PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed August 15, 2023

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	SBC-21-O-31015
	)	
EYAD YASER ABDELJAWAD,	)	OPINION AND ORDER
	)	
State Bar No. 308427.	)	
	)	

A hearing judge found respondent Eyad Yaser Abdeljawad culpable on 17 of 21 counts charged, including multiple instances of failure to deposit client funds into a trust account, intentional misappropriation of client funds, breaches of his fiduciary duty, misrepresentations to his clients, misrepresentations to the Office of Chief Trial Counsel of the State Bar of California (OCTC), and failure to turn over a client file. The judge further found that Abdeljawad's misconduct caused serious harm to his clients, and determined that his indifference and dishonest testimony during his disciplinary trial demonstrated an unwillingness or inability to conform to his ethical responsibilities. The judge concluded disbarment was necessary to protect the public, courts, and the profession.

Abdeljawad appeals. He disputes the hearing judge's culpability findings, asserting that valid assignments between his clients and a third-party entity precluded his handling of client funds, that his testimony established he did not breach his fiduciary duties, and that he made no misrepresentations to his clients or OCTC. He also challenges evidentiary rulings, along with the judge's analysis of aggravation and mitigation circumstances. He argues a six-month actual

suspension or less is the appropriate discipline in this matter. OCTC does not appeal the four dismissed counts and agrees with the disbarment recommendation.

Upon our independent review (Cal. Rules of Court, rule 9.12), we agree with the hearing judge that Abdeljawad is culpable of 17 counts of misconduct. We affirm the hearing judge's mitigation findings and agree that the aggravating circumstances clearly predominate. Like the judge, we recommend that disbarment is the appropriate sanction to protect the public, the courts, and the legal profession.

I. PROCEDURAL HISTORY

On December 21, 2021, OCTC filed a 42-count Notice of Disciplinary Charges (NDC) alleging misconduct related to eight separate matters. Abdeljawad filed a response on January 10, 2022, denying all allegations. In April, the parties stipulated, and the hearing judge granted, that the trial would proceed in two phases. The first phase would address four of the eight matters covering 21 counts in the NDC (counts 15-28, 36-39, and 40-42). The second phase, if necessary, would address the remaining matters and counts charged in the NDC. A second phase has not occurred.

On May 23, 2022, the parties filed a Stipulation as to Facts and Admission of Exhibits (Stipulation). A five-day trial was held from May 23-27. The parties submitted closing briefs on June 10, and the hearing judge issued a decision on September 6, 2022. Abdeljawad timely filed a request for review. Oral argument was held on May 17, 2023, at which time the matter was submitted.

II. FACTS[1] AND CULPABILITY[2]

A. Abdeljawad's Relationship to Bridgepoint Law Group, Bridgepoint Legal Processing, and National Recovery Solutions, LLC

Abdeljawad was a solo attorney who operated under the firm name Bridgepoint Law Group, APC (Law Group). Beginning on July 1, 2019, his official State Bar address was located at 5670 Schaefer Avenue, Suite P, Chino, California.[3] He shared this address and its office space with National Recovery Solutions, LLC (NRS), which was operated by non-attorneys Ronald Andrew McCullom, Jr. (McCollum) and Joyce Jeanine Arce (Arce), along with disbarred attorney Saqib A. Zuberi, a.k.a. Sam Ahmed (Ahmed), and others. McCollum, Arce, and Ahmed also owned and operated another business, Bridgepoint Legal Processing (BLP), which used the same office space and address as the Law Group and NRS.

The office suite had three offices plus additional areas for use. Abdeljawad shared one office with McCollum and Ahmed. Abdeljawad had staff working with him, some of whom were paid by NRS. One legal assistant, Mayana Akbari, who worked in the office for

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[1] The facts are based on the Stipulation, trial testimony, documentary evidence, and the hearing judge's factual and credibility findings, which are entitled to great weight, unless we have found differently based on the record. (Rules Proc. of State Bar, rule 5.155(A).)

[2] OCTC does not challenge the hearing judge's dismissal of counts 28 and 39 (Bus. & Prof. Code, § 6068, subd. (i) [failure to cooperate in disciplinary investigation]); count 40 (Bus. & Prof. Code, § 6068, subd. (d) [seeking to mislead a judge]); and count 41 (Bus. & Prof. Code, § 6106 [moral turpitude—dishonesty]). The record supports the dismissals of these four counts, and we affirm the dismissals with prejudice. (*In the Matter of Kroff* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838, 843 [dismissal of charges for want of proof after trial on merits is with prejudice].)

[3] From February 2016 to June 2019, Abdeljawad operated under the firm name Route 66 Law Group, APC, located in cities other than Chino.

approximately one year, testified at trial.[4] While she reported directly to Abdeljawad, Akbari understood McCollum to be Abdeljawad's superior. Akbari described Ahmed as a partner to McCollum and stated that Ahmed would also give advice to Abdeljawad. Akbari further testified McCollum and Abdeljawad were business partners and good friends. Abdeljawad also represented McCollum in a marital dissolution matter and represented McCollum's mother in another legal matter.

Regarding the processing of checks received by NRS, Akbari testified that the office administrator would give the physical check to McCollum. McCollum would then deposit the check without the client's signature. This is consistent with Abdeljawad's testimony that he forwarded checks he received to NRS, except for one check he forwarded to BLP. This office practice was also corroborated by bank records and other witness testimony that checks were not endorsed by clients and deposited into an NRS or BLP account, not a Law Group account. Scanned copies of checks were then sent to Abdeljawad and Akbari. Abdeljawad was aware of this process. On occasion, Abdeljawad would go with McCollum to deposit the checks.

[4] Abdeljawad argues the hearing judge's reliance on Akbari's testimony was misplaced and could not support culpability by clear and convincing evidence. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552 [clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind].) Yet, he also concedes in his brief that a fact can be established by a single credible witness. (*In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1, 6; see *Lopez v. American Medical Response West* (2023) 89 Cal.App.5th 336, 344 [declarations of fact within declarant's personal knowledge are sufficient proof of fact].) The judge found that Akbari "credibly testified regarding the circumstances of her employment and the business dealings of NRS, BLP, and [Law Group]." As noted *ante*, such findings are accorded great weight unless we find differently based on the record, which we do not. Further, Abdeljawad's assertion that the judge overly relied on Akbari's testimony ignores the body of evidence, discussed *post*, that corroborates Akbari's testimony regarding the interrelatedness of NRS, Law Group, and BLP, which all shared the same office suite and some employees. Abdeljawad's own testimony regarding the handling of client checks corroborated Akbari's testimony. As her testimony supports other evidence in the record, we reject Abdeljawad's arguments in this regard.

B. Noble Matter (Counts 15-20)

Lisa J. Noble (Noble) is the sister of Daniel Strange (Strange). Strange's residence (Strange Estate) was foreclosed on January 10, 2019, following his death years earlier. The foreclosure sale resulted in a $1,487,688.10 surplus over the amount owed on the property. This surplus was held by Affina Default Services, LLC (Affina), which notified Noble of the surplus funds.

Noble retained NRS to assist in recovery of the surplus finds. On April 22, 2019, Noble signed a "Client Contingency Fee Agreement" with NRS (Noble/NRS Agreement) that granted NRS a contingency fee of seven percent of the funds recovered and a lien on any recovered funds. The Noble/NRS Agreement provided for recovered funds to be "deposited into Attorney IOLTA[5] TRUST ACCOUNT and will be immediately disbursed to Client, less the agreed upon fees." Although the Noble/NRS Agreement stated it would provide "legal services reasonably necessary" to recover the surplus funds, NRS expressly told Noble that NRS was not a law firm and they were not attorneys. Noble believed the surplus funds would be placed in Abdeljawad's CTA based on the information provided by NRS.

Next, Noble executed a document that appointed Abdeljawad as Noble's attorney and granted both Abdeljawad and NRS authority to communicate and "do all things" on Noble's behalf regarding the surplus funds. Both Noble and Abdeljawad executed a second document giving Affina notice that Abdeljawad represented Noble in the recovery of the Strange Estate proceeds. Affina was directed to send all communications, including any checks, to Abdeljawad at Route 66 Law, APC, which was his official State Bar address at the time.

[5] "IOLTA" is an acronym for "Interest on Lawyers' Trust Account."

In June 2019, Abdeljawad initiated an action, as Noble's attorney of record, to recover the Strange Estate excess funds. (*Estate of Daniel Strange* (Super. Ct. San Mateo County, June 6, 2019, No. 19-PRO-00643) (*Estate of Strange*).) The various pleadings identified Abdeljawad as Noble's attorney and listed the Schaefer Avenue address as his address. The filings included a "Petition for Letters of Administration" (petition) to name Noble as the executor of the estate with an estate value of $1,487,855. Abdeljawad also filed a "Duties and Liabilities of Personal Representative," which stated that Noble was required to keep estate assets separate from anyone else's funds and that fees could not be paid without a prior court order. On June 21, Abdeljawad filed a proposed "Order for Probate" on behalf of Noble in *Estate of Strange*, which the superior court issued on July 11, appointing Noble as administrator with "full authority."

