PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed June 7, 2017

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 15-O-13756
	)	
JOHN HENRY EDWARDS III,	)	OPINION AND ORDER
	)	
A Member of the State Bar, No. 52343.	)	
	)	

The Office of Chief Trial Counsel of the State Bar (OCTC) seeks disbarment in this case, John Henry Edwards III's fifth disciplinary matter. It charges him with misusing his client trust account (CTA) to conceal personal funds from the California Franchise Tax Board (FTB). After a full trial on the merits, the hearing judge dismissed the case. The judge found that the account into which Edwards deposited funds, and from which he paid personal expenses, was a business checking account, not a CTA.

OCTC appeals and argues that the judge's decision is in error and contrary to the evidence. It asks that we find Edwards culpable of commingling violations and engaging in an act of moral turpitude by concealing funds from the government, and it renews its trial request for disbarment. Edwards did not file a responsive brief and submitted a timely declaration waiving oral argument.

We independently review the record (Cal. Rules of Court, rule 9.12), and agree with OCTC. The record clearly and convincingly establishes: (1) the subject account is a CTA; and (2) Edwards is culpable of the charged misconduct.

After weighing factors in aggravation and mitigation, we apply the applicable standards,[1] which call for disbarment in light of Edwards's four prior disciplines. Considering his past and current misconduct, we find insufficient assurance that a lesser sanction will protect the public, the profession, and the courts. Thus, we recommend that Edwards be disbarred.

I. PROCEDURAL BACKGROUND

On January 26, 2016, OCTC filed a four-count Notice of Disciplinary Charges (NDC) that charged Edwards with depositing personal funds into his CTA (Count Two), paying personal expenses out of his CTA (Count Three), and committing acts of moral turpitude by issuing nonsufficient funds (NSF) checks and concealing funds from the FTB (Counts One and Four, respectively). On March 4, 2016, Edwards filed a response to the NDC, denying all charges.

The parties filed a partial stipulation of facts and admission of documents on April 12, 2016, and a supplemental stipulation on May 3, 2016. After a one-day trial on May 5, 2016, followed by posttrial briefing, the hearing judge issued his decision on August 17, 2016. At OCTC's request in its posttrial papers, the judge dismissed Count One. He also dismissed the remainder of the counts with prejudice, finding as a matter of law that the bank account Edwards was using was not a CTA. On August 31, 2016, OCTC filed a motion for reconsideration, which the hearing judge denied on October 3, 2016, in a four-page written order.

OCTC appealed. On January 23, 2017, it filed a request for judicial notice of three documents that establish that the State Bar's taxpayer identification number for Interest on Lawyers' Trust Accounts (IOLTA accounts) is 94-6001385.[2] The court granted the request on February 17, 2017.

---

[1] Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct. All further references to standards are to this source.

[2] The three documents are: (1) a printout of the State Bar's Web page that sets forth the guidelines for IOLTA accounts <http://www.calbar.ca.gov/Attorneys/MemberServices/IOLTA/Guidelines.aspx> (as of Jan. 17, 2017); (2) an excerpt from the State Bar's Handbook on Client

II. FACTUAL BACKGROUND[3]

Edwards was admitted to the practice of law on June 2, 1972. He has four prior records of discipline from 1991, 2001, 2002, and 2008, each of which resulted in a one-year actual suspension. During the late 1990s, Edwards stopped practicing law fulltime and became the pastor of his church (for which he did not receive wages or compensation). When he was not on suspended status and was in good standing with the State Bar, he generated minimal income by handling a few legal matters each year. Between 1997 and 2014, he submitted only two California income tax returns—one for tax year 1998 and the other for 2000. The FTB believed, however, that Edwards owed income taxes for 1997 and for many of the subsequent years for which he did not file returns. Starting in 2000 and continuing through 2015, the FTB sent Edwards regular notices of the outstanding assessments, which he received, and it levied his personal and business operating accounts. The notices contained protest procedures and stated: "If we issued this order to withhold in error, we can reimburse you for charges incurred because of our error. To request reimbursement, you must write to us within 90 days of the notice date." Even though Edwards disagreed with the assessments, he did not contact the FTB to resolve the issue, and his unpaid tax debt as of February 2015 totaled more than $100,000.

