pay Quintero and Quintero's medical providers on January 17, 2017, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

52. By failing to maintain a balance of $164,937.64 on behalf of Quintero and Quintero's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

53. By failing to pay Quintero and Quintero's medical providers the settlement funds to which they were entitled, until August 28, 2017, respondent failed to promptly pay client funds, in willful violation of the former rule 4-100(B)(4) of the Rules of Professional Conduct.

Case No. 17-O-05249 (Complainant: Gabriela Moreno)

FACTS:

54. The General Background Facts Relating to All Cases are fully incorporated herein.

55. On April 21, 2017, respondent received a settlement check from Farmers Insurance on behalf of client Gabriela Moreno ("Moreno"), in the amount of $100,000.00, and deposited it into CTA#2. Respondent's fees and costs totaled $41,240.41, leaving $58,759.59 to pay Moreno and Moreno's medical providers.

56. On or about May 17, 2017, Moreno called respondent's office, and spoke to one of respondent's employees and requested payment of her funds. Thereafter, between May 2017 to August 2017 Moreno called one to two times per week and spoke with respondent's staff and requested disbursement of her settlement funds.

57. On July 31, 2017, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, prior to paying Moreno or Moreno's medical providers any of the entrusted funds, the balance in CTA#2 dipped to -$13,651.78. At the same time, on July 31, 2017, the balance in CTA#1 was $566.55. Thus, neither of respondent's client trust accounts contained sufficient funds as respondent was required to be holding $58.759.59, and by July 31, 2017, respondent had misappropriated $58,193.04 (the difference between $58,759.59 and $566.55).

58. On August 17, 2017, respondent issued check no. 1491 from CTA #2 to Moreno as full payment of Moreno's portion of the settlement funds.

59. Between August 16, 2017 and September 15, 2017, respondent paid Moreno's medical providers the remaining funds from CTA #2.

CONCLUSIONS OF LAW:

60. By recklessly misappropriating $58,193.04 that he was to hold in trust to pay Moreno and Moreno's medical providers on July 31, 2017, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

61. By failing to maintain a balance of $58,759.59 on behalf of Moreno and Moreno's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

62. By failing to pay Moreno and Moreno's medical providers the settlement funds to which they were entitled, until September 2017, respondent failed to promptly pay client funds, in willful violation of the former rule 4-100(B)(4) of the Rules of Professional Conduct.

Case No. 17-O-05300 (Complainant: Ghannem Jabbar)

FACTS:

63. The General Background Facts Relating to All Cases are fully incorporated herein.

64. On October 27, 2016, respondent received a settlement check from Mercury Insurance, on behalf of client Ghannem Jabbar ("Jabbar"), in the amount of $25,000.00, and deposited it into CTA#1. Respondent's fees and costs totaled $9,146.33, leaving $15,853.67 to pay Jabbar and Jabbar's medical providers.

65. Beginning in early January, 2017 through July 28, 2017, Jabbar called respondent approximately 25-30 times to inquire about when he would receive his portion of settlement funds but respondent did not respond. Respondent received the telephone calls, but did not return any of them until July 28, 2017.

66. On January 17, 2017, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, the balance in CTA#1 dipped to $566.55, prior to paying Jabbar or Jabbar's medical provider. However, the balance in CTA#2 on January 17, 2017 was $352,482.86.

67. On July 31, 2017, prior to paying Jabbar or Jabbar's provider, as a result of respondent's recklessness in failing to maintain proper contemporaneous accounting records and in failing to supervise his staff, the balance in CTA#2 fell to -$13,651.78 when respondent was still required to be holding $15,853.67 in one of the two client trust accounts. Thus, respondent failed to maintain sufficient funds in either client trust account and by July 31, 2017, respondent had misappropriated $15,287.12 (the difference between $15,853.67 and $566.55).

68. On July 28, 2017, after respondent had misappropriated $15,287.12, and after Jabbar telephoned him threatening to contact the State Bar, respondent finally returned Jabbar's phone calls and assured him that a check would be mailed to him the following day. Jabbar did not receive the check as promise by respondent.

69. On August 18, 2017, respondent issued check no. 1091 out of CTA#2 to Jabbar, for $7,926.84. Jabbar attempted to negotiate the check, but the check was returned as undeliverable.

70. On August 25, 2017, an employee from respondent's office informed Jabbar that a stop payment had been placed on check no. 1091, and that on August 24, 2017, respondent had re-issued a new check-no. 2011, out of CTA#2. Jabbar received the new check and was able to deposit it.

71. On April 24, 2018, more than one year after respondent received and deposited Jabbar's settlement check into CTA#1, respondent issued check no. 2238, for $7,926.83, to Medi-Cal from CTA#2.

CONCLUSIONS OF LAW:

72. By recklessly misappropriating $15,287.12 that he was to hold in trust to pay Jabbar and Jabbar's medical providers, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

73. By failing to maintain a balance of $15,853.67 on behalf of Jabbar and Jabbar's medical providers in a client trust account, respondent willfully violated former rule 4-100(A) of the Rules of Professional Conduct.

74. By failing to respond to between 25 and 30 reasonable telephonic request for status inquiries from Jabbar between January 2017 and July 28, 2017, respondent willfully violated Business and Professions Code, section 6068(m).

75. By failing to pay Jabbar and Jabbar's medical providers the settlement funds to which they were entitled, until April 24, 2018, respondent failed to promptly pay client funds, in willful violation of the former rule 4-100(B)(4) of the Rules of Professional Conduct.

Case Nos. 17-O-00123, 17-O-04841, 17-O-05249 and 17-O-05300
(Violation of Prior Disciplinary Probation on All Cases)

FACTS:

76. The General Background Facts Relating to All Cases are fully incorporated herein. The facts and conclusions of law set forth above with respect to Case Nos. 17-O-00123, 17-O-04841, 17-O-05249 and 17-O-05300 are also fully incorporated herein.

77. During the time of the misconduct alleged in Case Nos. 17-O-00123, 17-O-04841, 17-O-05249 and 17-O-05300, respondent was on State Bar disciplinary probation in State Bar Case No. 15-O-11411. The respondent's discipline in State Bar Case No. 15-O-11411 became effective on February 4, 2017, and respondent has been on disciplinary probation in that case since February 4, 2017 and continuing to the present.

78. As a condition of his probation in State Bar Case No. 15-O-11411, respondent was and continues to be required to, among other things, comply with the State Bar Act and the Rules of Professional Conduct. As a condition of his probation, respondent was also required to, among other things, file quarterly reports with the Office of Probation of the State Bar of California ("Office of

Probation") stating under penalty of perjury that he had complied with the State Bar Act and the Rules of Professional Conduct during each quarterly reporting period. At all relevant times, respondent was aware of these probation conditions.

79. Between February 4, 2017 (when his probation began) and April 24, 2018, while respondent was on disciplinary probation, he had committed and/or was in violation of the State Bar Act and the Rules of Professional Conduct in the following ways:

A. Respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $29,250.00 in entrusted funds on behalf of his client PH and PH's medical providers at all times between February 4, 2017 and August 28, 2017 in willful violation of former rule 4-100(A).

B. Between February 4, 2017 and August 28, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $7,250.00 in entrusted funds on behalf of his client LF and LF's medical providers at all times between February 4, 2017 and August 28, 2017 in willful violation of former rule 4-100(A).

C. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he willfully and recklessly misappropriated $20,440.35 of entrusted funds from his client SF and SF's medical providers in violation of Business and Professions Code section 6106.

D. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $21,006.90 in entrusted funds on behalf of his client SF and SF's medical providers in willful violation of former rule 4-100(A).

E. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he willfully and recklessly misappropriated $164,371.09 of entrusted funds from his client Quintero and Quintero's medical providers in violation of Business and Professions Code section 6106.

F. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $164,937.64 in entrusted funds on behalf of his client Quintero and Quintero's medical providers in willful violation of former rule 4-100(A).

G. Respondent failed to comply with the State Bar Act and the Rules of Professional Conduct by failing to promptly pay Quintero and Quintero's medical providers the settlement funds to which they were entitled between February 4, 2017 and August 28, 2017 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct.

H. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he willfully and recklessly misappropriated $58,193.04 of entrusted funds from his client Moreno and Moreno's medical providers in violation of Business and Professions Code section 6106.

I. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $58,759.59 in entrusted funds on behalf of his client Moreno and Moreno's medical providers in willful violation of former rule 4-100(A).

J. Respondent failed to comply with the State Bar Act and the Rules of Professional Conduct by failing to promptly pay Moreno and Moreno's medical providers the settlement funds to which they were entitled between April 2017 and September 15, 2017 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct.

K. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he willfully and recklessly misappropriated $15,287.12 of entrusted funds from his client Jabbar and Jabbar's medical providers in violation of Business and Professions Code section 6106.

L. On July 31, 2017, respondent failed to comply with the State Bar Act and the Rules of Professional Conduct when he failed to maintain the balance of $15,853.67 in entrusted funds on behalf of his client Jabbar and Jabbar's medical providers in willful violation of former rule 4-100(A).

M. Respondent willfully violated Business and Professions Code section 6068(m) when he failed to return telephone calls from Jabbar between February 4, 2017 and July 28, 2017.

N. Respondent failed to comply with the State Bar Act and the Rules of Professional Conduct by failing to promptly pay Jabbar and Jabbar's medical providers the settlement funds to which they were entitled between February 4, 2017 and April 24, 2018 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct.

80. On April 10, 2017, Respondent submitted a quarterly report to the Office of Probation, which he signed under penalty of perjury, representing that he had complied with the conditions of his probation and had complied with the State Bar Act and the Rules of Professional Conduct for the period of time from February 4, 2017 (when his disciplinary probation began) through March 31, 2017. Respondent was reckless in not knowing that his statement was false at the time he made it, because he had failed to maintain a balance of $29,250.00 on behalf of his client, PH and he had failed to maintain a balance of $7,250.00 on behalf of LF at all times between February 4, 2017 (when his disciplinary probation began) and March 31, 2017.

81. On July 10, 2017, Respondent submitted a quarterly report to the Office of Probation, which he signed under penalty of perjury, representing that he had complied with the conditions of his probation and had complied with the State Bar Act and the Rules of Professional Conduct for the period of time from April 1, 2017 through June 30, 2017. Respondent was reckless in not knowing that his statement was false at the time he made it, because he because he had failed to maintain a balance of $29,250.00 on behalf of his client, PH and he had failed to maintain a balance of $7,250.00 on behalf of LF at all times between April 1, 2017 and June 30, 2017.

82. On October 10, 2017, Respondent submitted a quarterly report to the Office of Probation, which he signed under penalty of perjury, representing that he had complied with the conditions of his probation and had complied with the State Bar Act and the Rules of Professional Conduct for the period

of time from July 1, 2017 through September 30, 2017. Respondent was reckless in not knowing that his statement was false at the time he made it, because:

- He had failed to maintain a balance of $29,250.00, on behalf of his client, PH and he had failed to maintain a balance of $7,250.00 on behalf of LF at all times between July 1, 2017 and August 28, 2017;

- On July 31, 2017, respondent misappropriated funds held on behalf of his clients SF, Quintero, Moreno and Jabbar in the amounts of $20,440.35, $164,371.09, $58,193.04 and $15,287.12, respectively;

- On July 31, 2017, respondent failed to maintain entrusted funds on behalf of his clients SF, Quintero, Moreno and Jabbar in the amounts of $21,006.90, $164,937.64, $58,759.59 and $15,853.67, respectively;

- Respondent failed to promptly pay Quintero and Quintero's medical providers the settlement funds to which they were entitled between February 4, 2017 and August 28, 2017 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct;

- Respondent failed to promptly pay Moreno and Moreno's medical providers the settlement funds to which they were entitled between April 2017 and September 15, 2017 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct;

- Respondent willfully violated Business and Professions Code section 6068(m) when he failed to return telephone calls from Jabbar between February 4, 2017 and July 28, 2017; and

- Respondent failed to promptly pay Jabbar and Jabbar's medical providers the settlement funds to which they were entitled between February 4, 2017 and April 24, 2018 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct.

83. On January 18, 2018, Respondent submitted a quarterly report to the Office of Probation, which he signed under penalty of perjury, representing that he had complied with the conditions of his probation and had complied with the State Bar Act and the Rules of Professional Conduct for the period of time from October 1, 2017 through January 1, 2018. Respondent was reckless in not knowing that his statement was false at the time he made it, because respondent failed to promptly pay Jabbar and Jabbar's medical providers the settlement funds to which they were entitled between February 4, 2017 and April 24, 2018 in willful violation of former rule 4-100(B)(4), Rules of Professional Conduct.

CONCLUSIONS OF LAW:

84. By violating the former Rules of Professional Conduct and the State Bar Act while he was on State Bar disciplinary probation in State Bar Case No. 15-O-11411, respondent willfully violated Business and Professions Code, section 6068(k).

85. By falsely stating in his quarterly reports filed with the Office of Probation in Case No. 15-O-11411 that he had complied with the State Bar Act and the former Rules of Professional Conduct, when respondent was reckless in not knowing that his statements were false and misleading, respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Stds. 1.5(a) and 1.8(b)): Respondent has the following three prior records of discipline, a significant aggravating factor:

Effective November 30, 2004, respondent received a public reproval with conditions in State Bar Court Case Nos. 99-O-13410 and 04-O-11768 for misconduct relating to two matters. (Exhibit 1 is a certified copy of the prior discipline.) In the first matter, respondent was found culpable of violating Business and Professions Code section 6068(a) by permitting chiropractors to contribute to the payment of his legal advertising costs between 1996 and 1998. In the second matter, respondent violated former rule 3-310(C)(1), Rules of Professional Conduct by accepting representation of five clients in a personal injury matter who had potentially conflicting interests. There were no aggravating factors. In mitigation, respondent had no prior discipline, there was no harm, respondent was candid and cooperative, he acted in good faith, and he had engaged in extensive pro bono and charitable work.

Effective, January 22, 2009, respondent received a public reproval with conditions in State Bar Court Case No. 06-J-11086 based upon misconduct in Nevada. (Exhibit 2 is a certified copy of the prior discipline.) The misconduct occurred during a 31-day period in March 2004 when respondent permitted a non-attorney to engage in the unauthorized practice of law without his supervision, which would have constituted violations of former rules 1-300(A) and 3-110(A), Rules of Professional Conduct. In aggravation, respondent had a prior record of discipline. Respondent was credited with mitigation for good faith, extensive character evidence, pro bono and charitable activities, and remorse as evidenced by modifying his office procedures to eliminate the misconduct that occurred.

Effective February 4, 2017, respondent received a 90-day actual suspension, a one-year stayed suspension and two years' probation in State Bar Court Case No. 15-O-11411 (Supreme Court Case No. S237932). (Exhibit 3 is a certified copy of the prior discipline.) Respondent was found culpable of a single violation of former rule 4-100(B)(4) of the Rules of Professional Conduct for failing to promptly pay a medical lien on behalf of his client. The misconduct occurred over a more than three-year time period between February 2012 and March 2015. Respondent's client was sued by the medical provider as a result of respondent's failure to pay the lien, and the medical provider obtained a default judgment against the client, which respondent took belated steps to set aside. Respondent also resolved the lien prior to the disciplinary trial. In mitigation, respondent entered into an extensive factual stipulation for trial and was found to be cooperative. Respondent also received minimal mitigation for character letters and significant mitigation for his extensive community service, charitable and pro bono work. In aggravation, respondent was found to have two prior records of discipline. The State Bar Court also rejected respondent's claims that the weight to be given the priors should have been non-existent, since respondent claimed the priors were "remote" in time and did not involve his client trust accounting. The State Bar Court judge reasoned that the misconduct was not remote, since the second discipline was in January 2009, approximately three years before respondent's misconduct began in his third disciplinary matter. The State Bar Court also concluded there were similarities between respondent's prior misconduct and his current misconduct. Specifically, respondent's second discipline resulted from his failure to supervise non-attorney staff, as did R's third discipline.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent's misconduct involves 20 counts of professional misconduct, which includes eight misappropriations and failures to maintain entrusted

funds, failure to promptly pay out settlement funds in three matter, multiple failures to comply with prior disciplinary probation conditions and multiple misrepresentations in four separate quarterly reports submitted to the Office of Probation.

MITIGATING CIRCUMSTANCES.

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 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).)

In this matter, respondent admits to committing twenty acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in standard 2.11, which applies to respondent's acts of moral turpitude by recklessly completing his probation reports in violation of Business and Professions Code section 6106. Standard 2.11 states:

> Disbarment or actual suspension is the presumed sanction for an act or moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of the 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.