On July 16, 2019, Noble signed an Affina-provided form entitled "Claim for Surplus Funds Following Trustee Sale" and instructed a check be mailed to the Schaefer Avenue address. On July 23, a check for $1,487,688.10, issued by Affina's counsel was made out to "Lisa Jo Noble c/o National Recovery Solutions," and mailed to the Schaefer Avenue address. Abdeljawad testified he received that check and provided it to NRS.

On July 25, 2019, NRS deposited the Noble check into its business checking account at J.P. Morgan Chase Bank, N.A. (Chase Bank), account number ending in 0500 (NRS Chase account). Abdeljawad did not have control of, or access to, the NRS Chase account—Arce and McCollum were the only signatories. The check was not signed by Noble, despite being made payable to her. Noble testified that she never gave anyone permission to sign the check for her.

The day after the $1,487,688.10 check was deposited into the NRS Chase account, the balance in that account dropped to $30,470.35.[6]

In a December 2019 email from NRS, Noble finally learned that Abdeljawad had received the check. She did not learn of it from Abdeljawad. Even though the check had been deposited months before, the NRS email falsely stated the funds "were released to us last week [and] we deposited [the funds] into our account," and the funds were being held "for the purposes of clearing." Noble emailed NRS to obtain the funds and expressed concerns that the check was deposited into an NRS account instead of released to her as the administrator so she could deposit the funds into trust on behalf of the estate. NRS responded on December 27, 2019, stating its general practice was to forward the funds to the law firm for deposit into an IOLTA account for disbursement minus "agreed upon fees." NRS further stated, "When the funds clear in our account we will disburse them to you per our agreement."

On January 22, 2020, Noble spoke with Abdeljawad and expressed her frustration that NRS possessed the funds and the funds had not been disbursed to her. She sent a similar email to him three days later. On February 7, Noble sent an email to NRS with Abdeljawad as an added recipient, in which she demanded, inter alia, an accounting and an explanation of who held the funds. Abdeljawad emailed Noble on February 9, 2020, stating, in relevant part,

> [An NRS employee] apprised me of the situation, and I have been trying to get in contact with you ever since yesterday. Notwithstanding, I had a wonderful [sic] productive conversation with Chase Bank yesterday. Per the policy, Chase [Bank] has placed us on a daily limit as far as transfers of this sort . . . . It is my understanding that we have transferred the lion's share of disbursements to you and we will get the rest of what is owed to you by the end of this coming week.

[6] On July 26, 2019, six online transfers to another checking account were made, totaling $1,455,700.

Noble replied to Abdeljawad, complaining about the failure to provide any documentation of the funds and again requesting an accounting.

On February 11, 2020, Noble sent an email to Abdeljawad requesting the "complete original file" and disbursement of the funds by February 13, and advised she would file a State Bar complaint if he did not comply with her request. Abdeljawad replied the same day stating that he would get her an accounting by the close of business that Thursday and he would send her the money owed by close of business on Friday.

In a February 13, 2020 letter addressed to Noble, Abdeljawad stated, "I as the attorney was retained by [NRS] for the limited purpose of obtaining Letters of Administration in your matter. As you know any issues that pertain to checks, availability of funds, or any such transfers, has nothing to do with me or [the Law Group]."[7] The letter also included an accounting. It incorrectly listed the total of recovered funds at $19,000 less than the actual amount. Abdeljawad calculated NRS's contingency fee at $102,760, and stated that the remainder was to be split ($682,620 each) between Noble and Strange's ex-wife, Gaye Dotson (Dotson).[8] Noting that a prior payment had been sent to Noble for $200,000, Abdeljawad stated that she was owed an additional $482,620. The next day, NRS sent Noble a cashier's check for $482,620.83, which she received.

On February 17, 2020, Noble sent an email to Abdeljawad that, inter alia, demanded the full amount of $1,487,688.10, less the NRS contingency fee and the amounts she had already received. On February 18, Noble sent another email to Abdeljawad requesting an accounting

[7] Abdeljawad also testified his role was limited to getting Letters of Administration, and he had no responsibility to ensure that Noble received the amount due to her as administrator of the estate.

[8] At trial, Noble testified that she has been attempting to find Dotson for several years but had been unable to locate her.

and "all financial documents," and "all documents in [his] possession authorizing [him] to withhold any of the surplus proceeds owed to the Estate of Daniel Strange and his Heirs at Law." On February 20, 2020, Abdeljawad sent an email to Noble stating,

> Per our conversation, I previously explained to you that I was retained for the limited purpose of obtaining Letters of Admin[istration] in your case. Respectfully, I have already given you all of the documents that you requested. So, any further requests for information by you need to be made to the appropriate parties.
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> Notwithstanding, it is my duty to inform you that [Dotson's] share will be deposited with the court. As previously explained to you, Prob[ate] Code [section] 6401 mandates that the widow is entitled to a one half of the Decedent's intestate share. For those reasons, [Dotson's] portion will be deposited with the court because of the conflicting claims that exists regarding distribution of said portion. If you feel that you are entitled to the [*sic*] Dotson's portion, then you can make the appropriate application to the court.

Noble and Abdeljawad exchanged additional emails the following day, with Noble challenging the manner in which Abdeljawad handled the surplus funds and his failure to provide the requested documents. Abdeljawad asserted, inter alia, a "standing fiduciary duty to the remaining heirs, including [Dotson]" and alleging, without any support, that Noble gave instructions for Dotson's portion not to be distributed to her. Abdeljawad further reiterated Dotson was entitled to 50 percent of the estate and claimed that "the funds have to be deposited with the court, and only the Judge can make the determination as to whether [Noble] should receive Ms. Dotson's portion."

On February 24, 2020, Noble emailed Abdeljawad about his failure to produce any documentation and ignoring the court orders. On the same day, NRS filed an interpleader entitled *NRS v. Lisa Jo Noble, et al*. (Super. Ct. San Mateo County, Feb. 24, 2020, No. 20-CIV-01183) (*NRS v. Noble*), which stated NRS possessed $686,200 of the surplus funds. In fact, NRS

never deposited any sum of money with the court in *NRS v. Noble*.[9] On March 13, 2020, Abdeljawad signed a substitution of attorney to substitute out of *Estate of Strange*.

On June 3, 2020, an OCTC investigator sent Abdeljawad a letter of inquiry. Abdeljawad responded on June 30, stating, without support, that Noble requested that NRS distribute Dotson's share directly to Dotson and that Noble stated she did not intend to pay the other beneficiaries of the estate. He further claimed Dotson's share had been appropriately set aside. Noble never told Abdeljawad that she did not intend to pay the beneficiaries. At the time of trial, neither Abdeljawad nor NRS had returned the outstanding funds to Noble.

1. Counts 15 and 16: Failure to Deposit and Misappropriation

Count 15 of the NDC charged Abdeljawad with failure to deposit the $1,487,688.10 check he received for the benefit of Noble (as administrator of her brother's estate) into a CTA, in violation of rule 1.15(a) of the Rules of Professional Conduct.[10] Count 16 charged misappropriation in violation of Business and Professions Code section 6106[11] for delivering the $1,487,688.10 check to NRS.[12]

Regarding count 15, rule 1.15(a) provides, "All funds received or held by a lawyer or law firm for the benefit of a client, or other person to whom the lawyer owes a contractual, statutory, or other legal duty . . . shall be deposited in one or more identifiable bank accounts labeled 'Trust

[9] Noble, as administrator of the estate, filed a complaint for damages against Chase Bank and has had to defend the interpleader action filed by NRS.

[10] All further references to rules are to the Rules of Professional Conduct, effective November 1, 2018, unless otherwise noted. In the rules as published, defined terms are denoted with asterisks. For ease of readability, we omit these asterisks when quoting the rules herein. Rule 1.15 was amended, effective January 1, 2023. In this opinion, references to rule 1.15 are to the version of the rule in effect from November 1, 2018, until January 1, 2023.

[11] All further references to sections are to the Business and Professions Code unless otherwise noted.

[12] Count 16 alleged that culpability could be found by an intentional misappropriation or by gross negligence.

Account' or words of similar import . . . ." Client funds held by an attorney must be deposited into a CTA and maintained until the amount owed to the client is settled. (*In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 277-278; see *Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 976 [rule is violated when attorney fails to deposit and maintain funds in manner designated by rule].)

The hearing judge found Abdeljawad culpable for violating rule 1.15(a) by clear and convincing evidence, and we agree. Culpability is supported by the record: the check from Affina was issued in July 2019 and made out to Noble; Abdeljawad received the check and provided it to NRS; and Abdeljawad did not deposit the funds he received on Noble's behalf into an appropriate account as required by rule 1.15(a).

Further, Abdeljawad was Noble's attorney in obtaining the surplus funds from Affina, despite his written statements to her in February 2020 that he was retained by NRS for limited purposes.[13] While the Noble/NRS Agreement only named NRS as providing legal services to Noble, documents sent to Affina clearly identified Abdeljawad as generally representing Noble in the matter, and, notably, one of these was signed by Abdeljawad.