In March 2015, the FTB sent Edwards notice of another anticipated tax assessment. Edwards testified that the levies made him "hesitant" to use his accounts, and he needed to pay his bills. For the first time in 15 years, he called the FTB to inquire about how to resolve the assessments. However, he did not formally write to the FTB to challenge the levies until April 13, 2015.

Trust Accounting for California Attorneys (2016) page 12 (Handbook); and (3) an excerpt from Vapnek et al., California Practice Guide: Professional Responsibility (The Rutter Group 2015) paragraph 9:48, page 9-4 (Rutter Guide).

[3] The factual background is based on the pretrial written stipulations, trial testimony, documentary evidence, and factual findings by the hearing judge, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).)

In the meantime, Edwards began depositing personal funds into his CTA at Union Bank (account 2584). This account had been inactive since he opened it in 2013 and was not levied by the FTB. When Edwards opened the CTA in January 2013, he reported it to the State Bar as a specific type of CTA designated as an IOLTA account (as discussed below). He stipulated, however, that no client funds were ever deposited into the account. In September 2014, the State Bar sent him a letter notifying him that it had yet to receive any interest from the account and inquiring whether it was still open. Edwards testified that in response to that letter, he began funding the account with his own money to generate interest and to satisfy the State Bar that it was an active IOLTA account.

Edwards stipulated that he used account 2584 between March and May 2015 as follows: (1) on March 2, 2015, he authorized a $2,674.16 electronic debit to the Los Angeles Department of Water and Power; (2) on March 12, 2015, he wrote two checks ($270 and $80) to the Church of Greater Works; (3) on April 22, 2015, he wrote a $25 check to the Resurrection Life Center; (4) on April 24, 2015, he wrote a $50 check to the FTB; and (5) on May 11, 2015, he wrote a $250 check to the Church of Greater Works. The bank records show many other withdrawals during this time, including several checks he wrote to himself. Edwards testified that he understood when he wrote these checks that he was issuing CTA checks.

During the investigation stage of this disciplinary matter, Edwards acknowledged in a letter to OCTC that he used his CTA for personal purposes: "I have paid my personal expenses from my funds in the client trust account, since the levies on my professional account . . . . All deposits into the account after September 8, 2014 belonged to me." Further, when asked at trial why he used account 2584 in this manner, Edwards explained that he did so to avoid the FTB levies: "With the pursuant [*sic*] subsequent levy very likely . . . I . . . use[d] the account ending in

2584 . . . so I'd be able to pay those personal expenses without having the levy." "I couldn't jeopardize the expectation that another levy would come and take those monies . . . ."

III. THE HEARING JUDGE MISCONSTRUED THE STATUS OF ACCOUNT 2584, WHICH WAS UNQUESTIONABLY A CTA

While the hearing judge's factual findings are generally afforded great weight, we must independently assess the record and may make different findings or conclusions. (Rules Proc. of State Bar, rule 5.155(A).) The hearing judge found account 2584 was not a CTA. Relying on the fact that the bank account title and the bank account checks did not refer to it as a CTA,[4] he concluded it was "not an identifiable bank account '*labelled* "Trust Account," "Client's Funds Account" or words of similar import' under rule 4-100(A)."[5] Upon our independent review, we find the hearing judge erred. The evidence clearly and convincingly[6] demonstrates that the account was an identifiable and properly labelled IOLTA account, which is a specific type of CTA. (State Bar Rules 2.100, 2.110, & 2.111; Bus. & Prof. Code, §§ 6211, 6212;[7] Handbook, *supra*, § IV, pp. 11-12; Rutter Guide, *supra*, ¶¶ 9:46 to 9:47, p. 9-4 [IOLTA account is CTA].)[8]

---

[4] When Edwards opened the account in 2013, he signed a Bank-Depositor Agreement that identified the bank account title as: "Business Deposit Account[] [¶] [in the name of] Edwards, III John Henry DBA John Henry Edwards III Attorney at Law." The bank account checks listed the account name as: "John Henry Edwards III [¶] Attorney at Law," but did not reference the account type (business operating account or CTA).