Respondent not only filed multiple false and misleading probation reports under penalty of perjury, but he also misappropriated over $230,000.00 from eight different clients in a eight personal injury matters. Although respondent ultimately paid the funds back to all of the affected clients and medical providers, in at least three of the matters, the payments were not prompt. While the misappropriations were reckless, as opposed to intentional, all of the misconduct, which was quite serious, directly related to the member's law practice and was extensive. During this time, respondent committed multiple probation violations and made misrepresentation to the State Bar that he was compliant with the conditions of his probation on four occasions when he had not been compliant.

Standard 1.8(b) also compels disbarment in this case. Standard 1.8(b) states:

> If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
>
> 1. Actual suspension was ordered in any one of the prior disciplinary matters;
>
> 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
>
> 3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

This is respondent's fourth disciplinary matter. Respondent was actually suspended as a result of his third disciplinary matter for 90 days.

There were similarities between respondent's second and third disciplinary matters in that both involved respondent's failure to supervise non-attorney staff, as does the current case. There are also similarities between respondent's third disciplinary matter and the current matter, to the extent that both matters involved respondent's mishandling of his client trust accounts. Despite having been disciplined on three prior occasions, that discipline has not impressed upon respondent his need to comply with his ethical obligations surrounding the supervision of his office and his trust accounting. In fact, respondent's misconduct has become significantly more serious and wide-spread since his third disciplinary matter.

The prior disciplinary matters, coupled with the current record, further demonstrated respondent's unwillingness or inability to comply to conform to ethical responsibilities and to comply with probation conditions.

For these reasons, no alternative less than disbarment will serve to satisfy the State Bar's goals of public protection, the maintenance of high professional standards and the preservation of confidence in the legal system.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of December 13, 2018, the discipline costs in this matter are $7,414.60. 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.

In the Matter of:	Case Number(s):
WILLIAM WEST SEEGMILLER	17-O-00123-YDR, 17-O-04841-YDR, 17-O-05249-YDR and 17-O-05300-YDR

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.

Date		
12-18-18	Respondent's Signature	William Seegmiller
Date	Print Name	
12/20/18	Respondent's Counsel Signature	Ellen A. Pansky
Date	Print Name	
12/21/18	Deputy Trial Counsel's Signature	Kimberly G. Anderson
Date	Print Name	

In the Matter of:	Case Number(s):
WILLIAM WEST SEEGMILLER	17-O-00123-YDR, 17-O-04841-YDR, 17-O-05249-YDR and 17-O-05300-YDR

DISBARMENT ORDER

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

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

On page 13, paragraph 68., line 4, "promise" is deleted, and "promised" is inserted.

On page 18, under AGGRAVATING CIRCUMSTANCES, line 1, "1.8(b)" is deleted.

On page 19, line 1, "matter" is deleted, and "matters" is inserted.

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

Respondent William West Seegmiller 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.

January 15, 2019
Date

YVETTE D. ROLAND
Judge of the State Bar Court

e Bar Court of the State Bar of Calif
Hearing Department ☐ Los Angeles ☒ San Francisco

Counsel for the State Bar Mark Hartman, No. 114925 Office of the Chief Trial Counsel The State Bar of California 180 Howard Street, 7th Floor San Francisco, CA 94105 Telephone: (415)538-2558	**Case number(s)** 99-O-13410 04-O-11768	**(for Court's use)** **PUBLIC MATTER** **FILED** NOV 0 9 2004 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel for Respondent Ellen A. Pansky, No. 77688 Pansky & Markle 1114 Fremont Avenue South Pasadena, CA 91030 Telephone: (213)626-7300		
In the Matter of WILLIAM WEST SEEGMILLER Bar # 98740 A Member of the State Bar of California (Respondent)	Submitted to ☐ assigned judge ☒ settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING REPROVAL ☐ PRIVATE ☒ PUBLIC ☐ PREVIOUS STIPULATION REJECTED	

A. Parties' Acknowledgments:

(1) Respondent is a member of the State Bar of California, admitted August 21, 1981 (date).

(2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.

(3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation, and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 8 pages.

(4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts." See page 6.

(5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law." See page 6.

(6) 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. See page 6.

(7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):

- ☒ costs added to membership fee for calendar year following effective date of discipline (public reproval)
- ☐ case ineligible for costs (private reproval)
- ☐ costs to be paid in equal amounts for the following membership years:

  _____
  (hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
- ☐ costs waived in part as set forth under "Partial Waiver of Costs"
- ☐ costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

(8) The parties understand that:

(a) A private reproval imposed on a respondent as a result of a stipulation approved by the Court prior to initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, but is not disclosed in response to public inquires and is not reported on the State Bar's web page. The record of the proceeding in which such a private reproval was imposed is not available to the public except as part of the record of any subsequent proceeding in which it is introduced as evidence of a prior record of discipline under the Rules of Procedure of the State Bar.

(b) A private reproval imposed on a respondent after initiation of a State Bar Court proceeding is part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

(c) A public reproval imposed on a respondent is publicly available as part of the respondent's official State Bar membership records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

(1) ☐ Prior record of discipline [see standard 1.2(f)]

(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 or under "Prior Discipline".

(2) ☐ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ 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.

(4) ☐ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ Indifference: Respondent demonstrated indifference toward rectification or atonement for the consequences of his or her misconduct.

(6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☒ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. 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 deemed serious.

(2) ☒ No Harm: Respondent did not harm the client or person who was the object of the misconduct.

(3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.

(4) ☒ Remorse: Respondent promptly took objective steps spontaneously demonstrating 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 in good faith.

(8) ☐ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.

(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 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: Considerc) time has passed since the acts of profe. al misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances:

Respondent has done extensive pro bono work and made many charitable contributions. With respect to case number 99-O-13410, respondent asserts that he made a good faith, although unsuccessful, effort to research the propriety of allowing third party contributions to legal advertising.

D. Discipline:

(1) ☐ Private reproval (check applicable conditions, if any, below)

(a) ☐ Approved by the Court prior to initiation of the State Bar Court proceedings (no public disclosure).

(b) ☐ Approved by the Court after initiation of the State Bar Court proceedings (public disclosure).

or

(2) ☒ Public reproval (check applicable conditions, if any, below)

E. Conditions Attached to Reproval:

(1) ☒ Respondent shall comply with the conditions attached to the reproval for a period of _____.

(2) ☒ During the condition period attached to the reproval, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent shall report to the Membership Records Office and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(4) ☒ Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproval. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproval during the preceding calendar quarter. If the first report would cover less than thirty (30) days, that report shall be submitted on the next following quarter date and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the condition period and no later than the last day of the condition period.

(5) ☐ Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish such reports as may be requested, in addition to quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the monitor.

(6) ☒ Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reproval.

(7) ☒ Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance of the Ethics School and passage of the test given at the end of that session.

☐ No Ethics School ordered.

(8) ☐ Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report required to be filed with the Probation Unit.

(9) ☐ Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel within one year of the effective date of the reproval.

☒ No MPRE ordered.

(10) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions ☐ Law Office Management Conditions

☐ Medical Conditions ☐ Financial Conditions

(11) ☐ Other conditions negotiated by the parties:

In the Matter of	Case Nos. 99-O-13410 04-O-11768
WILLIAM WEST SEEGMILLER, **No. 98740,** A Member of the State Bar.	**STIPULATION RE FACTS, CONCLUSIONS OF LAW, AND DISPOSITION**

CASE NUMBER 99-O-13410: FACTS AND CONCLUSION OF LAW

From 1996 to 1998, respondent William West Seegmiller ("respondent") allowed chiropractors to contribute a portion of the costs of his yellow-pages advertisements concerning his availability to provide legal services. He referred injured clients to these chiropractors, and to other chiropractors who did not contribute to his legal advertising costs, for treatment. In permitting chiropractors to contribute to the payment of his legal advertising costs, he wilfully violated section 6068, subdivision (a) of the Business and Professions Code by failing to support the laws of California.

CASE NUMBER 04-O-11768: FACTS AND CONCLUSION OF LAW

In 1998, five related plaintiffs hired respondent to represent them in a personal injury case. There were potential conflicts of interest among the plaintiffs because the more one plaintiff collected from the defendant's insurer, the less the other plaintiffs could collect. Respondent failed to obtain written consents from the plaintiffs to the joint representation. In failing to obtain written consents, he wilfully violated rule 3-310(C)(1) of the Rules of Professional Conduct by accepting the representation of more than one client in a matter in which the interests of the clients potentially conflicted without the informed written consent of each client.

DATE OF DISCLOSURE OF ANY PENDING INVESTIGATION OR PROCEEDING

On October 6, 2004, deputy trial counsel Mark Hartman ("Hartman") faxed a disclosure letter to respondent's counsel. In this disclosure letter, Hartman advised respondent's counsel of any pending investigation or proceeding not resolved by this stipulation.

ESTIMATED PROSECUTION COSTS OF THE CURRENT CASES

The estimated prosecution costs of case numbers 99-O-13410 and 04-O-11768 ("the current cases") are $2,602.00. This sum is only an estimate and does not include any State Bar Court costs in a final cost assessment. If this stipulation is rejected or if relief from this stipulation is granted, the prosecution costs of the current case may increase because of the costs of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE

The Rules of Procedure of the State Bar, Title IV, Standards for Attorney Sanctions for Professional Misconduct, standards 1.3, 1.6, 2.6, and 2.10 support the discipline in this stipulation.

10/24/04 — Respondent's signature — WILLIAM WEST SEEGMILLER
Date — print name

10/26/04 — Ellen A. Pansky — ELLEN A. PANSKY
Date — Respondent's Counsel's signature — print name

10/27/04 — Mark Hartman — MARK HARTMAN
Date — Deputy Trial Counsel's signature — print name

ORDER

NOV 15 '04

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproval, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

☐ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.

☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

At page 4, paragraph E(1) of the Stipulation, the term during which the conditions attached to the public reproval will apply is a period of one year from the effective date of the reproval.

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 135(b), Rules of Procedure.) Otherwise the stipulation shall be effective 15 days after service of this order.

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

November 8, 2004 — Scott M. Drucker
Date — Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 November 9, 2004, 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:

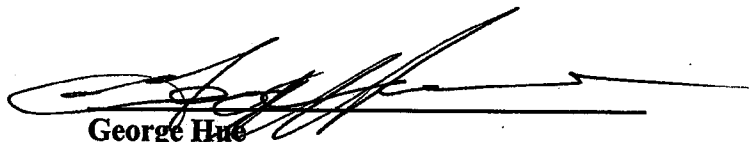
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ELLEN ANNE PANSKY
PANSKY & MARKLE
1114 FREMONT AVE
SOUTH PASADENA CA 91030

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

MARK HARTMAN, Enforcement, San Francico

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **November 9, 2004.**



George Hue
Case Administrator
State Bar Court

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST October 23, 2018
State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

PUBLIC MATTER

In the Matter of	Case No.: 06-J-11086
WILLIAM WEST SEEGMILLER	**DECISION**
Member No. 98740	
A Member of the State Bar.	

I. INTRODUCTION

Respondent William West Seegmiller is a member of both the California and Nevada state bars. In 2005, he was disciplined by the disciplinary board of the Nevada State Bar for conduct occurring in that state. This action was filed as a consequence of that misconduct and discipline. (See Bus. and Prof. Code, [1] §6049.1; *In the Matter of Respondent V* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 442, 447; *Emslie v. State Bar* (1974) 11 Cal.3d 210, 224 [State Bar may prosecute misconduct of member occurring solely in another state].)

II. PERTINENT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) in this matter was filed by the State Bar of California on January 25, 2008. On February 19, 2008, respondent filed a motion to dismiss under section 6049.1(b)(2), contending that his conduct would not warrant the imposition of discipline in California under applicable California laws and rules. On February 29, 2008, the

[1] Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

State Bar filed an opposition to that motion. Because respondent wanted to introduce expert testimony on the issue of whether the conduct in Nevada would be subject to discipline in this state, the proceeding was bifurcated and a hearing on the section 6049(b)(2) issue was held on April 28, 2008. At that hearing respondent, over the objection of the State Bar, introduced expert testimony regarding the standards of care in California applicable to the conduct at issue in the Nevada proceeding.

Thereafter, the court entered an order that respondent had not met his burden in challenging the discipline under section 6049.1(b)(2). The discipline stage of the proceeding was then conducted on July 1, 2008. Thereafter, a request was made successfully by respondent to re-open the trial for the purpose of offering additional evidence regarding mitigation. That additional trial session was held on September 16, 2008, followed by a period of post-trial briefing. The State Bar was represented throughout these proceedings by Deputy Trial Counsel Miho Murai. Respondent was represented by Ellen Pansky.

III. STATUTORY OVERVIEW

This proceeding is governed by section §6049.1. The issues in this streamlined proceeding are limited to: (1) whether the Nevada proceeding lacked fundamental constitutional protection; (2) whether, as a matter of law, respondent's culpability in the Nevada proceeding would not warrant the imposition of discipline in California under applicable California laws and rules; and (3) the degree of discipline to be imposed on respondent in California. (Bus. & Prof. Code, section 6049.1, subd. (b).) Unless respondent establishes that the conduct for which he was disciplined in Nevada would not warrant discipline in California or that the Nevada proceeding lacked fundamental constitutional protection, his formal record of discipline in Nevada is conclusive evidence that he is culpable of misconduct in California. (Section

6049.1(a); *In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 353.) The burden of proof with regard to the first two issues is on the respondent. (Section 6049.1(b).)

Respondent does not content here that the Nevada proceeding lacked fundamental constitutional protection. He does, however, contend that the conduct for which he was found culpable in that jurisdiction would not warrant discipline under the California laws and rules.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction

Respondent was admitted to the practice of law in California on August 21, 1981, and has been a member of the California State Bar at all relevant times.

History of Nevada Disciplinary Proceedings

On June 28, 2005, the Southern Disciplinary Board of the Nevada State Bar issued a formal decision recommending that respondent be publicly reprimanded. The decision included the following findings of fact and conclusions of law:

Findings of Fact

"On March 5, 2004, Heidi and John Rickard met at their home with Bruce Hamilton, a non-lawyer investigator. The Rickards executed retainer agreements for Respondent's firm to represent four (4) members of the Rickard family in personal injury claims arising from a motor vehicle accident.

An attorney-client relationship was established between Respondent's firm and the Rickards without any direct interaction between the clients and Respondent or a Nevada-licensed attorney employed by Respondent.

Mr. Hamilton testified that he has performed the same service for at least five (5) other law firms in Clark County, Nevada.

On or about March 11, 2004, Leticia Ostler, a paralegal in Respondent's office, sent the Rickards an introductory letter, informing them she was their case manager and that the firm of West Seegmiller now represented them. In her letter to the Rickards, Ostler cautioned that, "Please keep in mind that gaps in your treatment of seven days or longer will weaken your case. You must keep your appointments regularly. If you have not treated with a provider longer than a week, you should call us immediately. The insurance carrier looks for gaps in treatment and will value the case much less if one occurs." The letter also included a Confidential Client Information Form that Ostler requested the Rickards complete and return.

In addition, Ostler signed and sent other correspondence including, but not limited to, letters of representation to third parties and letters terminating West Seegmiller's representation of the Rickards.

During the 31 days that Respondent represented them, the Rickards never communicated with a Nevada-licensed attorney of Respondent's firm, but rather only with non-lawyer assistants.

The foregoing conduct by Respondent's non-lawyer assistants was performed in accordance with Respondent's office policies and practices."

Conclusions of Law

In addition to the above factual findings, the Nevada board made various conclusions of law, including the following:

"Mr. Hamilton engaged in the unauthorized practice of law when he met with the Rickards and had them execute retainer agreements on behalf of Respondent's firm without any direct interaction between the clients and an attorney with Respondent's firm.

Respondent's staff engaged in the unauthorized practice of law by sending out, under their own signature, letters of representation to third parties, letters to the clients offering advice on the legal impact of missing medical appointments, and termination letters to the client and third parties.

The foregoing activities by Respondent's non-lawyer staff constituted an improper delegation of professional judgment from a lawyer to a non-lawyer.

By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR [Supreme Court Rules] *154 (Communication) in that Respondent failed to appropriately communicate with his clients during the entire 31-day representation.*

By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR 155 (Fees), only insofar as Respondent failed to include the specific language required by the rule.

By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR 187 (Responsibilities regarding nonlawyer assistants) and SCR 189(1) (Unauthorized practice of law) by failing to adequately supervise both the investigator and nonlawyer staff, and failing to have in place adequate measures to properly define the roles of nonlawyer staff and ensure their compliance with the Rules of Professional Conduct."