Additionally, Abdeljawad filed pleadings in superior court, identifying himself as Noble's attorney of record, to facilitate her receipt of the surplus funds in her deceased brother's

[13] Given the involved relationship between Abdeljawad and the owners of NRS/BLP regarding office sharing and the testimony of Akbari describing the involvement of NRS/BLP with Abdeljawad that the hearing judge found credible, especially that Akbari was paid by NRS to work for Abdeljawad, we reject his assertion that he worked for NRS/BLP in a limited capacity. We note that Abdeljawad received at least 36 checks issued from an NRS account totaling over $383,000. Further, despite Abdeljawad asserting in his brief that NRS contracted with him to perform legal services on behalf of its clients and that the Noble/NRS Agreement informed her of that, a disclaimer that an organization will hire contract lawyers to work will not in itself prevent the creation of an attorney-client relationship. (See Cal. State Bar Com. Prof. Resp., formal opn. No. 2004-165.)

estate.[14] He sought and received the court's appointment of Noble as the administrator of the estate which required, inter alia, that Noble keep the estate funds separate from all other funds and to not disburse any of the estate funds, including the payment of any fees, without a court order. Abdeljawad clearly was on notice concerning his and his client's respective duties regarding any estate funds he received.

The record establishes that Abdeljawad, as Noble's attorney, received funds on her behalf in her role as administrator of the estate. He was required to deposit those funds into a CTA and he did not. Therefore, Abdeljawad is culpable on count 15.

Turning to the misappropriation charged in count 16, section 6106 provides that acts involving moral turpitude constitute cause for disbarment or suspension. Willful misappropriation of a client's funds involves moral turpitude and violates section 6106. (*In the Matter of Song*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 278.) As pleaded in the NDC, willful misappropriation can be either intentional or grossly negligent. To discern between the two, we can examine intent. Intent can be established by direct or circumstantial evidence. (*Zitny v. State Bar* (1966) 64 Cal.2d 787, 792.) An attorney's dishonesty about mishandling entrusted funds or attempts to conceal the misconduct is evidence of intentional misappropriation. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 588-589 [numerous acts of deceit are evidence of intentional misappropriation and concealment of relevant facts is persuasive evidence of lack of honest belief and supports moral turpitude finding].)

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[14] Abdeljawad asserts in his brief that Noble "never signed an agreement" with him. However, a formal agreement is not required to establish an attorney-client relationship. (*Lister v. State Bar* (1990) 51 Cal.3d 1117, 1126.) Making an appearance on behalf of a party is strongly presumptive of an attorney-client relationship. (See *In re Brindle* (1979) 91 Cal.App.3d 660, 671 [appearance in court acting on party's behalf is "presumptive evidence" of the existence of an attorney-client relationship].) We note that most of these filings made by Abdeljawad on Noble's behalf identified him working under his own law firm name at the time, Route 66 Law Group, and not under NRS.

The totality of the evidence supports culpability for intentional misappropriation. In his communications with Noble, Abdeljawad misrepresented and concealed the status of the money after learning Noble knew that NRS received the check from Affina. Abdeljawad purposefully passed Noble's check onto NRS—it was not a mistake. He never told Noble the funds arrived or that he had forwarded the check to NRS, and he covered up and assisted NRS in hiding the fact that the money was essentially gone. When Noble contacted Abdeljawad beginning in January 2020 once she learned that NRS had the funds, he repeatedly dissembled and gave his client untrue information until he ended their relationship with the filing of a substitution of attorney a couple of months later. In one particularly brazen communication, Abdeljawad was untruthful when he created a conversation with Chase Bank and claimed its transfer policy was the reason she could not get her funds. Abdeljawad's later communications then attempted to minimize his role as her attorney and also asserted Strange's ex-wife's rights to a portion of the estate as yet another hurdle to avoid full disbursement.[15]

Abdeljawad's defense to this count rests almost exclusively on his argument that an assignment agreement between Noble and NRS created a fiduciary obligation that he was under to NRS, which required him to provide the surplus funds check to NRS. This argument is wholly unsupported by the Noble/NRS Agreement. First, and contrary to Abdeljawad's testimony,[16] the Noble/NRS Agreement has no assignment language in it, and no evidence of

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[15] Even if his role as Noble's attorney was limited, he still had an obligation to her regarding the money. (See *Johnston v. State Bar* (1966) 64 Cal.2d 153, 155-156 [attorney who receives funds on behalf of a third party is a fiduciary to that third party and any conversion of funds is a breach of that duty]; *In the Matter of Lilly* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185, 191.)

[16] Abdeljawad argues that the hearing judge erred in finding him not credible, specifically the conclusion that "[his] testimony was evasive, inconsistent, and in direct contradiction to other evidence." We reject this argument as there are numerous examples of Abdeljawad testifying inconsistently with other evidence in the record and being evasive, as discussed *post*.

such an assignment exists in the record. The Noble/NRS Agreement specified the funds were to be deposited into an IOLTA account, which is not an account NRS could hold. Second, under the Noble/NRS Agreement, NRS claimed only a right to a seven percent contingency fee. Because the Noble/NRS Agreement had the IOLTA provision and a low percentage as a contingency fee, it is clear the parties presumed a significant portion of the recovery would go to Noble in her role as the administrator of her brother's estate, not directly to NRS.

Nor does the record support Abdeljawad's argument that he held an erroneous, yet honest, belief that he had "a legal and ethical obligation to give the money to NRS" because of a valid assignment. (*In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1, 9-11 [no moral turpitude found where attorney honestly believed in justifiability of actions]; *Davis*, *supra,* 4 Cal. State Bar Rptr. at p. 589.) In addition to the lack of assignment in the Noble/NRS Agreement, the record has no contemporaneous mention of Abdeljawad discussing with Noble any such assignment.[17] Again, the record offers clear examples of the opposite, including that, on February 9 and 11, 2020, Abdeljawad promised Noble he would get her the funds she was owed.

The evidence clearly and convincingly establishes that Abdeljawad intentionally misappropriated the entire amount of funds, $1,487,688.10, sent to him by Affina while acting as Noble's attorney.[18] Abdeljawad is culpable under count 16.

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[17] Respondent did not point to any assignment language in the Noble/NRS Agreement in his briefs on review or during oral argument.

[18] The hearing judge found the misappropriation was for "at least $1,383,549.93" by subtracting the amount NRS was due under the Noble/NRS agreement. The fact that NRS was entitled to small portion of the excess funds and Noble ultimately received some portion of the excess funds is of no import. Return of misappropriated funds does not erase the original misappropriation. (*In the Matter of Elliott* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr 541, 544.)

2. Count 17: Breach of Fiduciary Duty Owed to Noble

Section 6068, subdivision (a), provides that an attorney has a duty to support the constitutions and laws of the United States and California. Abdeljawad's fiduciary duties to his clients are governed by the Rules of Professional Conduct and statutory law relating to fiduciary relationships. (*In the Matter of Isola* (Review Dept. 2022) 5 Cal State Bar Ct. Rptr. 911, 934-935.) The section 6068, subdivision (a), violation set forth in count 17 is based on the same conduct in count 16 (misappropriation in violation of section 6106). Misappropriation of trust funds "breaches the high duty of loyalty owed to the client, violates basic notions of honesty, and endangers public confidence in the profession. [Citations.]" (*Kelly v. State Bar* (1988) 45 Cal.3d 649, 656.)

Based upon our analysis of culpability in count 16, we agree with the hearing judge that clear and convincing evidence establishes culpability for count 17. As the judge correctly stated, no additional weight in discipline will be assessed because culpability for both counts is based on the same facts. (See *In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127 [no additional disciplinary weight for former rule 4-100(A) violation when duplicative of moral turpitude violation].)

3. Counts 18 and 19: Misrepresentations to Noble

Counts 18 and 19 charge two misrepresentations by Abdeljawad to Noble on February 9 and 13, 2020, respectively, in violation of section 6106. The two communications referenced in counts 18 and 19 were in response to Noble's ongoing efforts for an accounting. Section 6106 can be violated by material omissions or misrepresentations of material facts. (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315 [moral turpitude includes concealment as well as affirmative misrepresentations with no distinction drawn between "concealment, half-truth, and false

statement of fact"]; *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 910 [moral turpitude includes affirmative misrepresentations].)

Regarding count 18, the NDC alleges the February 9, 2020 statement by Abdeljawad that he had a "wonderfully productive conversation with Chase [Bank] yesterday" about Noble's funds, and "[p]er the policy, Chase [Bank] has placed us on a daily limit as far as transfers of this sort," was false and misleading, resulting in an act of moral turpitude in violation of section 6106. The clear import of this communication was to allay concerns about whether her funds were available. The email conveyed he had limited access to the money and the only impediment was Chase Bank. The truth was altogether different. Noble's funds were long depleted by the time of Abdeljawad's February 9 email. The failure to give Noble her money had nothing to do with Chase Bank's internal limitations on transfers. The funds were deposited in the NRS Chase account months before on July 25, 2019. Her funds had been depleted the following day to a remaining balance of $30,470.35. Finally, Abdeljawad had no control or access to her funds in the NRS Chase account. He was not a signatory. It is implausible the bank would provide substantive information to Abdeljawad about funds in an account to which he was not authorized. These misrepresentations are material as they involve a substantial amount of money.

The misrepresentation in count 19 regarding Abdeljawad's February 13, 2020 letter is also established by clear and convincing evidence. In that letter, he falsely stated to Noble that she was only entitled to half of the Strange Estate proceeds after fees. As the court-appointed administrator, she was entitled to all of the funds until they could be properly disbursed. He knew his statement was false because he filed the pleadings and the proposed order that resulted in Noble's appointment as the administrator.