[5] Rule 4-100(A) of the Rules of Professional Conduct requires attorneys to maintain funds in a marked trust account, separate from the attorney's own funds: "All funds received or held for the benefit of clients by a member . . . shall be deposited in one or more identifiable bank accounts labeled 'Trust Account,' 'Client's Funds Account' or words of similar import . . . [and] [n]o funds belonging to the member . . . shall be deposited therein or otherwise commingled therewith . . . ." All further references to rules are to this source, unless otherwise noted.

[6] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

[7] All further references to sections are to the Business and Professions Code.

[8] Client funds that can earn interest revenue for the client in excess of the costs to hold those accounts must be deposited in a CTA for the benefit of the client. (State Bar Rule 2.111.)

The term IOLTA is an acronym for "Interest on Lawyers' Trust Account." (State Bar Rule 2.100(F); accord, *Phillips v. Washington Legal Foundation*, *supra*, 524 U.S. at pp. 159-160.) It manifestly contains the words "Trust Account," just as the acronym "CTA" does. However, even if we were to read rule 4-100(A) at its literal extreme, and find that the abbreviated term IOLTA does not on its face recite the actual words "Trust Account" or "Client's Funds Account," we nonetheless find that, at a minimum, it communicates "words of similar import."

Edwards's account 2584 was clearly marked as an IOLTA account and regarded by Edwards, Union Bank, and the State Bar as his official CTA. First, Edwards himself considered it a CTA. He testified that he went to Union Bank to open a trust account, he signed the Bank-Depositor Agreement believing he was opening such an account, and he stipulated in these proceedings that the account was a CTA. Further, he deposited personal funds into the account with the purpose of relying on its status as an IOLTA account to conceal money from the FTB.

Second, Union Bank considered account 2584 an IOLTA account. The Bank-Depositor Agreement contained the State Bar's IOLTA taxpayer identification number (94-600138), and the monthly bank statements prominently provided an "IOLTA Summary," which detailed the amount of interest transferred to the State Bar. Further, Union Bank's online printout of all of Edwards's accounts designated account 2584 as an IOLTA account. And when OCTC

However, client funds that are nominal in amount, or are on deposit for such a short period of time that they cannot earn net income (income over costs) for the client, must be deposited or invested into a pooled CTA (an IOLTA account), from which interest or dividends are paid to the State Bar. (§§ 6211, 6212; State Bar Rule 2.110(A); Handbook, *supra*, § IV, pp. 11-12; Rutter Guide, *supra*, ¶ 9:47, p. 9-4.) The account can be an interest-bearing checking account or other authorized investment product. (§ 6213, subd. (j).) The State Bar uses the money to help finance qualified organizations that provide legal services for low-income individuals. (§ 6210 et seq.; see also *Phillips v. Washington Legal Foundation* (1998) 524 U.S. 156, 159-160 [IOLTA programs are nationally recognized].)

subpoenaed Edwards's trust account records in these proceedings, Union Bank produced the records for account 2584.[9]

Finally, the State Bar considered the account an IOLTA account. Edwards reported it as an IOLTA account to the State Bar, which thereafter corresponded with Edwards about its interest activity.

These facts leave no doubt that account 2584 was a CTA, meeting the requirements of rule 4-100(A).

IV. THE HEARING JUDGE SHOULD HAVE CREDITED THE PARTIES' FACTUAL STIPULATION THAT ACCOUNT 2584 WAS A CTA

The parties entered into a pretrial factual stipulation under rule 5.54 of the Rules of Procedure of the State Bar wherein Edwards and OCTC stipulated that account 2584 was Edwards's CTA. As a general rule, an attorney is bound by the factual recitals in a stipulation. (*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 470-471; *Inniss v. State Bar* (1978) 20 Cal.3d 552, 555; Rules Proc. of State Bar, rule 5.58(G).) This rule is intended to preclude the attorney from attempting to contradict the stipulated facts; "otherwise, the stipulation procedure would serve little or no purpose, requiring a remand for further evidentiary hearings whenever the attorney deems it advisable to challenge the factual recitals." (*Inniss*, at p. 555; see also *In re Nevill* (1985) 39 Cal.3d 729, 731, fn. 2.)