Decision and Recommendation

The board recommended that respondent be publicly reprimanded for violating SCR 154 (communication), SCR 187(responsibilities regarding nonlawyer assistants) and SCR 189(1) (unauthorized practice of law).

Respondent then unsuccessfully appealed the panel's decision to the Nevada Supreme Court. On December 8, 2005, the Nevada Supreme Court's issued an order approving the Nevada State Bar's recommendation that respondent be publicly reprimanded. In its order, the court concluded that the violations were supported by clear and convincing evidence. It also found that the record demonstrated that respondent had "failed to exercise adequate control over his firm's initial contacts with potential clients and impermissibly delegated to nonlawyer staff the tasks of initiating the lawyer-client relationship and maintaining client communication."

Assessment of Whether Respondent's Nevada Misconduct Would Be Not Disciplinable Under Applicable California Rules

In the NDC filed in the instant proceeding, the California State Bar alleges that respondent's misconduct would be culpable under rules 1-300(A) and 3-110(A) of the California Rules of Professional Conduct.[2] Under section 6049.1, respondent has the burden to show that, as a matter of law, the "culpability determined in the [Nevada] proceeding ...would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction, as determined by the proceedings specified in subdivision (a)." Respondent has failed to carry that burden.

In looking to the Nevada rules on which that jurisdiction's findings of culpability are based, this court finds that those rules are substantially equivalent to the rules applicable to attorneys in California, both at the time of the Nevada misconduct and now. As previously noted, respondent was found culpable in the Nevada proceeding of assisting another person in the unauthorized practice of law (SCR rule 189) and failing to take adequate steps to supervise

[2] The State Bar does not allege that the Nevada finding of culpability for "communication" (SCR 154) warrants discipline in this state.

the work of nonlawyer employees. (SCR rule 187.) Rule 187 of the Nevada Supreme Court Rules (SCR) provides:

"Responsibilities regarding nonlawyer assistants. With respect to a nonlawyer employed or retained by or associated with a lawyer:

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

SCR rule 189, in pertinent part, provides:

"Unauthorized practice of law.

1. *General Rule. A lawyer shall not: ...*
   (b) Assist another person in the unauthorized practice of law."

These Nevada rules are substantively equivalent to comparable rules contained at all relevant times in the California Rules of Professional Conduct and cited by the State Bar in the

NDC. (See rule 1-300(A) ["member shall not aid any person or entity in the unauthorized practice of law"], and rule 3-110(A) ["a member shall not intentionally, recklessly, or repeatedly fail to perform services with competence."].) The formal "Discussion" in the California Rules of Professional Conduct accompanying rule 3-110 is explicit in stating, "The duties set forth in rule 3-110 include the duty to supervise the work of subordinate attorney and non-attorney employees or agents. (See, e.g., *Waysman v. State Bar* (1986) 41 Cal.3d 452; *Trousil v. State Bar* (1985) 38 Cal.3d 337, 342 [211 Cal.Rptr. 525]; *Palomo v. State Bar* (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]; *Crane v. State Bar* (1981) 30 Cal.3d 117, 122; *Black v. State Bar* (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288; 499 P.2d 968]; *Vaughn v. State Bar* (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713; 494 P.2d 1257]; *Moore v. State Bar* (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161; 396 P.2d 577].)" Hence there has been no showing that respondent's culpability in Nevada was predicated on rules having no equivalent counterpart in California.

Nor has respondent shown that the evidence supporting the findings of culpability in the Nevada proceeding do not show conduct disciplinable under the California rules. That evidence showed that a nonlawyer employee of respondent's firm first discussed with Mrs. Rickard the possibility of respondent representing her; that this nonlawyer was told that there had been a car accident involving the Rickards' car (containing two adults and three children) and an unidentified other person. The nonlawyer then instructed Mr. Hamilton, the third-party investigator routinely used by respondent's firm, to take a fee agreement for respondent's office out to the Rickards' home and to discuss the case with Mrs. Rickard. The investigator went the next day to the Rickards' home, meeting there with both Mr. and Mrs. Rickard. He had Mrs. Rickard sign a fee agreement in her own name. He then decided to have Mr. Rickard sign a fee agreement, but only as the "natural father" of two of the Rickard children. There was no discussion with the Rickards about whether there were potential conflicts between the Rickard

family members; nor was there any discussion as to the legal effect of Mr. and Mrs. Rickard signing the fee agreement. Respondent indicated that, notwithstanding the signed fee agreement, it was his policy not to decide whether to sign the agreement until after his office has gathered documents. Until then, he does not have any contact with the "client" and does not view the contract as binding. He followed that practice with respect to the Rickards.[3] Notwithstanding this view by respondent, his staff sent letters, with his approval, to the Rickards and to the involved insurance companies, notifying all that the Rickards were being represented by respondent. The letters were signed by Ms. Ostler (Ostler), a nonlawyer case manager, and they included legal advice and opinions. The letter to the Rickards' own auto insurance carrier also included an arbitration demand, although there had been no discussion between respondent and the Rickards about making any such a demand; nor had there been any analysis by respondent as to whether making such a demand constituted a waiver of the Rickards' right to a jury trial. With respect to the property damage claim the Rickards had for the value of their damaged car, the fee agreement included a provision stating, "Client agrees to pay $250.00 should WEST SEEGMILLER ATTORNEYS handle the property damage claim." Because the investigator

[3] The Review Department in *In the Matter of Scapa & Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635, 651, cited such a procedure with apparent disapproval and as a basis for finding culpability, albeit for improper solicitation in that situation: "The evidence shows without dispute that respondents, Southern California practitioners, set up their Northern California office to expand their client base but with the intent that one of them would be present only about one day a week. They deliberately authorized non-lawyer independent contractors to have office space and access to respondents' attorney-client retainer agreements, and to explain the complex details of respondents' fee agreements and accompanying documents to prospective clients. As OCTC's expert witness, Werchick, testified, several of these details were unusual provisions in plaintiff personal injury fee agreements such as the provision for a minimum hourly fee upon the client's unauthorized discharge of respondents and the recital which clients were asked to sign stating that they had not been solicited. Werchick also testified that in his opinion an attorney, not a non-lawyer, should decide whether or not to accept responsibility for a case, particularly when the attorney has yet to inspect a police accident report. Yet, by their own practice respondents did not review the cases until after their agents had signed up the clients and the testimony of several clients who were solicited showed that when they asked to study the retainer agreement before signing or to first speak with respondents, the agents declined to let them do so."

was under strict instructions not to discuss the meaning of the fee agreement with the prospective clients, the Rickards were not told that it was the practice and desire of respondent's office not to become involved in handling the property damage claim. This quickly led to an emotional misunderstanding between the Rickards and Ostler. During this time, Mrs. Rickard, according to her testimony at trial, viewed Ostler as being her attorney. The unpleasant interactions between them, in turn, caused respondent to direct Ostler to "disengage" the Rickards as clients. She did this in a letter dated April 7, 2004. In the meantime, she refused Mr. Rickard's request that he be allowed to talk with respondent, inaccurately telling Mr. Rickard that only Mrs. Rickard and her children were respondent's clients and that Mr. Rickard was not. Ostler then terminated respondent's representation of the Rickards with the April 7, 2004 letter, signed by her and not by respondent. This letter advised the Rickards that the statute of limitations on their case "expires on 3/04/06." Respondent was not at all involved in the determination of this date. Instead, he testified that the statute of limitations date was calculated by the nonlawyer intake personnel, who just input the accident date into a computer at the time of the initial conversation with the prospective client. The computer would then use this accident date to calculate when the statute of limitations would expire, here apparently using a two-year statute of limitations. Respondent agreed at trial that the statute of limitations for the Rickards might actually be only one year (if the claim proved to be uninsured); at the same time, the running of any statute of limitations for the minor children would be tolled until they turned eighteen. Hence the legal opinion contained in Ostler's letter was both given without any involvement by an attorney and was at least partially incorrect. With regard to all of the above actions by Ostler and Hamilton, respondent consistently emphasized that they were acting in accordance with office procedures approved by him.

This evidence regarding the conduct of respondent and his nonlawyer employees and agent is sufficient to sustain a finding that respondent aided a nonlawyer in the unauthorized practice of the law, in wilful violation of rule 1-300(A). (See, e.g., *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal.State Bar Ct. Rptr. 498, 519.)

It is also sufficient to sustain a finding that he wilfully violated rule 3-110(A) by failing to appropriately control the activities of his nonlawyer employees and agents. (See, e.g., *In the Matter of Rubens* (Review Dept. 1995) 3 Cal.State Bar Ct. Rptr. 468, 476-479; In *the Matter of Jones* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411, 418 [former rule 6-101(A)(2)].)

Utilizing the procedures set forth in section 6049.1, this court concludes that the determination in Nevada that respondent committed professional misconduct there constitutes conclusive evidence that he is culpable of professional misconduct in this state. The court, therefore, turns to the issue of what degree of discipline is appropriate to impose.

Considerations Regarding Appropriate Degree of Discipline

Although the findings of culpability are subject to the process set forth in section 6049.1, such is not true with regard to issues of aggravation and mitigation. Instead, the burdens of proof with regard to those issues are the same as in any other case. (*In the Matter of Jenkins* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157, 163-164.) The State Bar has the burden of proving aggravating circumstances by clear and convincing evidence; the respondent has the burden of proving mitigating circumstances. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b) and (e)[4].) The court finds the following with regard to those issues:

[4] All further references to standard(s) are to this source.

Aggravating Circumstances

Prior Discipline

Respondent has been disciplined in this state on one prior occasion. He previously stipulated to a public reproval for conduct occurring during the period 1996-1998. That reproval was issued on November 9, 2004. That discipline was a result of two separate cases. In case no 99-O-13410, he admitted to violating section 6068(a) by permitting chiropractors to contribute to the payment of his legal advertising costs. In case no. 04-O-11768, he admitted to violating rule 3-310(C)(1) by accepting representation of more than one client in a matter in which the interests of the clients conflicted without the informed written consent of each client. The stipulation entered into by the State Bar afforded respondent mitigation credit for good faith (including the fact that he had unsuccessfully researched the propriety of the chiropractors' contributions), candor/cooperation, remorse, the absence of harm, and his extensive pro bono and charitable activities. There were no aggravating circumstances. Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)

Multiple Acts

The State Bar contends that discipline should be increased because there are multiple acts of misconduct. It bases this argument on the fact that respondent's conduct violated both rule 3-110(A) and 1-300(A). The court declines to follow that analysis. The two violations are based on the same conduct, respondent's failure to adequately oversee the work of his nonlawyer employees and agents. In such situations, the court will not attach any additional weight in determining the appropriate discipline to the fact that the same conduct would violate several different rules. (See *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 155; *In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403; *In the Matter of Rubens, supra*, 3 Cal.State Bar Ct. Rptr. at p. 479, fn. 9; *In the Matter of Scapa &*

Brown, supra, 2 Cal.State Bar Ct. Rptr. at p. 646 [court declined to find violation of failure to adequately supervise staff where conduct supported culpability for violation of another rule]; accord: *In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 148 [the appropriate level of discipline for an act of misconduct does not depend on how many rules of professional conduct or statutes proscribe the misconduct].)

Harm

Although harm to the public and the administration of justice is deemed to be inherent in the unauthorized practice of law, there was no clear and convincing evidence that any such harm here was significant. Hence this is not viewed as an aggravating circumstance. (Std. 1.2(b)(iv); *In the Matter of Trousil, supra,* 1 Cal. State Bar Ct. Rptr. at pp. 239-240 [absence of actual harm to individuals treated as basis for awarding mitigation credit].)

Mitigating Circumstances

Good Faith

Good faith by the member during the course of the misconduct is a factor in mitigation. (Std. 1.2(e)(ii).) The evidence here was clear and convincing that respondent had taken significant steps before the misconduct here to adopt extensive office procedures, safeguards, training procedures, and form letters (written by him) that he believed complied with all applicable standards. For most of the conduct here, there would have been no culpability under California standards if the form letters had merely been signed by respondent, rather than Ostler. Further, while the Nevada authorities relied heavily on an unpublished decision of the Nevada Supreme Court as a basis for disciplining respondent for his failure to meet with prospective clients before having them sign fee agreements, the State Bar acknowledged during these proceedings that there is no clear comparable California authority on this issue. (Hawk v. State

Bar (1988) 45 Cal.3d 589, 602.) In sum, although respondent's belief that the system he developed was flawless proved to be mistaken, his actions were nonetheless taken in good faith.

Character Evidence

Respondent presented extensive evidence regarding his considerable charitable, pro bono, and community activities and good character testimony from several attorneys regarding his good character. Although the number of character witnesses falls somewhat short of being "a wide range of references in the legal and general communities", the court nonetheless finds the overall presentation to have established clear and convincing proof of his good character.

Remorse/Remediation

Considerable measures have been taken by respondent, both individually and with the assistance of outside consultants, to modify his office procedures to eliminate the issues giving rise to the discipline in Nevada. He is entitled to mitigation credit for his attitude and efforts in that regard. (*In the Matter of Sullivan* (Review Dept. 1997) 3 Cal.State Bar Ct. Rptr. 608, 614; *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal State Bar Ct. Rptr. 113, 126.)

V. DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 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.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is "not bound to follow the standards in talismanic fashion. As the final

and independent arbiter of attorney discipline, we are permitted to temper the letter of the law with considerations peculiar to the offense and the offender.' [Citations.]" (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994, quoting *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the courts consider relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) 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; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

As previously noted, the Nevada court concluded that a public reprimand was appropriate for respondent's misconduct. That misconduct, however, included violations of more rules there than what has been charged by the State Bar in this proceeding. The discipline also included as aggravation the fact that respondent had disciplined in that state for his prior discipline in this state.

The State Bar contends that the appropriate level of discipline here is two years' stayed suspension, 90-days' actual suspension, and two-years' probation. This recommendation is predicated on the State Bar's contention that there were multiple acts of misconduct, to wit: aiding the unauthorized practice of law and failing to act with competency. This assessment, however, fails to recognize that the same conduct gave rise to both violations. Under such circumstances, it is not proper to treat them as multiple acts for purposes of assessing the appropriate degree of discipline.

It is well-settled that the level of discipline assessed in the foreign jurisdiction does not dictate the degree of discipline to be assessed in this jurisdiction. (*In the Matter of Kauffman* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213, 217.) Nonetheless, it is the court's

conclusion that the appropriate level of discipline to be assessed here is the equivalent of what the Nevada court ordered in that jurisdiction: a public reproval. That conclusion is based on a number of different factors. First, there is no reason to believe that more discipline is needed to protect the public. Respondent's failure to adequately supervise his Nevada staff did not result from any lack of effort on respondent's part but instead from a mistaken belief that his high level of advance preparation had been sufficient. While his belief in that regard was incorrect, it was nonetheless held by him in good faith.

Further, when it became clear that such preparations were not a substitute for his personal involvement, respondent moved aggressively to amend the errant office practices.[5] The steps he has taken to modify his office practices provide strong evidence that there will not be any repetition of the Nevada misconduct.

The court's conclusion that significant discipline is not necessary to protect the public is further buttressed by respondent's past record in this state. He has maintained a very active practice in this state for more than a quarter century. During that time he has been disciplined only one time (a public reproval), for misconduct that was also found by the court to have been performed in good faith. That conduct took place in 1998, more than 10 years ago. There has been no evidence of any misconduct in this state since that time. In the same vein, this court received ample evidence regarding respondent's significant and ongoing commitments to community, pro bono and other charitable activities.

Finally, the discipline is consistent with that assessed in prior cases involving similar misconduct. See, e.g., *Crawford v State Bar* (54 Cal.2d 659 [public reproval for attorney allowing disbarred father to continue to practice law in his firm].

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[5] In many instances, the only change necessary was for him to sign the form letters he had previously prepared for signature by his staff.

Although standard 1.7(A) suggests that discipline in a second disciplinary action should generally be greater than that assessed in the first, the court finds that strict adherence to that concept here would be unjustified, unnecessary, and manifestly unjust.

VI. RECOMMENDED DISCIPLINE

Accordingly, it is ordered that Respondent **WILLIAM WEST SEEGMILLER** is hereby publicly reproved. Pursuant to the provisions of rule 270(a) of the Rules of Procedure, the public reproval shall be effective when this decision becomes final. Furthermore, pursuant to rule 956(a) of the California Rules of Court and rule 271 of the Rules of Procedure, the court finds that the interests of respondent and the protection of the public will be served by the following specified conditions being attached to the public reproval imposed in this matter. Failure to comply with any conditions attached to this reproval may constitute cause for a separate proceeding for wilful breach of rule 1-110 of the Rules of Professional Conduct. Respondent is hereby ordered to comply with the following conditions[6] attached to his public reproval for a period of one year following the effective date of the public reproval imposed in this matter:

1. Respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct.

2. Respondent must maintain, with the State Bar's Membership Records Office *and* the State Bar's Office of Probation, his current office address and telephone number or, *if no office is maintained,* an address to be used for State Bar purposes. (Bus. & Prof. Code, § 6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office *and* the State Bar's Office of Probation, his current home address and

[6]See rule 271, Rules of Proc. of State Bar (motions to modify conditions attached to reprovals are governed by rules 550-554 of the Rules of Procedure).

telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.

3. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which respondent is on probation (reporting dates).[7] However, if respondent's probation begins less than 30 days before a reporting date, respondent may submit the first report no later than the second reporting date after the beginning of his probation. In each report, respondent must state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

(a) in the first report, whether respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

(b) in each subsequent report, whether respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period. During the last 20 days of this probation, respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

[7] To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

4. Subject to the proper or good faith assertion of any applicable privilege, respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to respondent, whether orally or in writing, relating to whether respondent is complying or has complied with the conditions of this probation.

5. Within one year after the effective date of this order, respondent must attend and satisfactorily complete (a) the State Bar's Ethics School and (b) no less than six (6) hours of MCLE approved courses in law office management; and he must provide satisfactory proof of such completion to the State Bar's Office of Probation within that same timeframe. This condition of probation is separate and apart from respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

6. Respondent must take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.)

7. Respondent's probation will commence on the effective date of this order imposing discipline in this matter.

VII. COSTS

It is further ordered that costs be awarded to the State Bar in accordance with section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

Dated: December 17, 2008

DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 December 17, 2008, I deposited a true copy of the following document(s):

DECISION

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:

ELLEN ANNE PANSKY, ESQ.
PANSKY & MARKLE
1010 SYCAMORE AVE #101
SOUTH PASADENA, CA 91030

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 17, 2008.

Rose M. Luthi

Rose Luthi
Case Administrator
State Bar Court

ORIGINAL

PUBLIC MATTER

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
SCOTT J. DREXEL, SBN 65670
CHIEF TRIAL COUNSEL
RUSSELL G. WEINER, SBN 94504
DEPUTY CHIEF TRIAL COUNSEL
DJINNA M. GOCHIS, SBN 108360
ASSISTANT CHIEF TRIAL COUNSEL
KRISTIN L. RITSEMA, SBN 149966
SUPERVISING TRIAL COUNSEL
MIHO MURAI, SBN 235178
DEPUTY TRIAL COUNSEL
1149 South Hill Street
Los Angeles, California 90015-2299
Telephone: (213) 765-1219

FILED

JAN 25 2008

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

THE STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of	) Case No. 06-J-11086
WILLIAM WEST SEEGMILLER, SBN 98740,	) NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar.	) [Business and Professions Code section 6049.1 and Rules of Procedure of the State Bar, rules 620 to 625]

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL, (1) YOUR DEFAULT SHALL BE ENTERED, (2) YOU SHALL BE ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNLESS THE DEFAULT IS SET ASIDE ON MOTION TIMELY MADE UNDER THE RULES OF PROCEDURE OF THE STATE BAR, (3) YOU SHALL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOUR DEFAULT IS SET ASIDE, AND (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.

STATE BAR RULES REQUIRE YOU TO FILE YOUR WRITTEN RESPONSE TO THIS NOTICE WITHIN TWENTY DAYS AFTER SERVICE.

IF YOUR DEFAULT IS ENTERED AND THE DISCIPLINE IMPOSED BY THE SUPREME COURT IN THIS PROCEEDING INCLUDES A PERIOD OF ACTUAL SUSPENSION, YOU WILL REMAIN SUSPENDED FROM THE PRACTICE OF LAW FOR AT LEAST THE PERIOD OF TIME SPECIFIED BY THE SUPREME COURT. IN ADDITION, THE ACTUAL SUSPENSION WILL CONTINUE UNTIL YOU HAVE REQUESTED, AND THE STATE BAR COURT HAS GRANTED, A MOTION FOR TERMINATION OF THE

ACTUAL SUSPENSION. AS A CONDITION FOR TERMINATING THE ACTUAL SUSPENSION, THE STATE BAR COURT MAY PLACE YOU ON PROBATION AND REQUIRE YOU TO COMPLY WITH SUCH CONDITIONS OF PROBATION AS THE STATE BAR COURT DEEMS APPROPRIATE. SEE RULE 205, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS.

The State Bar of California alleges:

JURISDICTION

1. William West Seegmiller ("Respondent") was admitted to the practice of law in the State of California on August 21, 1981, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION

2. Respondent was admitted to the practice of law in the State of Nevada on September 26, 1988, was a member at all times pertinent to these charges, and is currently a member of the State Bar of Nevada.

3. On June 28, 2005, after a one-day contested trial held on February 25, 2005, the Formal Hearing Panel of the Southern Nevada Disciplinary Board (the "Hearing Panel") issued the following findings of fact, in pertinent part:

a. Respondent has been a licensed attorney in the State of Nevada since 1988, and has his principal place of business for the practice of law in Clark County, Nevada.

b. On March 5, 2004, Heidi and John Rickard met at their home with Bruce Hamilton, a non-lawyer investigator [who was employed by Respondent]. The Rickards executed retainer agreements for Respondent's firm to represent four (4) members of the Rickard family in personal injury claims arising from a motor vehicle accident.

c. An attorney-client relationship was established between Respondent's firm and the Rickards without any direct interaction between the clients and Respondent or a Nevada-licensed attorney employed by Respondent.

d. On or about March 11, 2004, Leticia Ostler, a paralegal in Respondent's office, sent the Rickards an introductory letter, informing them she was their case manager and that the firm of West Seegmiller now represented them. In her letter to the

Rickards, Ostler cautioned that,

> Please keep in mind that gaps in your treatment of seven days or longer will weaken your case. You must keep your appointments regularly. If you have not treated with a provider longer than a week, you should call us immediately. The insurance carrier looks for a gap in treatment and will value the case much less if one occurs.

The letter also included a Confidential Client Information Form that Ostler requested the Rickards complete and return.

e. In addition, Ostler signed and sent other correspondence including, but not limited to, letters of representation to third parties and letters terminating West Seegmiller's representation of the Rickards.

f. During the 31 days that Respondent represented them, the Rickards never communicated with a Nevada-licensed attorney of Respondent's firm, but rather only with non-lawyer assistants.

g. The foregoing conduct by Respondent's non-lawyer assistants was performed in accordance with Respondent's office policies and practices.

A true and correct copy of the Hearing Panel's Findings of Fact, Conclusions of Law, and Recommendation, filed June 28, 2005, is attached hereto as Exhibit 1 and is incorporated herein by reference.

4. On June 28, 2005, the Hearing Panel made the following conclusions of law:

a. This Panel has jurisdiction over Respondent and this matter.

b. Mr. Hamilton engaged in the unauthorized practice of law when he met with the Rickards and had them execute retainer agreements on behalf of Respondent's firm without any direct interaction between the clients and an attorney with Respondent's firm.

c. Respondent's staff engaged in the unauthorized practice of law by sending out, under their own signature, letters of representations to third parties, letters to the clients offering advice on the legal impact of missing medical appointments, and termination letters to the client and third parties.

d. The foregoing activities by Respondent's non-lawyer staff constituted an improper delegation of professional judgment from a lawyer to a non-lawyer.

5. By unanimous vote, the Hearing Panel found by clear and convincing evidence that Respondent violated Nevada Supreme Court Rule ("SCR") 154 (communication), SCR 187 (responsibilities regarding non-lawyer assistants), and SCR 189(1) (unauthorized practice of law)[1]. These violations correspond with rule 3-110(A) (failure to perform with competence by failing to properly supervise non-attorney staff) and rule 1-300(A) (aiding in the authorized practice of law) of the California Rules of Professional Conduct and section 6068(m) of the California Business and Professions Code. Copies of the Nevada Supreme Court Rules which Respondent was found to have violated are collectively attached as Exhibit 2 and incorporated herein by reference.

6. Based upon the findings of fact and conclusions of law, the Hearing Panel unanimously concluded and recommended to the Supreme Court of the State of Nevada that a public reprimand be issued against Respondent for violating SCR 154 (communication), SCR 187 (responsibilities regarding non-lawyer assistants), and SCR 189(1) (unauthorized practice of law) and that Respondent amend his business practice with respect to those violations.

7. On or about December 8, 2005, based upon the Hearing Panel's Findings of Fact, Conclusions of Law, and Recommendation, the Supreme Court of the State of Nevada issued an order imposing a public reprimand against Respondent for violations of SCR 154 (communication), SCR 187 (responsibilities regarding non-lawyer assistants), and SCR 189 (unauthorized practice of law). A true and correct copy of the Nevada Supreme Court's Order, filed December 8, 2005, is attached hereto as Exhibit 3 and is incorporated herein by reference.

8. Thereafter, the decision of the foreign jurisdiction became final.

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[1] The Hearing Panel also found by clear and convincing evidence that Respondent violated SCR 155(fees), only insofar as Respondent failed to include certain specific language in his retainer agreement. Upon being notified of this problem by the State Bar, Respondent took immediate steps to correct the language of his retainer agreement. The Hearing Panel issued a Letter of Caution against Respondent for violating SCR 155.

9. Respondent's culpability as determined by the Nevada Supreme Court indicates that Respondent violated the following California Rules of Professional Conduct, which warrants the filing of this Notice of Disciplinary Charges: Rule 3-110(A) of the Rules of Professional Conduct (failing to perform with competence by failing to properly supervise non-attorney staff) and rule 1-300(A) of the Rules of Professional Conduct (aiding in the unauthorized practice of law).

ISSUES FOR DISCIPLINARY PROCEEDINGS

10. The attached findings and final order are conclusive evidence that Respondent is culpable of professional misconduct in this state subject only to the following issues:

A. The degree of discipline to impose;

B. Whether, as a matter of law, Respondent's culpability determined in the proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction; and

C. Whether the proceedings of the other jurisdiction lacked fundamental constitutional protection.

11. Respondent shall bear the burden of proof with regard to the issues set forth in subparagraphs B and C of the preceding paragraph.

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT. SEE RULE 101(c), RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10. SEE RULE 280, RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

Dated: January 25, 2008

By: _____
MIHO MURAI
Deputy Trial Counsel

Case No. 04-097-1821

FILED

JUN 28 2005

STATE BAR OF NEVADA

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

WILLIAM SEEGMILLER, ESQ.,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

This matter came before a designated Formal Hearing Panel of the Southern Nevada Disciplinary Board on February 25, 2005, at 9:00 a.m. The presiding Panel consisted of Chair Gerald D. Waite, Esq., Ann Pongracz, Esq., Bridget A. Branigan, Esq., Scott L. Smith, Esq., and Laymember Hardin Embrey. The State Bar of Nevada ("State Bar") was represented by Assistant Bar Counsel David A. Clark. William Seegmiller ("Respondent") was present and represented by William B. Terry, Esq.

The State Bar submitted Exhibits 1 and 2 into evidence, without objection. The State Bar produced Heidi Rickard as a witness. Respondent testified on his own behalf and produced the following witnesses: Bruce Hamilton, Leticia Ostler, and Perry Woodward. All witnesses were sworn, testified on direct and cross-examination, and were examined by members of the Panel.

Based upon the pleadings filed, the testimony adduced at the hearing, the documents admitted into evidence and the legal arguments presented, the Panel submits the following Findings of Fact, Conclusions of Law, and Recommendation:

(47)

FINDINGS OF FACT.

1. This Panel was designated by the Southern Nevada Disciplinary Board Chair.

2. Respondent has been a licensed attorney in the State of Nevada since 1988, and has his principal place of business for the practice of law in Clark County, Nevada.

3. On March 5, 2004, Heidi and John Rickard met at their home with Bruce Hamilton, a non-lawyer investigator. The Rickards executed retainer agreements for Respondent's firm to represent four (4) members of the Rickard family in personal injury claims arising from a motor vehicle accident.

4. An attorney-client relationship was established between Respondent's firm and the Rickards without any direct interaction between the clients and Respondent or a Nevada-licensed attorney employed by Respondent.

5. Mr. Hamilton testified that he has performed the same service for at least five (5) other law firms in Clark County, Nevada.

6. On or about March 11, 2004, Leticia Ostler, a paralegal in Respondent's office, sent the Rickards an introductory letter, informing them she was their case manager and that the firm of West Seegmiller now represented them. In her letter to the Rickards, Oslter cautioned that,

> Please keep in mind that gaps in your treatment of seven days or longer will weaken your case. You must keep your appointments regularly. If you have not treated with a provider longer than a week, you should call us immediately. The insurance carrier looks for a gap in treatment and will value the case much less if one occurs.

The letter also included a Confidential Client Information Form that Ostler requested the Rickards complete and return.

7. In addition, Ostler signed and sent other correspondence including, but not limited to, letters of representation to third parties and letters terminating West Seegmiller's representation of the Rickards.

8. During the 31 days that Respondent represented them, the Rickards never communicated with a Nevada-licensed attorney of Respondent's firm, but rather only with non-lawyer assistants.

9. The foregoing conduct by Respondent's non-lawyer assistants was performed in accordance with Respondent's office policies and practices.

10. The retainer agreement used by Respondent failed to include the specific language required by Supreme Court Rule 155. However, the fees charged by Respondent were reasonable.

10. Upon being notified by the State Bar, Respondent took immediate steps to correct the language of his retainer agreement.

CONCLUSIONS OF LAW.

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

1. This Panel has jurisdiction over Respondent and this matter.

2. Mr. Hamilton engaged in the unauthorized practice of law when he met with the Rickards and had them execute retainer agreements on behalf of Respondent's firm without any direct interaction between the clients and an attorney with Respondent's firm.

3. Respondent's staff engaged in the unauthorized practice of law by sending out, under their own signature, letters of representation to third parties, letters to the clients offering advice on the legal impact of missing medical appointments, and termination letters to the client and third parties.

4. The foregoing activities by Respondent's non-lawyer staff constituted an improper delegation of professional judgment from a lawyer to a non-lawyer.

5. By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR 154 (Communication) in that Respondent failed to appropriately communicate with his clients during the entire 31-day representation.

6. By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR 155 (Fees), only insofar as Respondent failed to include the specific language required by the rule.

7. By unanimous vote, the Panel finds by clear and convincing evidence that Respondent violated SCR 187 (Responsibilities regarding nonlawyer assistants) and SCR 189(1) (Unauthorized practice of law) by failing to adequately supervise both the investigator and nonlawyer staff, and failing to have in place adequate measures to properly define the roles of nonlawyer staff and ensure their compliance with the Rules of Professional Conduct.

DECISION AND RECOMMENDATION.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Panel unanimously concludes and respectfully recommends to the Supreme Court of the State of Nevada the following:

1. That Respondent receive a Public Reprimand (attached as Exhibit 1) for violating SCR 154 (Communication), SCR 187 (Responsibilities regarding nonlawyer assistants) and SCR 189(1) (Unauthorized practice of law);
2. That Respondent should amend his business practices with respect to those violations;
3. That Respondent receive a Letter of Caution for violating SCR 155 (Fees); and,

4. That pursuant to SCR 120, Respondent be ordered to pay all costs of these proceedings within thirty (30) days of his receipt of the State Bar's Bill of Costs in this matter.

DATED this 27th day of June 2005.

GERALD D. WAITE, ESQ., Chair
Southern Nevada Disciplinary Board
Panel

Respectfully submitted:

STATE BAR OF NEVADA

By:
DAVID A. CLARK, Asst. Bar Counsel
Nevada Bar Number 4443
600 East Charleston Boulevard
Las Vegas, Nevada 89104
(702) 382- 2200
Attorney for State Bar of Nevada

Case No. 04-097[redacted]21

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

WILLIAM SEEGMILLER, ESQ.,

Respondent.

PUBLIC REPRIMAND

TO: WILLIAM SEEGMILLER, ESQ.
c/o William B. Terry
530 South Seventh Street
Las Vegas, NV 89101

On March 5, 2004, Heidi and John Rickard met at their home with Bruce Hamilton, a non-lawyer investigator. Mr. Hamilton met with the Rickards at the direction of one of your paralegals. The Rickards executed retainer agreements for your law firm to represent four (4) members of the Rickard family in personal injury claims arising from a motor vehicle accident. Therefore, an attorney-client relationship was established between your firm and the Rickards without any direct interaction between the clients and you or a Nevada-licensed attorney employed by Respondent.