4. Count 20: Misrepresentations to OCTC

Clear and convincing evidence establishes three misrepresentations to OCTC by Abdeljawad as charged in count 20. Abdeljawad's June 30, 2020 written statements to OCTC that (a) "Noble instructed [NRS] to pay [the funds] directly to Dotson"; (b) "$682,620 was set aside for [Dotson] as her surviving widow's portion"; and (c) "Noble stated her intent not to pay out any of the beneficiaries to the [e]state of her late brother" were not true.

First, no bank records or other documents exist in the record that show $682,620 was set aside for Dotson. Rather, the bank records demonstrate that within days of depositing the check representing the surplus funds into NRS's account at Chase Bank, the account balance was only $30,470.35. Second, NRS never deposited any sum of money with the court in its interpleader action (*NRS v. Noble*). Third, the contemporaneous emails between Noble and Abdeljawad contained no statements from Noble indicating she wanted Dotson paid directly or that she would not fulfill her obligations. Noble's credible testimony supports the finding that the three charged misrepresentations were false, and is corroborated by documentary evidence. Noble's written communications to Abdeljawad consistently and repeatedly demanded the full amount of the surplus funds, less NRS's seven percent fee. The documents do not reveal any intention on Noble's part to not fulfill her duties as the estate administrator. Abdeljawad's testimony about his interpretation of Noble's February 12, 2022 email response to him is unpersuasive and disingenuous.

C. Crespo Matter (Counts 21-27)

Bertha Crespo (Crespo) lost her home to foreclosure and sought legal representation related to her foreclosure. Crespo is not literate in the English language and does not speak it well. On August 24, 2019, Crespo and her daughter met with Roberto Salazar (Salazar), who worked for Abdeljawad and assisted him with Spanish-speaking clients. Crespo's daughter

attended the meeting and also assisted with translation. At the meeting, Crespo signed an "Attorney-Client Fee Agreement" (Crespo/Law Group Agreement), which identified Abdeljawad as her attorney and who was to provide "full representation" for Crespo in any interpleader action for recovery of any and all damages stemming from the foreclosure sale of her home. The agreement, written in the English language, assessed a 30 percent contingency fee on any recovery and stated that any recovered funds "shall be deposited into Attorney IOLTA TRUST ACCOUNT and will immediately be disbursed to Client, less agreed upon fees." In August 2019, Abdeljawad did not have a CTA or IOLTA account and did not have one at any point thereafter.

Salazar spoke to Crespo in Spanish but did not fully explain the Crespo/Law Group Agreement and did not provide Crespo with a Spanish language copy of the agreement. Crespo believed she agreed to a 10 percent contingency fee based on her discussion with Salazar. She also signed a "Statement of Authorization to Represent as Attorney," a form that identified the Law Group as Crespo's attorney, instructed all correspondence be sent to the Law Group, and provided the Schaefer Avenue address.

On October 3, 2019, Crespo signed a form entitled "Statement of Claim to Surplus Funds – Prior Owner Interest Holder" in order to obtain the surplus funds from the foreclosure sale of her home. The form provided the Schaefer Avenue address as Crespo's mailing address for receipt of the surplus funds.

On October 28, 2019, Abdeljawad and Crespo signed a "Stipulation for Entry of Judgment (Unlawful Detainer)" in *Neos Agora, LLC v. Bertha Crespo* (Super. Ct. Los Angeles County, No. 19CMUD01895).[19] The stipulation provided Crespo would not pay any sum of

[19] This action involved the new owner of the Crespo's home, who was evicting Crespo post foreclosure.

money to the plaintiff on her foreclosed home and would vacate the property on a set date. This stipulation was prepared by Abdeljawad in the name of his Law Group.

On November 12, 2019, the foreclosure trustee, through counsel, mailed a letter to Crespo with a $167,980.34 check enclosed. The correspondence was correctly addressed to Crespo in care of BLP at the Schaefer Avenue address. Abdeljawad received the check but did not deposit it into a CTA or IOLTA. Abdeljawad provided Crespo's check to BLP, but he did not tell Crespo he received the check. Although the check was handed off to BLP, the check was deposited into the NRS Chase account on November 13, 2019. By November 19, the balance in the NRS Chase account was overdrawn in the amount of -$886.68. Although Crespo's name was signed on the back of the check, it was not her signature.[20]

Two weeks after Abdeljawad received Crespo's check, Crespo and her daughter met again with Salazar. That same day she signed an "Assignment Agreement" with BLP (BLP Assignment). It assigned all of Crespo's rights and obligations regarding the surplus funds to BLP. The general terms and importance of the assignment itself were not explained to Crespo. The BLP Assignment did not disclose that BLP received Crespo's money weeks before. Crespo did not understand the document but signed it because her daughter told her it was "okay" to sign. Crespo testified she would not have signed the BLP Assignment if she understood that she was signing away her rights to the surplus funds. Further, Crespo did not know the difference between the Law Group and BLP. Crespo never met with or spoke to Abdeljawad until later, when she was trying to understand the status of her surplus funds. Abdeljawad testified Crespo started working with BLP to help her find new housing, as she was being evicted from her foreclosed home. However, she received no help from Abdeljawad or BLP.

[20] The endorsement on the check is written as "Bertha Crespo/National Recovery Solutions."

On July 10, 2020, almost eight months after he received Crespo's check for the surplus funds, Abdeljawad sent a letter on Law Group letterhead to Crespo and enclosed a check for $110,000. Abdeljawad stated that "[e]nclosed in this close out letter is a final check for disbursement minus fees pursuant to the Agreement that you signed," and "[t]here was a delay in getting you your final disbursement check, minus fees collected, because of unforeseen circumstances that were beyond my control – I totally apologize for that." Abdeljawad testified one factor in the delay was due to the COVID-19 pandemic.

The check Abdeljawad mailed to Crespo was drawn on the account "Joyce Arce dba Bridgepoint Legal Process," with account number ending in 1627, and was issued from Chase Bank. The memo section of the check stated, "Accord and Satisfaction." The calculation for the recovery due Crespo was incorrect and Abdeljawad had done nothing to verify its accuracy. Abdeljawad testified that he assumed BLP calculated the correct amount. Crespo deposited the check at Chase Bank, but on July 20, 2020, Chase Bank wrote Crespo a letter stating that the check was "returned to [Chase Bank] as unpaid" and enclosed a copy of the check marked "Refer to Maker." As of the trial, Crespo had not received any of the surplus funds.

After Crespo complained to the State Bar, OCTC sent an inquiry letter to Abdeljawad requesting a response to allegations of misconduct. On November 17, 2020, Abdeljawad stated in his response that the "Trustee released the sum of $167,980.34 directly to Bertha Crespo," and "it was the decision of my client to have her monies assigned to a third party."

1. Counts 21 and 22: Failure to Deposit and Misappropriation

Count 21 charged Abdeljawad's failure to deposit the $167,980.34 check received on Crespo's behalf into a CTA as a violation of rule 1.15(a). Count 22 charged misappropriation in violation of section 6106 when Abdeljawad caused the check to be routed to BLP for eventual deposit into the NRS Chase account.

Regarding count 21, the record establishes that Abdeljawad entered into a written agreement with Crespo to represent her in obtaining the excess funds from the foreclosure on her home. He received the surplus funds check in November 2019 but did not deposit the check into a CTA or an IOLTA. Instead, he provided the $167,980.34 check to NRS/BLP, and it was deposited into the NRS Chase account. As her attorney, Abdeljawad was required to deposit Crespo's funds into a CTA but did not do so. As discussed *post*, we reject the BLP Assignment as a basis for Abdeljawad's failure to deposit his client's funds. Therefore, we find, as the hearing judge did, clear and convincing evidence that Abdeljawad violated rule 1.15(a) as alleged in count 21. (*In the Matter of Song*, *supra*, 5 Cal. State Bar Ct. Rptr. at pp. 277-278; *Guzzetta v. State Bar*, *supra*, 43 Cal.3d at p. 976.)

As to count 22, we also find clear and convincing evidence to support the hearing judge's determination that Abdeljawad misappropriated Crespo's funds and his acts were intentional. As discussed *ante*, evidence of Abdeljawad's intent can be established by direct or circumstantial evidence (*Zitny v. State Bar*, *supra*, 64 Cal.2d at p. 792), and we can consider an attorney's actions in concealing his or her conduct as evidence of intentionality. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 517-518.)

Abdeljawad also argues here that a valid assignment agreement between Crespo and BLP required him to turn the funds over to BLP. Notwithstanding our concerns about the validity of the BLP Assignment, no assignment existed when Abdeljawad misappropriated Crespo's money and any later assignment was not retroactive. Abdeljawad received Crepso's check on November 12, 2019. He handed it over to NRS/BLP, and it was then deposited into the NRS Chase account the next day. Crespo's money was quickly depleted within days after the deposit. Crespo did not sign the BLP Assignment until November 26, well after Abdeljawad gave the check to NRS/BLP.