The hearing judge disregarded this important part of the parties' stipulation based on the premise that the account's character was a *legal* issue, not a *factual* issue. We disagree. The nature and operation of a CTA is predominately a factual issue. (See, e.g., *Silver v. State Bar* (1974) 13 Cal.3d 134, 144-145 [Supreme Court analyzed *facts* to determine whether nature and

[9] We have reviewed the Bank-Depositor Agreement and the applicable provisions completed and signed by Edwards. We find nothing that calls into question account 2584's status as a CTA. Regardless of the contractual terms of the agreement, the record demonstrates that the parties expressly intended the account to be an IOLTA account and treated it as such.

use of bank account violated rule 9 (predecessor to rule 4-100)]; *Mack v. State Bar* (1970) 2 Cal.3d 440, 444-445 [same].) The hearing judge should have abided by the parties' factual stipulation, which was also corroborated by overwhelming and uncontroverted evidence adduced at trial that showed that account 2584 was a CTA.

V. EDWARDS IS CULPABLE OF THE CHARGED MISCONDUCT

Edwards was charged with commingling funds (Counts Two and Three) and engaging in an act of moral turpitude by concealing funds from the FTB (Count Four). We find him culpable of all three counts.

By placing his personal funds into his CTA (Count Two) and paying his personal expenses from it (Count Three), Edwards violated rule 4-100(A). That rule absolutely bars use of a trust account for personal purposes, even if no client funds are on deposit. (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 22-23; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 625; see also *Murray v. State Bar* (1985) 40 Cal.3d 575, 584 [attorney violates trust accounting rule by failing to deposit and manage funds in manner delineated by rule even if no client harm]; Handbook, *supra*, § VI, p. 19 [attorneys cannot make payments from CTA to cover personal or business expenses or for any purpose not directly related to carrying out duties to individual client].)

With respect to the moral turpitude charge (Count Four), Edwards freely testified that he deposited personal funds into his CTA to avoid the FTB's levies. In defense of his actions, he argued that the FTB assessments were in error and later rescinded, and that he needed to pay his bills and personal expenses at the time. While Edwards has been honest and forthright to the State Bar in these proceedings, we nonetheless find that he intentionally used his CTA to conceal funds from the FTB. Despite repeated notices, he waited 15 years to challenge the assessments, and then did so only after he had already engaged in the charged misconduct. (Cf. *In the Matter*

of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1, 9 [regardless of respondent's belief that order was issued in error, he is obligated to obey it unless he takes steps to have it modified or vacated].)

The law is clear that such fraud against creditors is an act of "moral turpitude, dishonesty or corruption" within the meaning of the State Bar Act. (§ 6106; *Coppock v. State Bar* (1988) 44 Cal.3d 665, 678-682 [use of CTA to hide funds from client's creditors is act of moral turpitude]; *In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 125 [use of CTA as operating account to avoid tax levy violates § 6106].)

VI. AGGRAVATION AND MITIGATION

Standard 1.5 requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Edwards to meet the same burden to prove mitigation. Since the hearing judge exonerated Edwards of all culpability, he did not make any findings regarding aggravation and mitigation. However, testimony and evidence was introduced at trial on these subjects, and we make the following findings based upon our de novo review of the record.

A. Aggravation

1. Four Prior Records of Discipline (Std. 1.5(a))

Standard 1.5(a) provides that a prior record of discipline may be an aggravating factor—Edwards has four, to which we assign most significant weight.

Effective January 1991, Edwards was placed on a one-year actual suspension, with three years of probation, for willful misappropriation of client funds.[10] During the hearing in that matter, he conceded using his CTA for his own personal matters and acknowledged "a practice of commingling his own funds in his client trust account and failing to keep proper records." He

[10] *Edwards v. State Bar* (1990) 52 Cal.3d 28; State Bar Court Case No. 84-O-12022.

further admitted "using trust account funds to prevent foreclosure on his residence when he knew the funds were not his, and using trust account funds to refund unearned fees to a former client whose fee payments had never been deposited into the trust account." In mitigation, he testified that he "no longer deposits his own funds into his trust account or writes checks on the trust account for his personal use."