On or about March 11, 2004, Leticia Ostler, a paralegal in your firm, sent the Rickards an introductory letter, informing them she was their case manager and that the firm of West Seegmiller now represented them. In her letter to the Rickards, Ostler cautioned that,

> Please keep in mind that gaps in your treatment of seven days or longer will weaken your case. You must keep your appointments regularly. If you have not treated with a provider longer than a week, you should call us immediately. The insurance carrier looks for a gap in treatment and will value the case much less if one occurs.

In addition, Ostler signed and sent other correspondence including, but not limited to, letters of representation to third parties and letters terminating West Seegmiller

EXHIBIT 1

(52)

representation of the Rickards. During the 31 days that your firm represented them, the Rickards never communicated with a Nevada-licensed attorney but rather only with non-lawyer assistants.

The foregoing conduct by your non-lawyer assistants was performed in accordance with your office policies and practices. As such, your policies have institutionalized the unauthorized practice of law. There are critical stages during the course of representing a client that call for the exercise of independent professional judgment on the part of the lawyer.

The first such instance is the decision on whether or not to represent a client, at all. As the Supreme Court noted in the unreported case of *In re Laub* (No. 36322, January 9, 2002),

> [T]he decision of whether to represent a particular client calls for an exercise of professional judgment, and that the attorney-client relationship must be formed with the attorney, not a nonlawyer assistant. In addition, a nonlawyer assistant may not be delegated the task of advising a client or potential client about his or her legal rights and remedies.

Here, the attorney-client relationship was established through Mr. Hamilton, rather than by yourself or another lawyer with your firm. In addition, Ms. Ostler advised the clients in her introductory letter about the legal ramifications involved with missing medical appointments. She also corresponded with third parties, presenting representation letters, demands for arbitration, and letters that terminated your firm's representation. Such conduct, when engaged in by a nonlawyer, constitutes the unauthorized practice of law.

Based upon the foregoing, you violated Supreme Court Rule 154 (Communication), SCR 187 (Responsibilities regarding nonlawyer assistants) and SCR 189 (Unauthorized practice of law) and are hereby PUBLICLY REPRIMANDED. You are also directed to amend your business practices in conformity with the standards set forth herein.

Case No. 04-097-1021

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

WILLIAM SEEGMILLER, ESQ.,

Respondent.

LETTER OF CAUTION

TO: WILLIAM SEEGMILLER, ESQ.
c/o William B. Terry
530 South Seventh Street
Las Vegas, NV 89101

On February 25, 2005, a Hearing Panel of the Southern Nevada Disciplinary Board heard the Formal Complaint in the above-entitled action. The Panel determined that the retainer agreement used by your firm in this matter violated the technical requirements of Supreme Court Rule 155 (Fees) insofar as it failed to incorporate the specific language required for contingent fee agreements.

However, the Panel found that your fees in this agreement were reasonable and, that upon being notified of the deficiency, you took immediate steps to correct your fee agreements. The Panel determined that you should receive this Letter of Caution rather than the imposition of any disciplinary sanction.

I trust that this caution will serve as a reminder to you of your ethical obligations and I am confident that no further problems of this nature will arise in the future.

Sincerely,

David A. Clark
Assistant Bar Counsel

EXHIBIT 2

57

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies a copy of the foregoing **Findings of Fact, Conclusions of Law, and Recommendation** was deposited in the United States Mail at Las Vegas, Nevada, postage fully pre-paid thereon for first class mail, addressed to William W. Seegmiller, Esq., c/o William Terry Esq., 530 South Seventh Street, Las Vegas, NV 89101, on this 28 day of June, 2005.

LOUISE WATSON, an employee of
the State Bar of Nevada.

Rule 154. Communication.

1. A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

2. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

[Added; effective March 28, 1986.]

Rule 187. Responsibilities regarding nonlawyer assistants. With respect to a nonlawyer employed or retained by or associated with a lawyer:

1. A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

2. A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

3. A lawyer shall be responsible for conduct of such a person that would be a violation of the rules of professional conduct if engaged in by a lawyer if:

(a) The lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(b) The lawyer is a partner in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

[Added; effective March 28, 1986.]

Rule 189. Unauthorized practice of law.

1. **General rule.** A lawyer shall not:

(a) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(b) Assist another person in the unauthorized practice of law.

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

(a) The lawyer is authorized to appear before a tribunal in this jurisdiction by law or order of the tribunal or is preparing for a proceeding in which the lawyer reasonably expects to be so authorized;

(b) The lawyer participates in this jurisdiction in investigation and discovery incident to litigation that is pending or anticipated to be instituted in a jurisdiction in which the lawyer is admitted to practice;

(c) The lawyer is an employee of a client and is acting on behalf of the client or, in connection with the client's matters, on behalf of the client's other employees, or its commonly owned organizational affiliates in matters related to the business of the employer, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction;

(d) The lawyer is acting with respect to a matter that is incident to work being performed in a jurisdiction in which the lawyer is admitted, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction;

(e) The lawyer is engaged in the occasional representation of a client in association with a lawyer who is admitted in this jurisdiction and who has actual responsibility for the representation and actively participates in the representation, provided that the out-of-state lawyer's representation of the client is not part of a regular or repetitive course of practice in this jurisdiction;

(f) The lawyer is representing a client, on an occasional basis and not as part of a regular or repetitive course of practice in this jurisdiction, in areas governed primarily by federal law, international law, or the law of a foreign nation; or

(g) The lawyer is acting as an arbitrator, mediator, or impartial third party in an alternative dispute resolution proceeding.

3. **Interaction with Rule 42.** Notwithstanding the provisions of subsection 2 of this rule, a lawyer who is not admitted to practice in this jurisdiction shall not represent a client in this state in an action or proceeding governed by Rule 42 unless the lawyer has been authorized to appear under Rule 42 or reasonably expects to be so authorized.

4. **Limitations.**

(a) No lawyer is authorized to provide legal services under this rule if the lawyer:

(1) Is an inactive or suspended member of the State Bar of Nevada, or has been disbarred or has received a disciplinary resignation from the State Bar of Nevada; or

(2) Has previously been disciplined or held in contempt by reason of misconduct committed while engaged in the practice of law permitted under this rule.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) Establish an office or other regular presence in this jurisdiction for the practice of law;

(2) Solicit clients in this jurisdiction; or

(3) Represent or hold out to the public that the lawyer is admitted to practice law in this jurisdiction.

5. **Conduct and discipline.** A lawyer admitted to practice in another jurisdiction of the United States who acts in this jurisdiction pursuant to subsection 2 of this rule shall be subject to the Nevada Rules of Professional Conduct and the disciplinary jurisdiction of the Supreme Court of Nevada and the State Bar of Nevada as provided in Rule 99.

[As amended; effective September 24, 2002.]

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF WILLIAM W. SEEGMILLER, ESQ.

No. 45537

FILED

DEC 08 2005

DEPUTY CLERK

ORDER IMPOSING PUBLIC REPRIMAND

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney William Seegmiller be publicly reprimanded and assessed the disciplinary proceeding's costs, based on its conclusion that Seegmiller violated SCR 154 (communication), SCR 187 (responsibilities regarding nonlawyer assistants) and SCR 189 (unauthorized practice of law).

As a preliminary matter, Seegmiller argues that several procedural irregularities require dismissal of the disciplinary proceedings against him. We reject Seegmiller's procedural arguments. First, SCR 119(2) provides that the timelines provided for in the disciplinary rules are not jurisdictional unless specifically stated otherwise. SCR 105(2)(d) does not state that the panel's duty to file its written decision impacts this court's jurisdiction to review that decision. Second, the transcript clearly shows that the panel's decision in this matter was unanimous. Nothing in the rules requires that all five panel members sign the written decision, and Seegmiller points to no inconsistency between the written decision and the transcript. Third, while the documents pertaining to Seegmiller's peremptory challenges from the packet supplied to the panel were irrelevant to the discipline hearing and should not have been provided to

the panel with other routine documents such as the complaint and hearing notice, Seegmiller has not demonstrated or even alleged any prejudice from their inclusion. Finally, Seegmiller waived any argument that the panel should have bifurcated the proceedings by failing to make any such request before the hearing.

As we recognized in In re Stuhff, "[t]hough persuasive, the [panel's] findings and recommendations are not binding on this court. This court must review the record de novo and exercise its independent judgment to determine whether and what type of discipline is warranted."[1] The panel's findings must be supported by clear and convincing evidence.[2] Clear and convincing evidence is

> "satisfactory" proof that is:
>
> "so strong and cogent as to satisfy the mind and conscience of a common man, and so to convince him that he would venture to act upon that conviction in matters of the highest concern and importance to his own interest. It need not possess such a degree of force as to be irresistible, but there must be evidence of tangible facts from which a legitimate inference . . . may be drawn."[3]

Seegmiller maintains that the violations found by the panel are not supported by clear and convincing evidence and that the recommended discipline is too harsh.

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[1]108 Nev. 629, 633, 837 P.2d 853, 855 (1992).

[2]In re Drakulich, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

[3]Id. at 1566-67, 908 P.2d at 715 (quoting Gruber v. Baker, 20 Nev. 453, 477, 23 P. 858, 865 (1890)).

Having reviewed the briefs and the record, we conclude that the violations found by the panel are supported by clear and convincing evidence. In particular, the record demonstrates that Seegmiller failed to exercise adequate control over his firm's initial contacts with potential clients and impermissibly delegated to nonlawyer staff the tasks of initiating the lawyer-client relationship and maintaining client communication. Also, in light of aggravating factors, particularly Seegmiller's discipline history, which includes a public reprimand imposed earlier this year as reciprocal discipline for stipulated discipline imposed by California, and mitigating factors, including Seegmiller's prompt efforts to remedy his misconduct, we conclude that a public reprimand is the appropriate discipline.

Accordingly, we approve the panel's recommendation in its entirety, and we issue the attached public reprimand. Seegmiller shall also pay the costs of the disciplinary proceeding within thirty days of the date of this order.

It is so ORDERED.[4]

Becker, C.J.
Becker

Rose, J.
Rose

Maupin, J.
Maupin

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

[4]This is our final disposition of this matter. Any new proceedings concerning Seegmiller shall be docketed under a new docket number.

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
William B. Terry, Chartered

Case No. 04-097-1821

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

WILLIAM SEEGMILLER, ESQ.,

Respondent.

PUBLIC REPRIMAND

TO: WILLIAM SEEGMILLER, ESQ.
c/o William B. Terry
530 South Seventh Street
Las Vegas, NV 89101

On March 5, 2004, Heidi and John Rickard met at their home with Bruce Hamilton, a non-lawyer investigator. Mr. Hamilton met with the Rickards at the direction of one of your paralegals. The Rickards executed retainer agreements for your law firm to represent four (4) members of the Rickard family in personal injury claims arising from a motor vehicle accident. Therefore, an attorney-client relationship was established between your firm and the Rickards without any direct interaction between the clients and you or a Nevada-licensed attorney employed by Respondent.

On or about March 11, 2004, Leticia Ostler, a paralegal in your firm, sent the Rickards an introductory letter, informing them she was their case manager and that the firm of West Seegmiller now represented them. In her letter to the Rickards, Oslter cautioned that,

> Please keep in mind that gaps in your treatment of seven days or longer will weaken your case. You must keep your appointments regularly. If you have not treated with a provider longer than a week, you should call us immediately. The insurance carrier looks for a gap in treatment and will value the case much less if one occurs.

In addition, Ostler signed and sent other correspondence including, but not limited to, letters of representation to third parties and letters terminating West Seegmiller

EXHIBIT 1

representation of the Rickards. During the 31 days that your firm represented them, the Rickards never communicated with a Nevada-licensed attorney but rather only with non-lawyer assistants.

The foregoing conduct by your non-lawyer assistants was performed in accordance with your office policies and practices. As such, your policies have institutionalized the unauthorized practice of law. There are critical stages during the course of representing a client that call for the exercise of independent professional judgment on the part of the lawyer.

The first such instance is the decision on whether or not to represent a client, at all. As the Supreme Court noted in the unreported case of *In re Laub* (No. 36322, January 9, 2002),

> [T]he decision of whether to represent a particular client calls for an exercise of professional judgment, and that the attorney-client relationship must be formed with the attorney, not a nonlawyer assistant. In addition, a nonlawyer assistant may not be delegated the task of advising a client or potential client about his or her legal rights and remedies.

Here, the attorney-client relationship was established through Mr. Hamilton, rather than by yourself or another lawyer with your firm. In addition, Ms. Ostler advised the clients in her introductory letter about the legal ramifications involved with missing medical appointments. She also corresponded with third parties, presenting representation letters, demands for arbitration, and letters that terminated your firm's representation. Such conduct, when engaged in by a nonlawyer, constitutes the unauthorized practice of law.

Based upon the foregoing, you violated Supreme Court Rule 154 (Communication), SCR 187 (Responsibilities regarding nonlawyer assistants) and SCR 189 (Unauthorized practice of law) and are hereby PUBLICLY REPRIMANDED. You are also directed to amend your business practices in conformity with the standards set forth herein.

DECLARATION OF SERVICE BY CERTIFIED MAIL

CASE NUMBER: 06-J-11086

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

NOTICE OF DISCIPLINARY CHARGES

in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7160 3901 9844 3983 0616, at Los Angeles, on the date shown below, addressed to:

Ellen Anne Pansky
Pansky & Markle
1010 Sycamore Ave #101
South Pasadena, CA 91030

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: January 25, 2008

SIGNED: _____
Max Carranza
Declarant

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST October 23, 2018
State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

(State Bar Court No. 15-O-11411)

S237932

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re WILLIAM WEST SEEGMILLER on Discipline

The court orders that William West Seegmiller, State Bar Number 98740, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. William West Seegmiller is suspended from the practice of law for the first 90 days of probation;

2. William West Seegmiller must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Amended Decision filed on August 26, 2016; and

3. At the expiration of the period of probation, if William West Seegmiller has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

William West Seegmiller must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

William West Seegmiller must also comply with California Rules of Court, rule 9.20, 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 this order. Failure to do so may result in disbarment or suspension.

Costs are 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.

CANTIL-SAKAUYE

Chief Justice

I, Jorge Navarrete, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.
Witness my hand and the seal of the Court this
____ day of JAN 05 2017 Month 20____
By: _____ Deputy

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **WILLIAM WEST SEEGMILLER,** **Member No. 98740,** A Member of the State Bar.	**Case No.: 15-O-11411-DFM** **AMENDED DECISION**

INTRODUCTION

Respondent **William West Seegmiller** (Respondent) is charged here with a single count of misconduct, to wit, an alleged failure to promptly pay a medical lien on behalf of his client in violation of rule 4-100(B)(4) of the Rules of Professional Conduct.[1] Prior to trial Respondent stipulated to culpability in the matter. Consequently, the only remaining disputed issues are those related to the appropriate level of discipline. The court's findings and recommendations regarding discipline are set forth below.

PERTINENT PROCEDURAL HISTORY

On December 15, 2015, the Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California, Office of the Chief Trial Counsel (State Bar).

On January 3, 2016, Respondent filed his Response to the NDC, denying that he had willfully violated rule 4-100(B)(4). He contended that his "failure to transmit the agreed upon

[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

$5,000 amount was a simple mistake, not intentional, and the funds were maintained in the Client Trust Account at all pertinent times."

An initial status conference was held on January 19, 2016. At that time, the case was given a trial date of April 5, 2016, with a two-day trial estimate.

On March 29, 2016, the parties filed a stipulation as to facts, culpability, and admission of various exhibits. As previously noted, the only remaining disputed issues to be decided by this court were the appropriate level of discipline and the facts related to that issue.

Trial was commenced and completed on April 5, 2016. The State Bar was represented at trial by Senior Trial Counsel Kimberly G. Anderson. Respondent was represented at trial by Ellen A. Pansky.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on Respondent's response to the NDC, the stipulation of undisputed facts and culpability (as modified by the parties at trial), and the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on August 21, 1981, and has been a member of the State Bar at all relevant times.

Case No. 15-O-11411

On March 16, 2011, Fred Hall (Hall) hired Respondent to handle a personal injury case filed by Hall. Between April 26, 2011, and February 2, 2012, prior to the settlement of the case, Respondent received and deposited into his client trust account (CTA) five checks, totaling $10,000, from Hall's own insurance company, AAA, for reimbursable medical payments (med-pay benefits). Prior to the payments of these benefits, AAA had advised Hall of its right to seek

reimbursement of these payments from any monies he received as a result of his personal injury case.

On February 15, 2012, Darlene Gasher (Gasher), a claims representative for AAA, sent a letter to Respondent, notifying him of Hall's obligation to reimburse AAA for the $10,000 within 30 days after receipt of funds from any settlement of Hall's personal injury claim.