The assignment appears to be an after-the-fact attempt by Abdeljawad to avoid the consequences of his action in giving the surplus funds check to NRS/BLP.[21] Having Crespo enter into the BLP Assignment after he passed Crespo's check to NRS/BLP is evidence that Abdeljawad intentionally tried to cover up the dissipation of Crespo's money. Moreover, in his November 17, 2020 response to OCTC, Abdeljawad falsely stated the trustee released the surplus funds "directly to Bertha Crespo," referencing the check. He failed to disclose that the check was mailed to him, as requested in the October 3, 2019 claim form. Nor did he provide the check's cover letter to OCTC—Crespo did. We find this November 2020 misrepresentation about the check to OCTC to be additional evidence of intentionality. (*In the Matter of Davis, supra,* 4 Cal. State Bar Ct. Rptr. at pp. 588-589.) Thus, Abdeljawad is culpable of intentional misappropriation as alleged in count 22.

2. Counts 23, 24, and 25: Breaches of Fiduciary Duty to Crespo

In counts 23, 24, and 25 of the NDC, OCTC alleged three separate breaches of Abdeljawad's fiduciary duty to Crespo. We agree with the hearing judge that Abdeljawad is culpable on each of the three counts.

As to count 23, the NDC alleged Abdeljawad breached his fiduciary duty to Crespo by his failure to (1) provide her with a copy of the attorney agreement in a language she could read or understand; and (2) inform her about the 30 percent contingency fee. Abdeljawad was not at the initial meeting where Crespo signed the Crespo/Law Group Agreement. The record establishes that Crespo does not read or write English, she was not provided a copy of the

[21] We also find that Abdeljawad's reliance on a valid assignment in November 2019 is belied by his action in July 2020, when he sent to Crespo a letter and a purported disbursement check for $110,000.

agreement in Spanish, and Salazar did not translate the entire agreement during his meeting with her. Additionally, Crespo was told there was a 10 percent contingency fee, not a 30 percent fee.

"The attorney-client relationship is a fiduciary relationship of the very highest character imposing on the attorney a duty to communicate to the client whatever information the attorney has or may acquire in relation to the subject matter of the transaction. [Citations.]" (*Beery v. State Bar* (1987) 43 Cal. 3d 802, 813.) This duty includes fee agreements that are "fair, reasonable, and fully explained to the client." (*Alderman v. Hamilton* (1988) 205 Cal.App.3d 1033, 1037.) Abdeljawad took no care or interest in whether Crespo understood the document generally, and he did not ensure she understood the 30 percent contingency fee specifically. (*In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 208 [attorney's breach of fiduciary duty as a result of gross carelessness and negligence involves moral turpitude].)[22] Abdeljawad's carelessness is clear and convincing evidence that he breached his fiduciary duty to Crespo.

Count 24 alleged the same conduct set forth in count 22: misappropriation of the $167,980.34 by passing along the check to BLP for its eventual deposit into the NRS Chase account. As the evidence, discussed *ante*, established a culpability finding for misappropriation in count 22, this same evidence supports a culpability finding for count 24. (See *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1035 [misappropriation breaches attorney's high duty of loyalty owed to client].) However, as the hearing judge correctly stated, no additional weight in discipline will be assessed for count 24 because culpability for both counts is based on the same facts. (See *In the Matter of Sampson, supra,* 3 Cal. State Bar Ct. Rptr. at p. 127.)

[22] See also *Gold v. State Bar* (1989) 49 Cal.3d 908, 911-912 (duty to effectively communicate with client applies equally to English speaking and non-English speaking clients) and Cal. State Bar Com. Prof. Resp., formal opn. No. 1984-77 (duty of competence includes ensuring non-English speaker is able to make informed decisions).

Count 25 alleged that Abdeljawad caused Crespo to enter into the BLP Assignment for no consideration and without any agreement as to the amount that she would receive. Abdeljawad was Crespo's attorney regarding the surplus funds, and he received those funds long before the assignment agreement was presented to her. Abdeljawad, as Crespo's attorney, owed her the fiduciary duty to fully advise her about the terms and impact of the BLP Assignment and he failed to do so. Crespo further testified she would not have signed the BLP Assignment if she knew she would lose all her rights to the surplus funds. The BLP Assignment provided no value to Crespo and was completely disadvantageous to her. Only Abdeljawad and NRS/BLP gained an advantage, and he therefore put their interests before hers. (See *Sodikoff v. State Bar* (1975) 14 Cal.3d 422, 430-431 [knowingly taking advantage of fiduciary relationship violates professional ethical standards].)

3. Count 26: Misrepresentation to Crespo

Count 26 charged Abdeljawad's July 10, 2020 letter to Crespo with the check for $110,000 as a misrepresentation in violation of section 6106. Abdeljawad's letter stated, "[e]nclosed in this close out letter is a final check for disbursement minus fees pursuant to the Agreement that you signed," implying that $110,000 was all Crespo was due. However, as the record established by clear and convincing evidence, Crespo was owed at least $117,586.24 based on the $167,980.34 check sent by the trustee. Abdeljawad was entitled to, at most, a 30 percent contingency fee, which equaled $50,394.10. The check he sent was at least $7,586 short of the amount Crespo was owed.

There is no evidence to support that the check amount was a simple, unintentional calculation error. Abdeljawad did not reach out to BLP— which had shared his office— to verify if the amount was accurate. Abdeljawad simply "assumed" it was correct, but as Crespo's attorney, he had a fiduciary duty to protect her interests. (See *In the Matter of Dale* (Review

Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798, 809-810 [once attorney assumes fiduciary duty to someone, attorney required to fully protect that person's interests].) Nor does any purported assignment between BLP and Crespo explain why Abdeljawad misrepresented the amount Crespo was due. The misrepresentation is also material as the dollar amount at issue was substantial, especially for a client of limited means who had just lost her home to foreclosure. For these reasons, Abdeljawad is culpable of the misconduct alleged in count 26.

4. Count 27: Misrepresentation to OCTC

Count 27 alleged in part that, on November 17, 2020, Abdeljawad falsely stated to OCTC that the trustee "released the funds directly to Bertha Crespo" and it was her decision to "have her monies assigned to a third party," in violation of section 6106.

Abdeljawad's misrepresentations were material because the statements obfuscated what actually happened. Crespo's surplus funds check was issued in Crespo's name but was mailed to Abdeljawad, as directed by the "Statement of Authorization to Represent as Attorney" that Crespo signed. He even testified he received the check and passed it on to BLP. Therefore, his statement that the trustee "released the funds directly to Bertha Crespo" was clearly false. Additionally, his statement that it was Crespo's decision to assign the surplus funds to a third party is misleading, since he did not disclose that the BLP Assignment was signed weeks after Abdeljawad received the surplus funds check. Abdeljawad's written statements to OCTC strongly suggested that he never had the surplus funds check in his possession, which is not true.

We have previously found an attorney's letters to clients that were vague, misleading, and contained "half-truths and false statements" supported a moral turpitude finding for misrepresentation. (*In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 213.) That same analysis applies here to the statements Abdeljawad made to OCTC. (See *Grove*

v. State Bar, *supra*, 63 Cal.2d at p. 315 [no distinction between "concealment, half-truth, and false statement of fact"].)

D. Accurate Builders Matter (Counts 36-38)

Accurate Builders, LLC, (Accurate) is comprised of David Mauroni (Mauroni) as the sole manager, director, and officer with a 99 percent ownership interest. Scott Agueros (Agueros) had a one percent ownership in Accurate. Agueros was not an officer, director, or manager of the company. Accurate's sole asset was a piece of real property located at 1332 Hellings Avenue, Richmond, California (Richmond Property), which was sold in a foreclosure sale on December 13, 2018, by Golden West Foreclosure Service, Inc. (Golden West).

On March 11, 2019, NRS employee Andrew Lopez (Lopez) sent a solicitation email to Agueros about Accurate's entitlement to approximately $174,000 in surplus funds from the foreclosure sale of the Richmond Property. The last line of Lopez's signature block provided the website "www.route66law.com." Lopez stated he had been unable to reach Mauroni and that Agueros could make the claim on behalf of Accurate for the surplus funds because he had a one percent member interest in Accurate. Up until that time, Agueros did not know he was a shareholder, but assumed Mauroni designated him as such for "some reason unknown" to him.

That same day, Agueros, on behalf of Accurate, executed a "Client Contingency Fee Agreement" with NRS entitling NRS to 30 percent of the funds recovered related to the foreclosure sale of the Richmond Property (Accurate/NRS Agreement). The agreement stated that "[t]he funds shall be deposited into Attorney IOLTA TRUST ACCOUNT and will immediately be disbursed to Client, less the agreed upon fees." Agueros also signed two documents, both entitled "Statement of Authorization to Represent as Attorney." The two forms were slightly different, but both forms designated Abdeljawad as Agueros's attorney in Agueros's capacity as the "authorized officer" for Accurate. The first form instructed Golden

West to direct all communications, including checks, to NRS. The second form directed Golden West to direct all communications, including checks, to Abdeljawad at Route 66 Law. Lopez told Agueros that Abdeljawad would be handling the matter.

On May 16, 2019, Golden West filed an interpleader complaint entitled *Golden West Foreclosure Service, Inc. v. Accurate Builders, LLC, David Mauroni, and Scott Agueros, et al.* (Super. Ct. Contra Costa County, May 16, 2019, No. C19-00956) (*Golden West*). Abdeljawad took several actions on behalf of Accurate. He emailed counsel for Golden West on September 23, 2019, to schedule a "meet and confer," and copied Ahmed on the email. In that email, Abdeljawad stated, "As your office is aware, we were retained by Accurate Builders, LLC[,] in order to release excess surplus funds."