In August 2001, Edwards was again actually suspended for one year, with three years of probation, based on multiple acts of misconduct, including two CTA violations: (1) failure to preserve client funds in trust (rule 4-100(A)); and (2) failure to promptly pay client funds (rule 4-100(B)).[11] Notably, as a condition of probation, Edwards was ordered to attend the State Bar's Client Trust Accounting School (CTA school). The underlying facts of the case involved Edwards's removal of $5,000 in fees from his client's personal injury judgment instead of surrendering the funds to a bankruptcy trustee as required. He was notified four times that any money received from the client's personal injury case was the property of the bankruptcy estate. Edwards maintained the remaining portion ($2,154) in his CTA, but failed to respond to a default judgment ordering him to turn over the funds. After an order to show cause/contempt hearing, he issued a check for the entire judgment ($7,154) to the bankruptcy trustee.

Edwards's third discipline, in December 2002, resulted from his failure to comply with the conditions of his 2001 disciplinary case, thus committing further misconduct while on disciplinary probation.[12] He was again placed on a one-year actual suspension, with three years of probation, and ordered to attend CTA school and submit quarterly reports to the State Bar's Office of Probation regarding his CTA.

---

[11] Supreme Court Case No. S097393; State Bar Court Case Nos. 00-O-10661 and 01-O-00483 (consolidated).

[12] Supreme Court Case No. S097393; State Bar Court Case No. 02-PM-11398.

In March 2008, Edwards was suspended for a fourth time—another one-year actual suspension, but with increased probation of four years—for misconduct arising out of two client matters.[13] In the first, Edwards was found culpable of failing to comply with former rule 955 of the California Rules of Court (now 9.20). In the second, Edwards was found culpable of: (1) filing a false compliance declaration; (2) failing to perform competently on behalf of his client; (3) failing to communicate; and (4) failing to return unearned fees.[14]

Edwards's present case again involves CTA violations, which is a common thread in at least two of his four previous matters. As such, we find his prior disciplines to be particularly serious. The similarities demonstrate that Edwards has not learned from his past mistakes. (See *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443-444 [similarities between prior and current misconduct render previous discipline more serious, as they indicate prior discipline did not rehabilitate].)

2. Multiple Acts of Wrongdoing (Std. 1.5(b))

We assign moderate weight in aggravation to Edwards's three counts of misconduct. (See *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) While the number of separate counts is at the lower end of typical aggravation, one of the counts involves moral turpitude.

---

[13] Supreme Court Case No. S159077; State Bar Court Case Nos. 01-N-03976 and 02-O-12186 (consolidated).

[14] In its opening brief on review, OCTC suggested that Edwards's third and fourth disciplinary matters should receive reduced aggravating weight. OCTC stated that "[a]rguably, *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602 . . . applies" since the timing of Edwards's misconduct in those matters overlapped. We disagree. *Sklar* applies when the *current* misconduct overlaps with any of the prior misconduct. None of the misconduct in this fifth disciplinary matter intersects with his previous misconduct; thus, Edwards had the opportunity to heed the import of each of his four prior disciplines before committing the present violations.

3. Indifference Toward Rectification or Atonement (Std. 1.5(k))

We assign significant weight in aggravation to Edwards's indifference and lack of atonement under standard 1.5(k). His first discipline in 1991 involved misuse of his CTA. During that proceeding, he testified that he had stopped using his CTA for personal purposes. Nonetheless, he continued to misuse his CTA, and was disciplined a second time and ordered to attend CTA school. Despite his prior discipline and his prior indication that he would cease this type of misconduct, Edwards again committed serious CTA violations in this matter, which demonstrates that he is either unwilling or unable to rectify his conduct. His demonstrated lack of insight into the seriousness of his misconduct is particularly troubling to this court because it suggests that it may recur. (See *Blair v. State Bar* (1989) 49 Cal.3d 762, 781-782.)