On or about February 18, 2012, a $268,000 settlement agreement was reached in the personal injury case.

On February 27, 2012, Respondent replied to Gasher's letter, informing her that, although he had settled Hall's case for $268,000, Hall had incurred "medical specials" totaling $176,394.56. Respondent, therefore, asked that AAA completely waive any right to reimbursement of any portion of the $10,000 on the theory that Hall had not been made whole by the settlement.

On March 6, 2012, Gasher responded to Respondent's request, stating that AAA "will be unable to waive the medical reimbursement." However, AAA did offer to pay all costs incurred by Hall in the case ($825) and to reduce its medical lien to $5,000 in order to resolve the claim. (Exh. 12.) In her letter, Gasher asked that Respondent remit the $5,000 to AAA at its office in Los Angeles. In response, Respondent did not send the $5,000 to AAA.

On March 21, 2012, Gasher again wrote to Respondent, stating that she was advised that Hall's injury claim had been concluded and reiterating that AAA was requesting reimbursement of the med-pay payments it had previously made to Hall. In this letter, Gasher stated "the amount now subject to reimbursement is $10,000. (Exh. 13.)

On March 23, 2012, Respondent sent a letter to Hall, together with settlement distribution accounting. This accounting indicated that AAA was due $5,000. (Exh. 14.)

On June 5, 2012, Gasher sent another letter to Respondent, complaining that AAA's demands for reimbursement had not been answered and offering to mediate the matter if AAA's entitlement to $10,000 was disputed. (Exh. 15.)

On July 23, 2012, nearly four months after his earlier letter to AAA, Respondent sent a letter to Gasher, again requesting that AAA withdraw its request for any med-pay reimbursement because Hall had not been fully compensated by the settlement for his actual losses.

On the following day, July 24, 2012, Gasher rejected Respondent's demand for a complete waiver by AAA of its $10,000 lien. In a letter sent to Respondent, Gasher went on to complain that she had previously agreed to pay Hall's costs and reduce the reimbursement obligation to $5,000 and even had "confirmed with Adam in your office a few days ago[2] that payment would be sent, and he advised it was going out that day." Rather than receiving the anticipated $5,000, she had instead received Respondent's letter demanding a full release of the entire $10,000 amount. At the conclusion of her letter, Gasher stated:

> This case does not warrant a waiver and I have requested the file to refer out to our attorney's [sic]. If you wish to discuss this case please contact me by Wednesday. [¶] If this case is referred out my offer for the additional reduction will be void.

(Exh. 17.)

Respondent neither responded to this letter nor caused the $5,000 reimbursement to be sent to AAA. As a result, the matter was sent by AAA to its attorneys to seek reimbursement of the entire $10,000.

On August 22, 2012, attorney Kenneth Hagemann (Hagemann) sent a letter to Respondent, informing Respondent that he was representing AAA regarding the unpaid med-pay

[2] Adam Jenner is a non-attorney who is employed at the Seegmiller Law Firm. Respondent testified that Adam was doing the bookkeeping in his office at all times pertinent to this matter.

reimbursement obligation of Fred Hall. Hagemann demanded reimbursement in the amount of $10,000, less a pro rata share of any reasonable attorney's fees and costs.

On August 31, 2012, Respondent replied to Hagemann's letter, again asserting that AAA was not entitled to any reimbursement of the med-pay benefits it had paid because Hall had not been made whole by the case settlement.

On November 8, 2012, Hagemann sent Respondent a another letter, requesting Respondent to provide evidence to support Respondent's "made whole claim." Respondent received the letter, but did not respond. Instead, he instructed his non-attorney employee, Adam Jenner, to issue a $5,000 check to AAA. Jenner, however, failed to issue the check, and Respondent failed to make sure that any check was sent to AAA.

On March 20, 2013, and again on October 8, 2013, Hagemann sent letters to Respondent, demanding reimbursement of the med-pay benefits. Both these letters were received in Respondent's office and should have alerted Respondent to the fact that the reimbursement issue had not been resolved with AAA. Respondent did not respond to either letter. During his testimony in the trial of this matter, Respondent stated that he had not seen these letters due to a "glitch" in his office's procedures, which was in the process of being converted to a "paperless" office.

On January 24, 2014, Hagemann sent yet another letter to Respondent, again demanding reimbursement of the med-pay benefits. In that letter, Hagemann stated that this offer was his final attempt to resolve the matter without the need for litigation. He also indicated that he would assume that Respondent was no longer representing Hall if he did not hear back from Respondent. The letter was received in Respondent's office but was not responded to by

Respondent. At trial, Respondent attributed his lack of attention to this letter to his not being provided the letter as a result of deficient office procedures.

Not having heard from Respondent, on March 12, April 4, and May 9, 2014, Hagemann sent letters directly to Hall, demanding reimbursement of the $10,000 and threatening to sue Hall if the $10,000 of med-pay benefits were not re-paid. The May 9th letter actually enclosed a draft complaint and notified Hall that Hagemann would be filing the complaint if he did not hear from Hall within 15 days.

On September 29, 2014, AAA sued Hall in the Los Angeles County Superior Court. After Hall was served with the lawsuit, he spoke personally with Respondent about having been served with the lawsuit. During that conversation, Respondent assured Hall that he would take care of the lawsuit. Respondent, however, then took no steps to do so.

On December 19, 2014, the court entered Hall's default in the collection case. After Hall received the default papers, he filed a State Bar complaint against Respondent. Consequently, on January 26, 2015, the State Bar opened an investigation into the matter.

On February 19, 2015, judgment was entered by the Los Angeles County Superior Court in favor of AAA and against Hall in the amount of $12,849.93.

On March 10, 2015, a State Bar investigator sent Respondent a letter, advising him of Hall's complaint and requesting a written response. After becoming aware of Hall's complaint to the State Bar, Respondent, on March 24, 2015, arranged for the judgment against Hall to be set aside and the collection case against Hall to be dismissed. In return, Respondent agreed to pay, and did pay, the negotiated amount of $10,000 to resolve the matter.

Count One – Rule 4-100(B)(4) [Failure to Promptly Pay Entrusted Funds]

Rule 4-100(B)(4) requires an attorney to promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the attorney's possession which the client is entitled to receive. The rule applies not only to the attorney's obligation to clients, but also to the attorney's obligation to pay third parties out of funds held in trust, including the obligation to pay holders of medical liens. (*In the Matter of Respondent P* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 633; *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 286; *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 10.)

Respondent received the proceeds of the Hall settlement in early 2012 but did not pay any funds to resolve the AAA reimbursement claim until March 2015, more than three years later, despite numerous intervening demands by AAA for payment. As a result of this delay, Hall was sued by AAA in superior court and had a judgment entered against him.

Prior to the commencement of the trial in this matter, the parties stipulated, and this court now finds, that Respondent's prolonged failure to pay the AAA reimbursement lien represented a violation by Respondent of rule 4-100(B)(4).

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,[3] std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Record of Discipline

Respondent's has two prior records of discipline. This is an aggravating factor. (Std. 1.5(a).)

[3] All further references to standard(s) or std. are to this source.

In his first disciplinary matter, effective November 30, 2004, Respondent stipulated to a public reproval for conduct occurring during the period 1996-1998. That discipline was a result of two separate cases. In case No. 99-O-13410, he admitted to violating Business and Professions Code section 6068, subdivision (a), by permitting chiropractors to contribute to the payment of his legal advertising costs. In case No. 04-O-11768, Respondent admitted to violating rule 3-310(C)(1) by accepting representation of more than one client in a matter in which the interests of the clients conflicted without the informed written consent of each client. As one of the conditions of his reproval, Respondent was ordered to attend the State Bar's Ethics School.

In his second disciplinary matter, effective January 22, 2009, Respondent received a public reproval with conditions in case No. 06-J-11086, based upon his misconduct in Nevada. Respondent was found culpable of permitting a non-attorney to engage in the unauthorized practice of law as a result of Respondent's lack of supervision. The court found that Respondent's misconduct would have constituted violations of rule 1-300(A) and rule 3-110(A) of the California Rules of Professional Conduct. In aggravation, Respondent had a prior record of discipline. Respondent was accorded mitigating credit for: (1) acting in good faith during the course of his misconduct; (2) extensive character evidence, charitable and pro bono activities; and (3) remorse/remediation evidenced by having taken measures to modify his office procedure to eliminate the cause of the misconduct.

Respondent argues that the weight to be given his two prior records of discipline as an aggravating factor should be limited or non-existent because these priors are "remote" and had nothing to do with client funds. That contention lacks merit. The effective date of Respondent's second discipline was in January, 2009, approximately three years before his misconduct began

in the instant matter. Hence, the discipline was not remote to the misconduct here based solely on the passage of time. Nor is the nature of the misconduct in the two matters unrelated. In the second prior discipline, Respondent's misconduct resulted from his failure to supervise his staff. Here, as noted above, he again attributes much of his misconduct to mistakes being made by his office staff, who were clearly not being adequately supervised by him.

Respondent's two prior disciplines, including the requirement on two separate occasions that he attend the State Bar's Ethics School, should have caused him to be vigilant in supervising his staff. The fact that they did not makes this history of prior disciplines an aggravating factor under standard 1.5(a).

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating factors.

Cooperation

Respondent entered into an extensive stipulation of facts and admitted his culpability regarding the trust account violation with which he was charged. Such cooperation is a mitigating factor. (Std. 1.6(e); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].)

The court declines to afford Respondent additional mitigation credit for his eventual actions in having the default judgment against Hall set aside. Those actions were neither prompt nor spontaneous, as contemplated by standard 1.6(e) and (g). To the contrary, the default judgment actually resulted from Respondent's failure to respond promptly to the collection

action filed against Hall, notwithstanding Respondent's prior assurance to Hall that he would take care of the matter. When Respondent finally did act to resolve AAA's reimbursement claim and the resulting collection civil action against his former client, it was months later and only after he became aware of Hall's complaint against him to the State Bar. Such belated measures are not entitled to mitigation credit. (See, e.g., *In the Matter of Petilla* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231, 249, citing *Warner v. State Bar* (1983) 34 Cal.3d 36, 47; *In the Matter of Ike* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483, 490; *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 116-117; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619; *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 496; *In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708, 714; and *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, 663, citing *Rosenthal v. State Bar* (1987) 43 Cal.3d 658, 663.)

Good Character

Respondent submitted character letters from ten individuals, including two attorneys and two former clients. All of the individuals expressed their belief that Respondent was honest, reliable, committed to serving his clients, and generous.

However, all of these letters were written before the current charges were filed against Respondent, and none of these individuals indicated having any knowledge regarding the misconduct in this matter as required by standard 1.6(f).[4] As a result, the court assigns only minimal weight to this character evidence.. (*In the Matter of Song* (Review Dept. 2013) 5 Cal.

[4] Providing strong evidence that these character witnesses were actually unaware of the current misconduct is the statement in one of the character letters that "He [Respondent] pointed out when he asked me to write this letter that several years ago there were bar complaints about him not managing his office staff correctly but my opinion of him is the same." (Ex. 1001, p. 9 [emphasis added].)

State Bar Ct. Rptr. 273, 280; *In re Aquino* (1989) 49 Cal.3d 1122, 1130-1131 [limited weight assigned to attorney's good character evidence where there is a failure to establish witnesses knew the full extent of the attorney's misconduct.]).

Community Service, Pro Bono and Charitable Work

Respondent provided significant evidence of his extensive community service, charitable efforts, and pro bono work. This is a mitigating factor. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 665; *In the Matter of Song, supra,* 5 Cal. State Bar Ct. Rptr. 273, 280; *Calvert v. State Bar* (1991) 54 Cal.3d 765,785;)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 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.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State

Bar Ct. Rptr. 676, 703.) 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; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

In this case, the applicable standard is standard 2.2(a), which provides that an actual suspension of three months is the presumed sanction for Respondent's violation.[5] Based on that standard and citing to *In the Matter of Koehler, supra*, 1 Cal. State Bar Ct. Rptr. 615, 628, the State Bar requests that Respondent be actually suspended from the practice of law for 90 days. Respondent, on the other hand, argues for a stayed suspension with no actual suspension and cites to *In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1 as precedent supporting such an outcome. The parties acknowledge that neither case is directly on point.

Turning to the applicable case law, this court finds some guidance in *In the Matter of Riley, supra*, 3 Cal. State Bar Ct. Rptr. 91. In *Riley*, the attorney was found culpable of numerous failures to pay medical liens. As aggravating factors, the Review Department of this court found harm to some of the clients (several of whom had been sued by the lienholders) and multiple acts of misconduct. In mitigation, the court noted the absence of any prior record in nine years of practice by the respondent prior to the commencement of the misconduct, evidence that respondent had remedial changes in his office procedures, and the fact that there was no evidence of any new acts of misconduct for a number of years since 1990. Nonetheless, the Review Department determined that there was not a sufficient basis to deviate from the

[5] The parties agreed that Std. 1.8(b) does not require disbarment in the instant matter, since Respondent's prior disciplinary matters do not involve the imposition of a period of actual suspension; the prior disciplinary matters coupled with the current record do not involve the same violations; and, the prior disciplinary matters coupled with the current matter do not demonstrate Respondent's unwillingness or an inability to conform his conduct to his ethical obligations.

minimum discipline of 90-days actual suspension then called for by the standards, and it increased the discipline previously recommended by the Hearing Department to include those 90 days of actual suspension.

This court recognizes that the language of standard 2.2(a) has been modified since the above decisions to make clear that the 90-day period of actual suspension is the "presumed" discipline for a failure to promptly pay out entrusted funds, as opposed to the prior ostensible mandatory minimum discipline to be imposed for any such violation. That amendment, however, does not negate either the approach followed by the Review Department in *Riley* or that discussed more generally above. In sum, ninety days of actual suspension is the presumed discipline to recommend as a result of Respondent's misconduct unless there is ample reason to depart from that presumption. Here, the court finds that there is not.

The misconduct in the present matter involves many of the same issues and factors that were before the Review Department in the *Riley* matter. While Respondent seeks to blame his failure to pay out the entrusted funds to his ignorance of the problem, which purported ignorance resulted from errant office personnel and defective office procedures, those excuses do not explain his failure to act promptly to pay the existing lienholder after being personally advised by Hall of the collection action in late 2014. Although Respondent assured Hall at that time that he would then take care of the reimbursement claim and the resulting collection case, there is no evidence that Respondent made any effort to do so until March 2015. The result of Respondent's ongoing indifference was the entry of a $12,849.93 judgment against Hall in the intervening period. While Respondent's delay in paying out the entrusted funds to AAA continued for more than three years, just Respondent's delay in paying out the funds from late 2014 to March 2015 would warrant a finding of a violation by him of rule 4-100(B)(4). Worse,

although Respondent was aware that his former client was being sued as a result of his failure to satisfy the reimbursement claim, he did not act to comply with his ethical obligation under rule 4-100 until he became aware of the pending State Bar disciplinary investigation. No explanation has been offered by Respondent for that delay.

Moreover, Respondent's misconduct until late 2014 cannot be said to have resulted solely from errant office personnel and defective paperless office procedures in 2012 and 2013. If Respondent was not aware that the disputed $10,000 had not been paid out to AAA but instead remained in his client trust account at all times after November 2012, such ignorance reveals an apparent serious and ongoing lack of oversight and management by Respondent of his client trust account. Pursuant to the Rules of Professional Conduct, Respondent was required to maintain records for that trust account, including a "written ledger" for each client having funds in the account. The ledger for each such individual client is required to show the current balance of the funds still in the account and the source of such funds. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(a).) Compliance with this obligation required Respondent to have an individual ledger for Hall at all times from at least February 2012 until March 2015, showing the $10,000 of med-pay benefits received by Respondent from AAA and still on deposit in the account. In addition, Respondent was obligated to prepare and maintain a monthly written reconciliation, "balancing" each and every month the aggregate total of all of the individual client ledgers with the total amount of funds then held in the client trust account, as show by the bank statement each month for the account. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(d).) Any such reconciliation and balancing, if performed and/or reviewed by Respondent as he was required to do, should have revealed to Respondent - at the conclusion of each month between November 2012 and February 2015 - that no portion of the

disputed $10,000 had not been disbursed and that all of the funds instead remained deposited in Respondent's CTA. Respondent has offered no explanation as to why it did not.

Respondent has been previously disciplined on two separate occasions. While the presumptive discipline of disbarment, set forth in standard 1.8(b), does not apply in this case, that conclusion is true only because the discipline imposed in both of those prior matters did not include any period of actual suspension. However, a review of the 2009 discipline decision reveals that the mitigating factors reducing the recommended level of discipline in that case are virtually the same factors that Respondent is advancing here to again seek a lesser discipline, namely extensive character evidence, charitable and pro bono activities; and remorse/remediation evidenced by having taken measures to modify his office procedures. Similar mitigating factors were also offered by Respondent and included in the 2004 discipline recommendation.