In November 2019, Abdeljawad filed in *Golden West* a Notice of Hearing and Claim for Surplus Funds (Notice and Claim) on Accurate's behalf. The Notice and Claim stated, in part, that Agueros was the authorized officer on behalf of Accurate and included several attachments: (1) a "Verification of Claim" and "Declaration of Claimant" both dated October 27, 2019, stating that Agueros was the claimant in the action and "vested owner of the remaining proceeds"; (2) an amended "Statement of Information" filed with the Secretary of State on October 9, 2019, that stated that Agueros was the manager of Accurate;[23] and (3) a log showing that the Motion to Distribute Excess Surplus Funds was electronically signed by scottagueros@gmail.com on November 5, 2019. Notwithstanding these documents, Agueros was never an authorized officer and never had any authority to bind Accurate.

[23] The original statement of information was filed with the Secretary of State years earlier in 2016. The amendment submitted by Abdeljawad to the court has an electronic signature. As discussed, *post*, new counsel was retained by Mauroni and Agueros. New counsel asked Abdeljawad several times who filed that amendment with the California Secretary of State. Abdeljawad never answered that question.

Abdeljawad sought and received a court order in *Golden West* permitting the release of $165,508.16 plus any accrued interest, to Accurate. The order stated that the funds were to be released to Agueros in care of his "attorney of record" at the Schaefer Avenue address.[24] As required by the court's order, a check in the amount of $170,086.60, made payable to "Accurate Builders[,] LLC" was issued by the Judicial Council of California. Abdeljawad received the check and provided it to NRS, which deposited it into the NRS Chase account on May 1. Abdeljawad did not inform Agueros that he received the check. The endorsement on the check has an illegible signature along with handwriting that states, "Accurate Builders, LLC/ National Recovery Solutions." Agueros did not endorse the check or authorize anyone to endorse the check. By May 8, the account balance of the NRS Chase account had decreased to -$218.36. As of the time of trial, the surplus funds had not been paid to Agueros, Mauroni, or Accurate.

In July 2020, Christopher Fields (Fields), as Mauroni's attorney, contacted Abdeljawad asking about the status of the funds and requested an accounting. Abdeljawad emailed Fields on July 16, stating, in part, that he represented Accurate and the court had released the funds to his care. Abdeljawad closed the email by stating, "[T]he four of us need to have a conversation to sort out this [missing text]." In reply, Fields asked, inter alia, who retained Abdeljawad and who filed the amended Statement of Information with the California Secretary of State. Abdeljawad did not answer that question in his multi-page letter to Fields. Abdeljawad did state that he was hired by Accurate with Agueros as its agent and that he had no affiliation with NRS. Abdeljawad also stated the "only remedy is to have these funds deposited with the Court, and allow for the judge to determine entitlement."

[24] Abdeljawad drafted the proposed order and it identified BLP as the attorney of record, which Abdeljawad testified was "a drafting error."

On July 28, 2020, Abdeljawad filed an interpleader complaint on behalf of Accurate (Accurate Interpleader). The Accurate Interpleader sought a judicial determination over the distribution of the funds; however, no evidence exists that Abdeljawad ever deposited any of the surplus funds with the superior court. Abdeljawad testified he had no direction from Accurate on how to proceed with the interpleader action since September 2020. Abdeljawad further testified that, while he had no written fee agreement with Accurate for the interpleader action, Agueros orally authorized the suit be filed against himself and Mauroni.

On November 16, 2020, Fields sent an email to Abdeljawad on behalf of Agueros (who had subsequently hired Fields as an individual), and Mauroni, as an individual, officer, and director of Accurate, demanding Accurate's file from Abdeljawad. Abdeljawad disputed that Fields could represent Mauroni and Agueros because their interests were allegedly "materially adverse to each other" and reiterated that he represented Accurate. On December 8, Fields sent a letter to Abdeljawad, stating that Abdeljawad's representation of Accurate was terminated and again requested the file. On December 16, Fields sent another letter to Abdeljawad with a Substitution of Attorney attached, signed by Agueros, stating again that Abdeljawad no longer represented Accurate and, for the third time, requested Accurate's file.

On January 5, 2021, Abdeljawad filed a motion to disqualify Fields in the Accurate Interpleader. Abdeljawad's motion claimed Fields could not represent Accurate, Mauroni, and Agueros in the same matter because of a conflict of interest and that Fields could not represent Accurate because Abdeljawad represented the entity. At the hearing on the motion, the court stated it was "having some real difficulty when the only parties have [*sic*] any claim to it are in agreement [and t]he only one keeping the case going is [Abdeljawad]." The court then "suggest[ed] strongly that the file be turned over to Mr. Fields so he can prepare a proper declaration by the parties involved and proper order for the court to sign."

Abdeljawad's disqualification motion was denied, and he thereafter filed a Petition for Writ of Mandate/Prohibition. That petition was denied two days later. After Abdeljawad lost his motion and appeal, Fields made numerous requests for the complete client file between March 19 and April 14, 2021. As of the date of trial, Abdeljawad had not provided the complete file or the surplus funds to Fields.

1. Count 36 and 37: Failure to Deposit and Misappropriation

Count 36 charged Abdeljawad with failure to deposit into a CTA the check for $170,086.60 he received for the benefit of Mauroni, Agueros, and/or Accurate, in violation of rule 1.15(a). Count 37 alleged misappropriation in violation of section 6106 when Abdeljawad caused the check to be delivered to NRS.

Culpability is clear as to count 36. The Accurate/NRS Agreement provided that the surplus funds from the *Golden West* matter would be placed into an IOLTA trust account. Abdeljawad represented Accurate in the *Golden West* matter, which included filing pleadings in the superior court to facilitate distribution of the surplus funds. Abdeljawad acknowledged Accurate was his client and the evidence in the record confirms his acknowledgement. When Abdeljawad received the surplus check payable to Accurate, he did not deposit the check into an IOLTA or a CTA, but instead provided the check to NRS, which deposited it into the NRS Chase account. This failure to deposit client funds into a CTA is a violation of rule 1.15(a).

The hearing judge's conclusion that Abdeljawad intentionally misappropriated Accurate's surplus funds, as alleged in count 37, is also supported by the record. Abdeljawad never told Agueros he received the *Golden West* check or that he turned the check over to NRS. Thereafter, when Fields contacted Abdeljawad on July 16, 2020, Abdeljawad stated, in part, that he represented Accurate and the court had released the funds to his care. However, by July 16, the funds were depleted, and he knew he did not have any portion of the $170,086.60 in his care.

His failure to inform Agueros about the receipt of the check and his false statement to Fields illustrates Abdeljawad's misappropriation was intentional. (*In the Matter of Davis*, *supra*, 4 Cal. State Bar Ct. Rptr. at pp. 588-589.)

As in the Noble matter, Abdeljawad never mentioned an assignment between Accurate and NRS. Contrary to any argument by Abdeljawad that Accurate assigned its rights to the surplus funds to NRS, the Accurate/NRS Agreement does not contain an assignment clause. Further, the Accurate/NRS Agreement provides a limit on NRS's fess to 30 percent of any recovery. This limitation signals that NRS was never entitled to all of Accurate's surplus funds.

For the same reasons discussed *ante* in count 16, any argument by Abdeljawad that the record supports a good faith belief that the Accurate's funds were assigned to NRS is rejected. Finally, the filing of an interpleader action on behalf of Accurate and the legal machinations Abdeljawad went through in order to keep Fields from substituting in as counsel of record for Accurate border on acts of desperation to avoid getting caught in his role dissipating his client's funds. Clear and convincing evidence supports culpability for intentional misappropriation under count 37.

2. Count 38: Failure to Release File

Rule 1.16(e)(1) provides, "Upon the termination of a representation for any reason . . . the lawyer promptly shall release to the client, at the request of the client, all client materials and property." Count 38 charged Abdeljawad with failure to release the Accurate file in violation of rule 1.16(e)(1). When Fields sent, on December 16, 2020, his letter to Abdeljawad with a substitution of attorney signed by Agueros, stating that Abdeljawad no longer represented Accurate and requested Accurate's file, Abdeljawad was obligated to provide the file "promptly" to Fields. The evidence is overwhelming that, despite the superior court's strong suggestion that Abdeljawad turn the file over to Fields and Fields's multiple attempts through April 2021 to

obtain Accurate's file, the file was never provided by Abdeljawad. Thus, Abdeljawad is culpable under count 38.

E. Hickman Matter (Count 42)

On September 6, 2019, Abdeljawad filed a request to renew a restraining order in *Hickman v. Bakhtiar* (Super. Ct. Riverside County, No. RID1102603) (*Hickman* matter) for his client Johnette Hickman (Hickman) against her ex-husband, Saman Bakhtiar (Bakhtiar). Prior restraining orders had been issued in 2011 and 2014. Abdeljawad did not represent Hickman in obtaining either order.