4. No Aggravation for Lack of Candor and Cooperation (Std. 1.5(l))

On March 13, 2017, OCTC filed a Notice of Intent to argue additional aggravating circumstances, specifically that Edwards's failure to file a responsive brief on review and his waiver of oral argument demonstrate a lack of cooperation. We deny OCTC's request. Edwards was the prevailing party at the trial level and was exonerated of all charges. He properly notified this court and OCTC that he was opting not to brief or argue the case on review. We do not view this as a failure to participate. Rather, as discussed below, we find Edwards's overall participation in these proceedings to be mitigating.

B. Mitigation

1. Spontaneous Candor and Cooperation (Std. 1.6(e))

Edwards is entitled to some mitigation for his cooperation with the State Bar. Although he did not admit culpability, he stipulated before trial to numerous relevant (though easily provable) facts; he testified during trial to other difficult-to-prove facts that support his

culpability, including his use of his CTA to pay personal expenses and to conceal funds from the FTB. His candor and cooperation assisted OCTC's prosecution of the case. (See std. 1.6(e); *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50 [stipulation to easily provable facts mitigating if relevant and assisted prosecution of case]; see and compare *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 ["more extensive weight in mitigation is accorded those who . . . willingly admit their culpability as well as the facts"].)

2. Good Character (Std. 1.6(f))/Community Service and Pro Bono Activities

We acknowledge Edwards's dedication to his church and community and his faith-based pro bono work. However, we assign only moderate mitigation because the details of his activities are largely based on his own testimony and out-of-court testimonials from individuals who do not appear to be aware of the alleged misconduct. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service and pro bono activities are mitigating circumstances]; but see *In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 840 [limited weight in mitigation for community service where evidence is based solely on respondent's testimony]; std. 1.6(f) [extraordinary good character evidence considered mitigating when attested to by wide range of references in legal and general communities who are aware of full extent of misconduct]; *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 508-509 [no good character mitigation for testimony of two attorneys who did not know scope of charges].)

Edwards testified that: (1) he founded the Church of Greater Works in Los Angeles, where he has served as a pastor for the past 12 years; (2) he feeds and shelters the homeless, and provides transitional housing in his own residence for parolees, helping them reintegrate into society; (3) he assists people, through a program with the city attorney's office, in preparing

petitions to expunge their criminal convictions; (4) he advises churches regarding their tax-exempt status; and (5) he serves as a bishop over the African nations, performing duties as a cleric and raising money for orphanages.

He also introduced into evidence an article entitled *From Sauce To Souls*, which we note does not identify the author. The article, published in 2010 in the Christian publication, ekklēsia, pages 12-13, contains an interview with Edwards in which he discusses his "backyard barbeques for the poor" and using his own vehicle to transport the homeless to revivals, Bible studies, and other church events. Although much of the content is self-reported by Edwards, the article states that others have described him as "selfless," "someone who has given his own shoes to a homeless person and someone who has given Christmas toys to children."

Lastly, Edwards submitted two letters: (1) an April 4, 2015, letter from Bishop Napoleon Rhodes, 1st, Chairman, Prelate, of the executive committee of the Convention of Covenanting Churches; and (2) an unsigned April 13, 2015, letter from Ella Wise and Helen Harris, President and Vice President/Secretary, respectively, of the board of directors of the Missionaries for Christ Ministries. Both letters are addressed "To Whom it May Concern," and it is unclear whether the declarants were aware of the charged misconduct or even knew these letters would be used for purposes of this disciplinary proceeding.

Bishop Rhodes states in his letter that Edwards was ordained and elevated to the position of jurisdictional bishop for the Convention of Covenanting Churches in 2013, where he has served as the chief overseer for Jurisdiction Twelve, which covers the entire African continent. It also indicates that Edwards has served since 2009 as the chief of staff for the executive staff. Rhodes states that Edwards voluntarily served in these two positions with honor and success. The letter does not quantify Edwards's level of involvement, but states that his efforts have given the organization "beach-heads" in South Africa, Zambia, and several other African nations.