An attorney's good character, remedial measures taken to correct deficient office procedures, and community/pro bono/charitable activities do not give rise to dispensations. Instead, they are potential mitigating factors because they are indicators that a lesser level of discipline may be sufficient to avoid any future ethical violations by that attorney. However, where those factors have proved to not be a good indicator of the lack of risk of future misconduct by a particular member, the need to increase the level of discipline as a consequence of future misconduct - to seek to adequately motivate the recidivist attorney to comply with the standards governing the profession - becomes apparent and compelling. That is especially true where the attorney, like Respondent here, has also been twice required to complete the State Bar's Ethics School.

While this court certainly does not conclude that Respondent's disbarment is now required to protect the public and the profession in the future, it does conclude that there is no reason here to deviate from the presumptive discipline set forth in standard 2.2(a). Therefore, this court recommends, among other things, that Respondent be suspended from the practice of law for one year; that execution of that period of suspension be stayed; and that he be placed on probation for two years, including a 90-day period of actual suspension.

RECOMMENDED DISCIPLINE

Stayed Suspension/Probation/Actual Suspension

For all of the above reasons, it is recommended that **William West Seegmiller,** State Bar No. 98740, be suspended from the practice of law for one year; that execution of that suspension be stayed; and that Respondent be placed on probation for two years, subject to the following conditions:

1. Respondent must be actually suspended from the practice of law for the first ninety (90) days of probation.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request.

4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

5. He must submit written quarterly reports to the Office of Probation on or before each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.

7. Within one year after the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of

completion of the State Bar's Ethics and Client Trust Accounting Schools and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending those schools. (Rules Proc. of State Bar, rule 3201.)

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if Respondent has complied with all conditions of probation, the stayed suspension will be satisfied and that suspension will be terminated.

California Rules of Court, Rule 9.20

The court recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20, 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 order in this matter.[6]

MPRE

It is further recommended that Respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within that same period. (See *Segretti v. State Bar*

[6] Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files 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 also, 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).)

(1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs

It is further recommended that costs be awarded to the State Bar in accordance with section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment. It is also recommended that Respondent be ordered to reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and that such payment obligation be enforceable as provided for under Business and Professions Code section 6140.5.

Dated: August 25, 2016

DONALD F. MILES
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 August 26, 2016, I deposited a true copy of the following document(s):

AMENDED DECISION

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:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 26, 2016.

Rose M. Luthi
Case Administrator
State Bar Court

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **WILLIAM WEST SEEGMILLER,** **Member No. 98740,** A Member of the State Bar.	**Case No.: 15-O-11411-DFM** **DECISION**

INTRODUCTION

Respondent **William West Seegmiller** (Respondent) is charged here with a single count of misconduct, to wit, an alleged failure to promptly pay a medical lien on behalf of his client in violation of rule 4-100(B)(4) of the Rules of Professional Conduct.[1] Prior to trial Respondent stipulated to culpability in the matter. Consequently, the only remaining disputed issues are those related to the appropriate level of discipline. The court's findings and recommendations regarding discipline are set forth below.

PERTINENT PROCEDURAL HISTORY

On December 15, 2015, the Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California, Office of the Chief Trial Counsel (State Bar).

On January 3, 2016, Respondent filed his Response to the NDC, denying that he had willfully violated rule 4-100(B)(4). He contended that his "failure to transmit the agreed upon

[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

$5,000 amount was a simple mistake, not intentional, and the funds were maintained in the Client Trust Account at all pertinent times."

An initial status conference was held on January 19, 2016. At that time, the case was given a trial date of April 5, 2016, with a two-day trial estimate.

On March 29, 2016, the parties filed a stipulation as to facts, culpability, and admission of various exhibits. As previously noted, the only remaining disputed issues to be decided by this court were the appropriate level of discipline and the facts related to that issue.

Trial was commenced and completed on April 5, 2016. The State Bar was represented at trial by Senior Trial Counsel Kimberly G. Anderson. Respondent was represented at trial by Ellen A. Pansky.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on Respondent's response to the NDC, the stipulation of undisputed facts and culpability (as modified by the parties at trial), and the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on August 21, 1981, and has been a member of the State Bar at all relevant times.

Case No. 15-O-11411

On March 16, 2011, Fred Hall (Hall) hired Respondent to handle a personal injury case filed by Hall. Between April 26, 2011, and February 2, 2012, prior to the settlement of the case, Respondent received and deposited into his client trust account (CTA) five checks, totaling $10,000, from Hall's own insurance company, AAA, for reimbursable medical payments (med-pay benefits). Prior to the payments of these benefits, AAA had advised Hall of its right to seek

reimbursement of these payments from any monies he received as a result of his personal injury case.

On February 15, 2012, Darlene Gasher (Gasher), a claims representative for AAA, sent a letter to Respondent, notifying him of Hall's obligation to reimburse AAA for the $10,000 within 30 days after receipt of funds from any settlement of Hall's personal injury claim.

On or about February 18, 2012, a $268,000 settlement agreement was reached in the personal injury case.

On February 27, 2012, Respondent replied to Gasher's letter, informing her that, although he had settled Hall's case for $268,000, Hall had incurred "medical specials" totaling $176,394.56. Respondent, therefore, asked that AAA completely waive any right to reimbursement of any portion of the $10,000 on the theory that Hall had not been made whole by the settlement.

On March 6, 2012, Gasher responded to Respondent's request, stating that AAA "will be unable to waive the medical reimbursement." However, AAA did offer to pay all costs incurred by Hall in the case ($825) and to reduce its medical lien to $5,000 in order to resolve the claim. (Exh. 12.) In her letter, Gasher asked that Respondent remit the $5,000 to AAA at its office in Los Angeles. In response, Respondent did not send the $5,000 to AAA.

On March 21, 2012, Gasher again wrote to Respondent, stating that she was advised that Hall's injury claim had been concluded and reiterating that AAA was requesting reimbursement of the med-pay payments it had previously made to Hall. In this letter, Gasher stated "the amount now subject to reimbursement is $10,000. (Exh. 13.)

On March 23, 2012, Respondent sent a letter to Hall, together with settlement distribution accounting. This accounting indicated that AAA was due $5,000. (Exh. 14.)

On June 5, 2012, Gasher sent another letter to Respondent, complaining that AAA's demands for reimbursement had not been answered and offering to mediate the matter if AAA's entitlement to $10,000 was disputed. (Exh. 15.)

On July 23, 2012, nearly four months after his earlier letter to AAA, Respondent sent a letter to Gasher, again requesting that AAA withdraw its request for any med-pay reimbursement because Hall had not been fully compensated by the settlement for his actual losses.

On the following day, July 24, 2012, Gasher rejected Respondent's demand for a complete waiver by AAA of its $10,000 lien. In a letter sent to Respondent, Gasher went on to complain that she had previously agreed to pay Hall's costs and reduce the reimbursement obligation to $5,000 and even had "confirmed with Adam in your office a few days ago[2] that payment would be sent, and he advised it was going out that day." Rather than receiving the anticipated $5,000, she had instead received Respondent's letter demanding a full release of the entire $10,000 amount. At the conclusion of her letter, Gasher stated:

> This case does not warrant a waiver and I have requested the file to refer out to our attorney's [sic]. If you wish to discuss this case please contact me by Wednesday. [¶] If this case is referred out my offer for the additional reduction will be void.

(Exh. 17.)

Respondent neither responded to this letter nor caused the $5,000 reimbursement to be sent to AAA. As a result, the matter was sent by AAA to its attorneys to seek reimbursement of the entire $10,000.

On August 22, 2012, attorney Kenneth Hagemann (Hagemann) sent a letter to Respondent, informing Respondent that he was representing AAA regarding the unpaid med-pay

[2] Adam Jenner is a non-attorney who is employed at the Seegmiller Law Firm. Respondent testified that Adam was doing the bookkeeping in his office at all times pertinent to this matter.

reimbursement obligation of Fred Hall. Hagemann demanded reimbursement in the amount of $10,000, less a pro rata share of any reasonable attorney's fees and costs.

On August 31, 2012, Respondent replied to Hagemann's letter, again asserting that AAA was not entitled to any reimbursement of the med-pay benefits it had paid because Hall had not been made whole by the case settlement.

On November 8, 2012, Hagemann sent Respondent a another letter, requesting Respondent to provide evidence to support Respondent's "made whole claim." Respondent received the letter, but did not respond. Instead, he instructed his non-attorney employee, Adam Jenner, to issue a $5,000 check to AAA. Jenner, however, failed to issue the check, and Respondent failed to make sure that any check was sent to AAA.

On March 20, 2013, and again on October 8, 2013, Hagemann sent letters to Respondent, demanding reimbursement of the med-pay benefits. Both these letters were received in Respondent's office and should have alerted Respondent to the fact that the reimbursement issue had not been resolved with AAA. Respondent did not respond to either letter. During his testimony in the trial of this matter, Respondent stated that he had not seen these letters due to a "glitch" in his office's procedures, which was in the process of being converted to a "paperless" office.

On January 24, 2014, Hagemann sent yet another letter to Respondent, again demanding reimbursement of the med-pay benefits. In that letter, Hagemann stated that this offer was his final attempt to resolve the matter without the need for litigation. He also indicated that he would assume that Respondent was no longer representing Hall if he did not hear back from Respondent. The letter was received in Respondent's office but was not responded to by

Respondent. At trial, Respondent attributed his lack of attention to this letter to his not being provided the letter as a result of deficient office procedures.

Not having heard from Respondent, on March 12, April 4, and May 9, 2014, Hagemann sent letters directly to Hall, demanding reimbursement of the $10,000 and threatening to sue Hall if the $10,000 of med-pay benefits were not re-paid. The May 9th letter actually enclosed a draft complaint and notified Hall that Hagemann would be filing the complaint if he did not hear from Hall within 15 days.

On September 29, 2014, AAA sued Hall in the Los Angeles County Superior Court. After Hall was served with the lawsuit, he spoke personally with Respondent about having been served with the lawsuit. During that conversation, Respondent assured Hall that he would take care of the lawsuit. Respondent, however, then took no steps to do so.

On December 19, 2014, the court entered Hall's default in the collection case. After Hall received the default papers, he filed a State Bar complaint against Respondent. Consequently, on January 26, 2015, the State Bar opened an investigation into the matter.

On February 19, 2015, judgment was entered by the Los Angeles County Superior Court in favor of AAA and against Hall in the amount of $12,849.93.

On March 10, 2015, a State Bar investigator sent Respondent a letter, advising him of Hall's complaint and requesting a written response. After becoming aware of Hall's complaint to the State Bar, Respondent, on March 24, 2015, arranged for the judgment against Hall to be set aside and the collection case against Hall to be dismissed. In return, Respondent agreed to pay, and did pay, the negotiated amount of $10,000 to resolve the matter.

Count One – Rule 4-100(B)(4) [Failure to Promptly Pay Entrusted Funds]

Rule 4-100(B)(4) requires an attorney to promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the attorney's possession which the client is entitled to receive. The rule applies not only to the attorney's obligation to clients, but also to the attorney's obligation to pay third parties out of funds held in trust, including the obligation to pay holders of medical liens. (*In the Matter of Respondent P* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 633; *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 286; *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 10.)

Respondent received the proceeds of the Hall settlement in early 2012 but did not pay any funds to resolve the AAA reimbursement claim until March 2015, more than three years later, despite numerous intervening demands by AAA for payment. As a result of this delay, Hall was sued by AAA in superior court and had a judgment entered against him.

Prior to the commencement of the trial in this matter, the parties stipulated, and this court now finds, that Respondent's prolonged failure to pay the AAA reimbursement lien represented a violation by Respondent of rule 4-100(B)(4).

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,[3] std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Record of Discipline

Respondent's has two prior records of discipline. This is an aggravating factor. (Std. 1.5(a).)

[3] All further references to standard(s) or std. are to this source.

In his first disciplinary matter, effective November 30, 2004, Respondent stipulated to a public reproval for conduct occurring during the period 1996-1998. That discipline was a result of two separate cases. In case No. 99-O-13410, he admitted to violating Business and Professions Code section 6068, subdivision (a), by permitting chiropractors to contribute to the payment of his legal advertising costs. In case No. 04-O-11768, Respondent admitted to violating rule 3-310(C)(1) by accepting representation of more than one client in a matter in which the interests of the clients conflicted without the informed written consent of each client. As one of the conditions of his reproval, Respondent was ordered to attend the State Bar's Ethics School.

In his second disciplinary matter, effective January 22, 2009, Respondent received a public reproval with conditions in case No. 06-J-11086, based upon his misconduct in Nevada. Respondent was found culpable of permitting a non-attorney to engage in the unauthorized practice of law as a result of Respondent's lack of supervision. The court found that Respondent's misconduct would have constituted violations of rule 1-300(A) and rule 3-110(A) of the California Rules of Professional Conduct. In aggravation, Respondent had a prior record of discipline. Respondent was accorded mitigating credit for: (1) acting in good faith during the course of his misconduct; (2) extensive character evidence, charitable and pro bono activities; and (3) remorse/remediation evidenced by having taken measures to modify his office procedure to eliminate the cause of the misconduct.

Respondent argues that the weight to be given his two prior records of discipline as an aggravating factor should be limited or non-existent because these priors are "remote" and had nothing to do with client funds. That contention lacks merit. The effective date of Respondent's second discipline was in January, 2009, approximately three years before his misconduct began

in the instant matter. Hence, the discipline was not remote to the misconduct here based solely on the passage of time. Nor is the nature of the misconduct in the two matters unrelated. In the second prior discipline, Respondent's misconduct resulted from his failure to supervise his staff. Here, as noted above, he again attributes much of his misconduct to mistakes being made by his office staff, who were clearly not being adequately supervised by him.

Respondent's two prior disciplines, including the requirement on two separate occasions that he attend the State Bar's Ethics School, should have caused him to be vigilant in supervising his staff. The fact that they did not makes this history of prior disciplines an aggravating factor under standard 1.5(a).

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating factors.

Cooperation

Respondent entered into an extensive stipulation of facts and admitted his culpability regarding the trust account violation with which he was charged. Such cooperation is a mitigating factor. (Std. 1.6(e); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].)

The court declines to afford Respondent additional mitigation credit for his eventual actions in having the default judgment against Hall set aside. Those actions were neither prompt nor spontaneous, as contemplated by standard 1.6(e) and (g). To the contrary, the default judgment actually resulted from Respondent's failure to respond promptly to the collection

action filed against Hall, notwithstanding Respondent's prior assurance to Hall that he would take care of the matter. When Respondent finally did act to resolve AAA's reimbursement claim and the resulting collection civil action against his former client, it was months later and only after he became aware of Hall's complaint against him to the State Bar. Such belated measures are not entitled to mitigation credit. (See, e.g., *In the Matter of Petilla* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231, 249, citing *Warner v. State Bar* (1983) 34 Cal.3d 36, 47; *In the Matter of Ike* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483, 490; *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 116-117; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619; *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 496; *In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708, 714; and *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, 663, citing *Rosenthal v. State Bar* (1987) 43 Cal.3d 658, 663.)

Good Character

Respondent submitted character letters from ten individuals, including two attorneys and two former clients. All of the individuals expressed their belief that Respondent was honest, reliable, committed to serving his clients, and generous.

However, all of these letters were written before the current charges were filed against Respondent, and none of these individuals indicated having any knowledge regarding the misconduct in this matter as required by standard 1.6(f).[4] As a result, the court assigns only minimal weight to this character evidence.. (*In the Matter of Song* (Review Dept. 2013) 5 Cal.

[4] Providing strong evidence that these character witnesses were actually unaware of the current misconduct is the statement in one of the character letters that "He [Respondent] pointed out when he asked me to write this letter that several years ago there were bar complaints about him not managing his office staff correctly but my opinion of him is the same." (Ex. 1001, p. 9 [emphasis added].)

State Bar Ct. Rptr. 273, 280; *In re Aquino* (1989) 49 Cal.3d 1122, 1130-1131 [limited weight assigned to attorney's good character evidence where there is a failure to establish witnesses knew the full extent of the attorney's misconduct.]).