Abdeljawad planned to call Jeffery Dunn (Dunn) at the 2019 renewal hearing, as Abdeljawad believed Dunn served both the 2011 and 2014 restraining orders. At the disciplinary trial, Dunn testified that he was a registered process server who had completed over 20,000 services in his 25-year career. At the December 19, 2019 hearing, Dunn met with Hickman and Abdeljawad during a lunch break to prepare. Dunn asked if he could record the meeting, Hickman agreed, and Abdeljawad did not object.[25]

During the lunch meeting, Dunn reviewed the 2011 proof of service and confirmed he served it and the signature on the proof of service was his. However, when shown the 2014 proof of service, Dunn stated the signature was not his. Hickman then admitted she signed Dunn's name. Dunn was worried about how the forgery might affect him and his career and wanted to clarify Hickman's admission. Abdeljawad told Dunn he "was not going to entertain this" and did not appear concerned about Hickman's conduct.[26]

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[25] The audio recording and Dunn's declaration were admitted in the disciplinary trial.

[26] Dunn later told Bakhtiar and his attorney about Hickman's admission, signed a declaration prepared by Bakhtiar's attorney regarding the admission, which was submitted to the court. Hickman eventually pleaded guilty to a misdemeanor violation of Penal Code section 530.5, subdivision (a) (unauthorized use of another person's identifying information).

On April 15, 2021, an OCTC investigator sent a letter of inquiry to Abdeljawad requesting a response to allegations of his misconduct in the *Hickman* matter. On April 29, Abdeljawad submitted his response to OCTC.

In the NDC, count 42 charged Abdeljawad with making six statements in his April 2021 written response to OCTC that were misrepresentations in violation of section 6106. In essence, Abdeljawad falsely claimed that he did not know of any problems with the proofs of service and that he did not know that Hickman admitted to signing the 2014 proof of service. The hearing judge concluded that all six statements were intentional misrepresentations made by Abdeljawad, and we agree based on the record.

The hearing judge found Dunn's testimony credible about the conversation that took place on December 19, 2019. The audio recording and Dunn's declaration corroborate Dunn's testimony that he told Abdeljawad that he did not sign the 2014 proof of service. Hickman said, and Abdeljawad heard, that she signed the 2014 proof of service. Despite his knowledge of these facts, Abdeljawad made his false statements to OCTC and is therefore culpable on count 42 as charged.

III. ABDELJAWAD'S EVIDENTIARY CHALLENGES FAIL

Abdeljawad raises several arguments in his appeal where he contends that the hearing judge erred during the disciplinary trial when she made evidentiary rulings. A judge has broad discretion to admit or exclude evidence. (*In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490, 499.) An abuse of discretion only occurs when a judge has "exceeded the bounds of reason, all of the circumstances before it being considered." (*H. D. Arnaiz, Ltd. v. County of San Joaquin* (2002) 96 Cal.App.4th 1357, 1368.) In order to prevail on his claims of error, Abdeljawad must show both abuse of discretion and actual prejudice resulting from the ruling. (*In the Matter of Aulakh* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690, 695 [to

prevail on a claim of error for a procedural ruling, abuse of discretion and actual prejudice resulting from the ruling must be established]; *In the Matter of Johnson* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233, 241 [party must establish actual prejudice when asserting violation of due process].) We find no abuse of discretion in the judge's evidentiary rulings and reject his arguments as discussed below.

First, Abdeljawad asserts that the hearing judge incorrectly overruled "valid objections" he made regarding Akbari's testimony due to her "obvious bias" and "her lack of personal knowledge." Contrary to his arguments, our review of her testimony does not reveal any bias or lack of personal knowledge. Abdeljawad does not identify where in the record Akbari showed a bias,[27] and her testimony, including his brief cross-examination of her, does not reveal any bias. Further, as discussed *ante*, her most relevant testimony was regarding the handling of checks Abdeljawad received and that those checks were processed and deposited by NRS and BLP. Her detailed testimony on this point is corroborated by Abdeljawad's testimony and the NRS Chase account records.

Second, Abdeljawad contends that the hearing judged erred in admitting Dunn's recording of his meeting with Abdeljawad and Hickman. The judge found, and the record supports, that the recording was consensual: Hickman explicitly consented, and Abdeljawad did not object. His argument that the recording was "fruit of the poisonous tree" is misplaced.[28] This concept simply does not apply where there is a factual finding that Abdeljawad consented to the recording.

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[27] Rule 5.152(C) of the Rules of Procedure of the State Bar requires appellants to include references to the record in support of their positions.

[28] The legal concept underlying the exclusion of evidence based on "fruit of the poisonous tree" refers to the exclusion of evidence in a criminal trial that emanated from or is derivative of evidence illegally obtained. (*People v. McWilliams* (2023) 14 Cal.5th 429, 437.)

Next, Abdeljawad argues that the hearing judge erred by precluding Abdeljawad's wife's testimony about their household finances, Abdeljawad's job duties, and his work associates. Abdeljawad testified his wife did not work at his office and any information she had about his workplace came from him; thus, she lacked personal knowledge. While the hearing judge allowed Abdeljawad's wife to testify as a character witnesses, the hearing judge had the discretion to disallow testimony that was not based on personal knowledge. We find no abuse of discretion.

Finally, in his rebuttal brief, Abdeljawad asserts the hearing judge erred in not admitting exhibit 1028, described as an OCTC letter to another Abdeljawad complainant closing out a previous investigation. Abdeljawad's counsel began to ask questions regarding exhibit 1028, and OCTC objected based on a lack of foundation. During the course of the objection discussion, the judge stated the exhibit was confidential and not admissible. (Rules Proc. of State Bar, rule 2301.) At the close of the disciplinary trial, Abdeljawad's counsel withdrew any exhibits that were not stipulated to or previously admitted, which included exhibit 1028 as it had not been admitted. Abdeljawad's withdrawal of exhibit 1028 precludes him from arguing on review the exhibit should have been admitted. (See Rules Proc. of State Bar, rule 5.151.2 [record consists of exhibits offered or received].) Because he withdrew exhibit 1028, Abdeljawad has not shown that the judge erred.

IV. MITIGATION AND AGGRAVATION

The State Bar must establish aggravating circumstances by clear and convincing evidence. (Std. 1.5.)[29] Abdeljawad has the same burden to prove mitigation circumstances. (Std. 1.6.) [30]

A. Aggravating Circumstances

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

"Multiple acts of wrongdoing" are an aggravating circumstance. (Std. 1.5(b).) The hearing judge assigned substantial aggravating weight for Abdeljawad's multiple acts of wrongdoing. The judge came to her conclusion based on Abdeljawad's misconduct in four separate client matters over a course of two years, a prolonged period of time. These acts included misappropriation of client funds in three matters and multiple misrepresentations to clients and OCTC. Therefore, substantial weight is appropriate. (*In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555 [repeated similar acts of misconduct considered serious aggravation].)

2. Intentional Misconduct, Bad Faith, or Dishonesty (Std. 1.5(d))

"[I]ntentional misconduct, bad faith, or dishonesty" is an aggravating circumstance. (Std. 1.5(d).) The hearing judge assigned substantial weight in aggravation because Abdeljawad's misconduct was intentional and encompassed both bad faith and dishonesty. We agree and find that Abdeljawad's misconduct warrants substantial weight in aggravation under this circumstance. Abdeljawad was dishonest in his dealings with Fields, who took over representation of Accurate and Agueros. Abdeljawad was also dishonest when he caused the

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

[30] We reject Abdeljawad's argument that the hearing judge's analysis for both aggravation and mitigation was "flawed" as she did not utilize facts he found compelling. We find no error in the judge's consideration of the evidence and analysis regarding burden of proof for aggravation and mitigation, as detailed in this section.

filing of the amended Statement of Information with the Secretary of State, naming Agueros as the only manager of Accurate, despite knowing Agueros was only a one percent shareholder. (See *In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 355 [finding of aggravation under std. 1.5(d) when misrepresented facts].) These facts are in addition to and distinct from Abdeljawad's conduct resulting in culpability.

3. Refusal or Inability to Account for Entrusted Funds (Std. 1.5(i))

"[R]efusal or inability to account for entrusted funds" is an aggravating circumstance. At the disciplinary trial, Abdeljawad was unable to account for the missing funds due to his lack of control over the NRS business checking account. Further, Abdeljawad did not maintain records to track the funds, making it difficult for his clients to ascertain what happened to their money. The hearing judge assigned substantial weight based on these facts, and we agree substantial weight is appropriate here. (*Baca v. State Bar* (1990) 52 Cal.3d 294, 300 [refusal or inability to account for improper conduct involving trust funds applied as aggravating circumstance].)

4. Indifference (Std. 1.5(k))

"Indifference toward rectification or atonement for the consequences of the misconduct" is an aggravating circumstance. (Std. 1.5(k).) The hearing judge found substantial weight in aggravation due to Abdeljawad's lack of recognition of wrongdoing.

We agree that Abdeljawad's indifference warrants substantial weight in aggravation. At trial, Abdeljawad showed little insight towards his wrongdoing, characterized his actions as reasonable, and never showed any appreciation of his fiduciary duties as an attorney. Indeed, Abdeljawad claimed he did not have obligations regarding the funds, and the situations surrounding his clients were "outside of [his] control." (*In the Matter of Wolff*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 14 [aggravation appropriate where "respondent presented a tangled web of excuses" and tried to shift responsibility to others].)