Ms. Wise and Ms. Harris also do not elaborate on the quantity of Edwards's community and pro bono work. Their letter describes him as a founding member of their organization and a devout and faithful pastor, who has dedicated countless hours to ministering to those in need and has generously contributed financially to his church and his faith.

The article and letters that Edwards submitted do not independently reveal the details and extent of his involvement. Without more, this evidence does not qualify for full mitigation credit, but we find it deserving of moderate consideration given the extensive nature of Edwards's endeavors.

VII. DISCIPLINE

Our disciplinary analysis begins with the standards, which, although not binding, are entitled to great weight (std. 1.1; *In re Silverton* (2005) 36 Cal.4th 81, 91-92), and should be followed whenever possible. (Std. 1.1; *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.)

Standard 2.11 applies and provides that "[d]isbarment or actual suspension is the presumed sanction for an act of moral turpitude . . . ." Standard 1.8(b) also applies and instructs that disbarment is appropriate, absent two exceptions inapplicable here, where an attorney has two or more prior records of discipline if: (1) an actual suspension was ordered in any of the prior disciplinary matters; (2) the prior and current disciplinary matters demonstrate a pattern of misconduct; or (3) the prior and current disciplinary matters demonstrate the attorney's unwillingness or inability to conform to his or her ethical responsibilities.[15]

This is Edwards's fifth disciplinary matter. He has been involved in the disciplinary system repeatedly from 1991 to the present, with each of his prior matters resulting in one-year periods of actual suspension and lengthy probation periods. While we acknowledge his strong

[15] The two stated exceptions to disbarment under standard 1.8(b) do not apply here because (1) Edwards did not prove compelling mitigation that clearly predominates, and (2) his present misconduct did not overlap in time with his prior misconduct.

showing of pro bono and community service, his deep religious convictions, and his candor and cooperation with the State Bar, we cannot overlook his extended history of discipline and his continued mismanagement and personal use of his CTA—issues that were also the subject of his first and second disciplinary proceedings. His mitigation simply does not compel a sanction less than disbarment in light of his serious and unabated transgressions. Even though no client funds were involved in this case, his admitted use of his CTA to hide money from the FTB and his ongoing failure to recognize the purpose and significance of his CTA, with its associated ethical and fiduciary responsibilities, demonstrate that he poses a risk to the public, the courts, and the legal profession. Accordingly, we see no clear reason to depart from standard 1.8(b), and we recommend that Edwards be disbarred. (See std. 1.1; *Blair v. State Bar*, *supra*, 49 Cal.3d at p. 776, fn. 5 [requiring clear reasons for departure from standards].) In addition, decisional law supports our conclusion that the public and the profession are best protected if Edwards is disbarred. (See *Barnum v. State Bar* (1990) 52 Cal.3d 104, 112-113 [disbarment imposed where attorney's probation violations left court no reason to believe he would comply with lesser discipline]; *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 79-80 [disbarment where two prior disciplines existed, attorney was unable to conform conduct to ethical norms, and no mitigation]; *In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 300 ["respondent should not be admitted to disciplinary probation where there is clear evidence that he or she will not comply with its conditions"].)

VIII. RECOMMENDATION

We recommend that John Henry Edwards III be disbarred from the practice of law and that his name be stricken from the roll of attorneys admitted to practice in California.

We further recommend that he must comply with rule 9.20 of the California Rules of Court 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 in this matter.

Finally, we recommend that costs be awarded to the State Bar in accordance with section 6086.10, such costs being enforceable as provided in section 6140.7 and as a money judgment.

IX. ORDER OF INACTIVE ENROLLMENT

Pursuant to section 6007, subdivision (c)(4), and rule 5.111(D)(1) of the Rules of Procedure of the State Bar, John Henry Edwards III is ordered enrolled inactive, effective three days after service of this opinion. (Rules Proc. of State Bar, rule 5.111(D)(1).)

HONN, J.

WE CONCUR:

PURCELL, P. J.

STOVITZ, J.*

* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.