Community Service, Pro Bono and Charitable Work

Respondent provided significant evidence of his extensive community service, charitable efforts, and pro bono work. This is a mitigating factor. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 665; *In the Matter of Song, supra*, 5 Cal. State Bar Ct. Rptr. 273, 280; *Calvert v. State Bar* (1991) 54 Cal.3d 765,785;)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 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.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State

Bar Ct. Rptr. 676, 703.) 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; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

In this case, the applicable standard is standard 2.2(a), which provides that an actual suspension of three months is the presumed sanction for Respondent's violation.[5] Based on that standard and citing to *In the Matter of Koehler*, *supra*, 1 Cal. State Bar Ct. Rptr. 615, 628, the State Bar requests that Respondent be actually suspended from the practice of law for 90 days. Respondent, on the other hand, argues for a stayed suspension with no actual suspension and cites to *In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1 as precedent supporting such an outcome. The parties acknowledge that neither case is directly on point.

Turning to the applicable case law, this court finds some guidance in *In the Matter of Riley*, *supra*, 3 Cal. State Bar Ct. Rptr. 91. In *Riley*, the attorney was found culpable of numerous failures to pay medical liens. As aggravating factors, the Review Department of this court found harm to some of the clients (several of whom had been sued by the lienholders) and multiple acts of misconduct. In mitigation, the court noted the absence of any prior record in nine years of practice by the respondent prior to the commencement of the misconduct, evidence that respondent had remedial changes in his office procedures, and the fact that there was no evidence of any new acts of misconduct for a number of years since 1990. Nonetheless, the Review Department determined that there was not a sufficient basis to deviate from the

[5] The parties agreed that Std. 1.8(b) does not require disbarment in the instant matter, since Respondent's prior disciplinary matters do not involve the imposition of a period of actual suspension; the prior disciplinary matters coupled with the current record do not involve the same violations; and, the prior disciplinary matters coupled with the current matter do not demonstrate Respondent's unwillingness or an inability to conform his conduct to his ethical obligations.

minimum discipline of 90-days actual suspension then called for by the standards, and it increased the discipline previously recommended by the Hearing Department to include those 90 days of actual suspension.

This court recognizes that the language of standard 2.2(a) has been modified since the above decisions to make clear that the 90-day period of actual suspension is the "presumed" discipline for a failure to promptly pay out entrusted funds, as opposed to the prior ostensible mandatory minimum discipline to be imposed for any such violation. That amendment, however, does not negate either the approach followed by the Review Department in *Riley* or that discussed more generally above. In sum, ninety days of actual suspension is the presumed discipline to recommend as a result of Respondent's misconduct unless there is ample reason to depart from that presumption. Here, the court finds that there is not.

The misconduct in the present matter involves many of the same issues and factors that were before the Review Department in the *Riley* matter. While Respondent seeks to blame his failure to pay out the entrusted funds to his ignorance of the problem, which purported ignorance resulted from errant office personnel and defective office procedures, those excuses do not explain his failure to act promptly to pay the existing lienholder after being personally advised by Hall of the collection action in late 2014. Although Respondent assured Hall at that time that he would then take care of the reimbursement claim and the resulting collection case, there is no evidence that Respondent made any effort to do so until March 2015. The result of Respondent's ongoing indifference was the entry of a $12,849.93 judgment against Hall in the intervening period. While Respondent's delay in paying out the entrusted funds to AAA continued for more than three years, just Respondent's delay in paying out the funds from late 2014 to March 2015 would warrant a finding of a violation by him of rule 4-100(B)(4). Worse,

although Respondent was aware that his former client was being sued as a result of his failure to satisfy the reimbursement claim, he did not act to comply with his ethical obligation under rule 4-100 until he became aware of the pending State Bar disciplinary investigation. No explanation has been offered by Respondent for that delay.

Moreover, Respondent's misconduct until late 2014 cannot be said to have resulted solely from errant office personnel and defective paperless office procedures in 2012 and 2013. If Respondent was not aware that the disputed $10,000 had not been paid out to AAA but instead remained in his client trust account at all times after November 2012, such ignorance reveals an apparent serious and ongoing lack of oversight and management by Respondent of his client trust account. Pursuant to the Rules of Professional Conduct, Respondent was required to maintain records for that trust account, including a "written ledger" for each client having funds in the account. The ledger for each such individual client is required to show the current balance of the funds still in the account and the source of such funds. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(a).) Compliance with this obligation required Respondent to have an individual ledger for Hall at all times from at least February 2012 until March 2015, showing the $10,000 of med-pay benefits received by Respondent from AAA and still on deposit in the account. In addition, Respondent was obligated to prepare and maintain a monthly written reconciliation, "balancing" each and every month the aggregate total of all of the individual client ledgers with the total amount of funds then held in the client trust account, as show by the bank statement each month for the account. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(d).) Any such reconciliation and balancing, if performed and/or reviewed by Respondent as he was required to do, should have revealed to Respondent - at the conclusion of each month between November 2012 and February 2015 - that no portion of the

disputed $10,000 had not been disbursed and that all of the funds instead remained deposited in Respondent's CTA. Respondent has offered no explanation as to why it did not.

Finally, while Respondent has testified that he gave instructions for $5,000 to be paid to AAA in November 2012, there is no evidence that he ever gave any instruction for the balance of the funds to be paid to Hall. If Respondent believed that the AAA claim had been resolved by the payment of the $5,000 compromised amount, Hall was entitled to promptly receive the remaining funds. He did not.

Respondent has been previously disciplined on two separate occasions. While the presumptive discipline of disbarment, set forth in standard 1.8(b), does not apply in this case, that conclusion is true only because the discipline imposed in both of those prior matters did not include any period of actual suspension. However, a review of the 2009 discipline decision reveals that the mitigating factors reducing the recommended level of discipline in that case are virtually the same factors that Respondent is advancing here to again seek a lesser discipline, namely extensive character evidence, charitable and pro bono activities; and remorse/remediation evidenced by having taken measures to modify his office procedures. Similar mitigating factors were also offered by Respondent and included in the 2004 discipline recommendation.

An attorney's good character, remedial measures taken to correct deficient office procedures, and community/pro bono/charitable activities do not give rise to dispensations. Instead, they are potential mitigating factors because they are indicators that a lesser level of discipline may be sufficient to avoid any future ethical violations by that attorney. However, where those factors have proved to <u>not</u> be a good indicator of the lack of risk of future misconduct by a particular member, the need to increase the level of discipline as a consequence

of future misconduct - to seek to adequately motivate the recidivist attorney to comply with the standards governing the profession - becomes apparent and compelling. That is especially true where the attorney, like Respondent here, has also been twice required to complete the State Bar's Ethics School.

While this court certainly does not conclude that Respondent's disbarment is now required to protect the public and the profession in the future, it does conclude that there is no reason here to deviate from the presumptive discipline set forth in standard 2.2(a). Therefore, this court recommends, among other things, that Respondent be suspended from the practice of law for one year; that execution of that period of suspension be stayed; and that he be placed on probation for two years, including a 90-day period of actual suspension.

RECOMMENDED DISCIPLINE

Stayed Suspension/Probation/Actual Suspension

For all of the above reasons, it is recommended that **William West Seegmiller,** State Bar No. 98740, be suspended from the practice of law for one year; that execution of that suspension be stayed; and that Respondent be placed on probation for two years, subject to the following conditions:

1. Respondent must be actually suspended from the practice of law for the first ninety (90) days of probation.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of

probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request.

4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

5. He must submit written quarterly reports to the Office of Probation on or before each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to him personally or in writing, relating

to whether he is complying or has complied with the conditions contained herein.

7. Within one year after the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics and Client Trust Accounting Schools and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending those schools. (Rules Proc. of State Bar, rule 3201.)

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if Respondent has complied with all conditions of probation, the stayed suspension will be satisfied and that suspension will be terminated.

California Rules of Court, Rule 9.20

The court recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20, 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 order in this matter.[6]

[6] Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files 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 also, 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).)

MPRE

It is further recommended that Respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within that same period. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs

It is further recommended that costs be awarded to the State Bar in accordance with section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment. It is also recommended that Respondent be ordered to reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds and that such payment obligation be enforceable as provided for under Business and Professions Code section 6140.5.

Dated: June 30, 2016

DONALD F. MILES
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 July 1, 2016, I deposited a true copy of the following document(s):

DECISION

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:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 1, 2016.

Rose M. Luthi
Case Administrator
State Bar Court

Ellen A. Pansky (SBN 77688)
James I. Ham (SBN 100849)
PANSKY MARKLE HAM LLP
1010 Sycamore Ave., Suite 308
South Pasadena, CA. 91030
Telephone: (213) 626-7300
Facsimile: (213) 626-7330

Attorneys for Respondent
William West Seegmiller

BEFORE THE STATE BAR COURT

OF THE STATE OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In The Matter of William West Seegmiller, Member No. 98740, A Member of the State Bar.	Case No. 15-O-11411 **RESPONSE TO NOTICE OF DISCIPLINARY CHARGES**

TO THE OFFICE OF THE CHIEF TRIAL COUNSEL OF THE STATE BAR OF CALIFORNIA AND TO ITS COUNSEL OF RECORD:

Respondent Seegmiller responds to the Notice of Disciplinary Charges as follows:

Respondent's Preliminary Statement

Mr. Seegmiller was retained by Fred Hall on March 16, 2011 to represent Mr. Hall in a personal injury matter arising from an automobile accident. Mr. Hall's personal injury matter involved many lienholders arising from his significant medical bills, totaling approximately

$188,000. Mr. Seegmiller succeeded in obtaining recovery from the opposing party in the amount of $268,000. In addition, Mr. Hall's own insurance company, AAA, paid med-pay payments in the aggregate amount of $9,429, received in four separate checks received over several months. Mr. Seegmiller ultimately reduced the total amount of medical liens from approximately $188,000 to $57,927.53.

Mr. Seegmiller paid all of the reduced medical liens, promptly distributed his earned fees and reimbursed himself costs advanced during the pendency of the case, and issued a check to Mr. Hall on March 23, 2012 in the amount $112,047.47. Except for the AAA claim, all of the settlement funds were promptly and properly distributed in 2012. AAA agreed to accept $5,000 in full satisfaction of its lien. Mr. Seegmiller continued to negotiate with AAA in an effort to persuade AAA to waive any claim to reimbursement, so that the additional monies could be distributed to Mr. Hall. When AAA refused to waive its claim for $5,000, Mr. Seegmiller agreed to it.

Purely as the result of mistake and inadvertence, the AAA lien of $5,000 was not paid. The funds remained in Mr. Seegmiller's Client Trust Account at all pertinent times. Eventually, unbeknownst to Mr. Seegmiller, AAA hired a collection firm, which filed a lawsuit to collect the original lien, plus interest and attorney fees. A default judgment was entered against Mr. Hall.

Once the fact that AAA had filed a lawsuit and gotten a judgment was brought to Mr. Seegmiller's attention, he promptly worked with opposing counsel to have the judgment against Mr. Hall set aside and to have the civil action dismissed with prejudice, in exchange for paying $10,000 in settlement of the subsequent civil action that AAA's collection agency brought.

Answer to Specific Allegations Contained in the Notice of Disciplinary Charges

1. Respondent admits that he was admitted to the practice of law in the State of California on August 21, 1981.

COUNT ONE

2. Respondent objects to the allegation in Paragraph 2 which constitutes a legal conclusion and, without waiving this objection, denies that he committed acts in willful violation of Rules of Professional Conduct, rule 4-100(B)(4). Without waiving this objection, Respondent admits in part and denies in part the allegations contained in Paragraph 2. Respondent admits that he represented Fred Hall and held trust funds to reimburse AAA an agreed upon $5,000 medical payments reimbursement. Respondent denies the allegation in Paragraph 2 that AAA was entitled to $9,429, based on the fact that AAA agreed to accept the reduced amount of $5,000 in 2012. The failure to transmit the agreed upon $5,000 amount was a simple mistake, not intentional, and the funds were maintained in the Client Trust Account at all pertinent times.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State Sufficient Facts)

The Notice of Disciplinary Charges, and each of its purported counts, fails to state facts sufficient to state a basis for discipline.

SECOND AFFIRMATIVE DEFENSE

(Charges Do Not Constitute Willful Misconduct)

The facts on which some or all of the Notice of Disciplinary Charges are based constitute mistake, inadvertence, neglect or error and do not rise to the level of willful misconduct.

THIRD AFFIRMATIVE DEFENSE

(Lack of Harm)

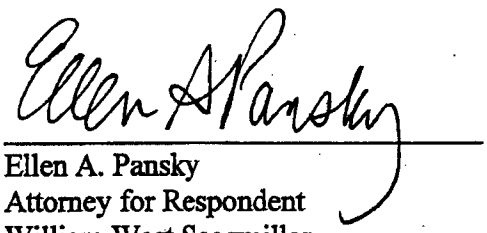
No persons were harmed by the acts alleged in each and every count in the Notice of Disciplinary Charges.

WHEREFORE, Respondent prays that the Court find that Respondent did not commit acts constituting professional misconduct, and that the Notice of Disciplinary Charges be dismissed.

Respectfully submitted,

PANSKY MARKLE HAM, LLP

Dated: January 8, 2016

By: 

Ellen A. Pansky
Attorney for Respondent
William West Seegmiller

PROOF OF SERVICE

In the Matter of William West Seegmiller

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 1010 Sycamore Ave., Suite 308, South Pasadena, California 91030.

On January 8, 2016, I served the foregoing document(s) described as:

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

on all interested parties in this action by placing a true copy of each document, enclosed in a sealed envelope addressed as follows:

Kimberly G. Anderson, Senior Trial Counsel
Office of the Chief Trial Counsel
Enforcement
The State Bar of California
845 S. Figueroa Street
Los Angeles, CA 90017

( ) **BY MAIL:** as follows: I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at South Pasadena, California.

(X) **BY PERSONAL SERVICE:** I personally delivered such envelope addressed to **Kimberly Anderson** to the California State Bar reception desk, on January 8, 2016.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed January 8, 2016, at South Pasadena, California.

Ella Fishman

PUBLIC MATTER

STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
MELANIE J. LAWRENCE, No. 230102
ASSISTANT CHIEF TRIAL COUNSEL
RIZAMARI C. SITTON, No. 138319
SUPERVISING SENIOR TRIAL COUNSEL
KIMBERLY G. ANDERSON, No. 150359
SENIOR TRIAL COUNSEL
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1083

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:	Case No. 15-O-11411
WILLIAM WEST SEEGMILLER, No. 98740,	NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar	

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

(1) YOUR DEFAULT WILL BE ENTERED;
(2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
(3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
(4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

The State Bar of California alleges:

JURISDICTION

1. WILLIAM WEST SEEGMILLER ("Respondent") was admitted to the practice of law in the State of California on August 21, 1981, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No. 15-O-11411
Rules of Professional Conduct, rule 4-100(B)(4)
[Failure to Pay Client Funds Promptly]

2. Between on or about April 26, 2011 and on or about February 2, 2012, Respondent received on behalf of Respondent's client, Fred Hall, four checks from Interinsurance Exchange of the Automobile Club ("AAA") made payable to Respondent and Fred Hall in the sum of $9,429 as reimbursable medical pay. Of this sum, AAA was entitled $9,429 pursuant to a lien for the reimbursable med pay payments once Respondent settled Hall's case on February 9, 2012. Despite repeated demands by AAA to pay the medical payments reimbursement, pursuant to the lien between on or about March 6, 2012 and March 24, 2015, Respondent failed to pay the lien until March 24, 2015. Respondent thereby failed to pay promptly, as requested by AAA, any portion of the $9,429 in Respondent's possession in willful violation of Rules of Professional Conduct, rule 4-100(B)(4).

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING

AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: December 14, 2015

By: _____
Kimberly G. Anderson
Senior Trial Counsel

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **15-O-11411**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐ **By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))** ☒ **By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**
- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

☐ **By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**
- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

☐ **By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐ **By Electronic Service: (CCP § 1010.6)**
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ *(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☒ *(for Certified Mail)* in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7196 9008 9111 1007 9643 at Los Angeles, addressed to: *(see below)*

☐ *(for Overnight Delivery)* together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: _____ addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
ELLEN ANNE PANSKY	Pansky Markle Ham LLP 1010 Sycamore Ave Unit 308 South Pasadena, CA 91030	Electronic Address	

☐ **via inter-office mail regularly processed and maintained by the State Bar of California addressed to:**

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: December 14, 2015

SIGNED: Kim Wimbish

KIM WIMBISH
Declarant

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST October 23, 2018
State Bar Court, State Bar of California,
Los Angeles

By _____
Clerk

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 January 15, 2019, 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:

ELLEN ANNE PANSKY
PANSKY MARKLE ATTORNEYS AT LAW
1010 SYCAMORE AVE UNIT 308
S PASADENA, CA 91030 - 6139

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

KIMBERLY G. ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 15, 2019.

Mazie Yip
Court Specialist
State Bar Court