5. Lack of Candor (Std. 1.5(l))

"[L]ack of candor and cooperation to the victims of the misconduct or to the State Bar during disciplinary investigations or proceedings" is an aggravating circumstance. (Std. 1.5(l).) The hearing judge assigned substantial weight in aggravation.

We agree that Abdeljawad's lack of candor warrants substantial weight because of the multiple misrepresentations he made during the trial. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 791-792 [deception to State Bar may be more serious than substantive conduct investigated].) For example, at the very beginning of his testimony, Abdeljawad testified he did not know McCollum, Arce, or Ahmed, and he denied sharing office space with NRS. However, when cross-examined about these assertions, Abdeljawad's answers were evasive, particularly when shown a photograph in which he and McCollum were seated together at an office party in the shared office space. Additionally, Abdeljawad copied Ahmed on his September 23, 2019 email to Golden West's counsel about scheduling a "meet and confer."

Abdeljawad also stated in a response to OCTC that he assisted Crespo in finding a place to live, but at trial, he testified that BLP helped Crespo find a new place to live. Crespo credibly testified she received no assistance from Abdeljawad or BLP in relocating after her foreclosure. Crespo testified that she had to find a new place to live through her connections at a senior center. He also testified that in November 2019 the pandemic delayed his response to Crespo. November 2019 was months before the pandemic substantially affected the United States in March 2020.

Although the court recognizes there is a "clear distinction between credibility and candor," Abdeljawad's testimony was consistently not believable due to the substantial amount

of conflicting and contradictory evidence in the record. (*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 282.)

6. Significant Harm and Vulnerable Victim (Std. 1.5(j), (n))

"[H]igh level of vulnerability of the victim" and "significant harm to the client, the public, or administration of justice" are aggravating circumstances. (Std. 1.5(j), (n).) The hearing judge found substantial weight in aggravation for these circumstances combined. We agree that Abdeljawad's significant harm to several clients and Crespo's vulnerability warrant substantial weight in aggravation, but we view each circumstance as separate and not combined.

Most relevant to assigning substantial weight for significant harm, Noble, Crespo, and Accurate each lost large sums of money due to Abdeljawad's misconduct. Beyond the loss of money, Noble has tried to recover her funds for over three years and had to hire another attorney to assist her. Like Noble, Agueros and Mauroni had to hire Fields to assist them in obtaining the funds to which they were entitled. (See *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126 [significant harm where client hired new attorney, incurred fees, and suffered for three years due to attorney's misconduct].)

As for Crespo, a native Spanish speaker with little to no ability to read the English language, she relied on Abdeljawad for his guidance and legal expertise during a traumatic time in her life, making her particularly vulnerable. (See *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 959-960 [client with limited ability to speak or read the English language considered vulnerable].)

B. Mitigating Circumstances

1. Good Faith Belief (Std. 1.6(b))

A "good faith belief that is honestly believed and objectively reasonable" is a mitigating circumstance. (Std. 1.6(b).) The hearing judge did not find mitigation for a good faith belief, but

Abdeljawad asserts on review that he had a good faith belief pertaining to his understanding of assignment agreements related to Noble, Crespo, and Accurate.

We do not find that Abdeljawad had a good faith belief pertaining to the assignment agreements. As discussed *ante*, no assignment agreements exist in the Noble and Accurate matters and the assignment agreement for Crespo was signed almost two weeks after Abdeljawad already forwarded her check to BLP. Therefore, as the hearing judge found, we find Abdeljawad did not have a good faith belief, and we find no mitigation is warranted under this circumstance. (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 653 [attorney must prove beliefs were honestly held and reasonable to qualify for good faith mitigation].)

2. Cooperation (Std. 1.6(e))

"Spontaneous candor and cooperation displayed to the victims of the misconduct or the State Bar" is a mitigating circumstance. (Std. 1.6(e).) The hearing judge assigned limited weight in mitigation based on the easily provable facts in the Stipulation. Abdeljawad asserts "great weight" should be assigned based on his 16-page Stipulation.

We agree with the hearing judge that the Stipulation warrants limited weight in mitigation. Here, the stipulation contained easily provable facts and did not alleviate significant court resources as the trial lasted five days. A large portion of the Stipulation was simply direct quotes from emails, letters, and court filings. His citation to *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, in arguing for substantial weight, is not persuasive. In *Downey*, the attorney received "limited weight" for entering into a "fairly comprehensive" stipulation of facts that "were not difficult to prove." Therefore, the same limited weight is warranted here.

3. Good Character (Std. 1.6(f))

"[E]xtraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct" is a mitigating circumstance. (Std. 1.6(f)). Abdeljawad presented seven character witnesses at trial, including four clients, his wife, his brother-in-law, and an attorney. They attested to Abdeljawad's honesty and character. The clients described him as professional, knowledgeable, courteous, and reliable. The hearing judge assigned limited weight in mitigation because several witnesses were not familiar with the details of the alleged misconduct. Abdeljawad asserts significant weight should be assigned because the witnesses were sent a correct copy of the NDC, containing all the allegations against him.

Abdeljawad presented a wide range of character references. However, only two of them appeared to be aware of the full nature of the alleged misconduct. Accordingly, he has not established that he is entitled to more weight under this standard. (See *In re Aquino* (1989) 49 Cal.3d 1122, 1130-1131 [testimony of witnesses unfamiliar with details of misconduct not significant in determining mitigation].) Therefore, we affirm the hearing judge's finding of limited weight for Abdeljawad's good character evidence.

4. Remorse and Recognition of Wrongdoing (Std. 1.6(g))

"[P]rompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement" is a mitigating circumstance. (Std. 1.6(g).) The hearing judge did not find mitigation for remorse, but Abdeljawad asserts on review that mitigation should be found based on his remorse expressed during trial.

We do not find that Abdeljawad demonstrated remorse and recognition of wrongdoing. Abdeljawad did state he "feel[s] bad for [his client's] situation[s]." However, our review of the record indicates that Abdeljawad has not accepted any responsibility or expressed real and

sincere remorse for his actions. Abdeljawad testified he had "no control over the situation," which is refuted by the body of evidence showing his relationship with NRS and BLP. His testimony contained more excuses than empathy. Therefore, no mitigation is warranted under this standard.

V. DISCIPLINE

A. Applicable Disciplinary Standard to Apply

We begin our disciplinary analysis by acknowledging that our role is not to punish Abdeljawad but to recommend professional discipline. (*In re Brown* (1995) 12 Cal.4th 205, 217 [aim of attorney discipline is not punishment or retribution; it is imposed to protect the public, to promote confidence in the legal system, and to maintain high professional standards]; std. 1.1.) In determining the appropriate discipline, we follow the standards whenever possible and balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to ensure the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266, 267, fn. 11.)

Our discipline analysis begins by identifying which standard presents the most severe sanction for the misconduct. (Std. 1.7(a) [most severe sanction must be imposed where multiple sanctions apply].) In determining an appropriate level of discipline, we also weigh circumstances in aggravation and mitigation. (Std. 1.7(b), (c).) Finally, we look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

Abdeljawad's conduct involved three instances of intentional misappropriation of client funds in the Noble, Crespo, and Accurate matters. Those are the most serious acts of

misconduct. Standard 2.1(a) and its presumed sanction of disbarment applies to this case as it involves "intentional or dishonest misappropriation."[31]

B. Disbarment is the Appropriate Discipline to Recommend

The record supports the hearing judge's analysis and the conclusion that Abdeljawad's disbarment is warranted. Misappropriation of funds "breaches the high duty of loyalty owed to the client, violates basic notions of honesty, and endangers public confidence in the profession. [Citations.]" (*Kelly v. State Bar, supra,* 45 Cal.3d 649, 656.) It is grave misconduct for which disbarment is the usual discipline. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38 ["An attorney who deliberately takes a client's funds, intending to keep them permanently, and answers the client's inquiries with lies and evasions, is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception"].) "Even a single 'first-time' act of misappropriation has warranted such stern treatment." (*Kelly v. State Bar*, *supra*, 45 Cal.3d at p. 657.) Here, Abdeljawad committed three acts of intentional misappropriation. Based on these acts alone, disbarment is appropriate based on standard 2.1(a) and is supported by case law. (See, e.g., *In the Matter of Spaith*, *supra*, 3 Cal. State Bar. Ct. Rptr. 511 [disbarment for intentional misappropriation of nearly $40,000 in single client matter]; *In the Matter of Blum* (Review Dept. 2002) 3 Cal. State Bar Ct. Rptr. 170 [disbarment for intentional misappropriation of $55,000 where attorney removed funds from trust account].)

[31] Under standard 2.1(a), actual suspension is appropriate where the "amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate." The applicable disciplinary standard for a violation of section 6068, subdivision (a), is 2.12(a), which provides for disbarment or actual suspension. Similarly, the disciplinary standard for misrepresentation is 2.11, which also provides for disbarment or actual suspension. Finally, the disciplinary standard for violations of the Rules of Professional Conduct is 2.19, which provides for reproval or suspension not to exceed three years.

We also consider whether any reason exists to depart from the discipline in standard 2.1(a). We acknowledge that disbarment is not mandatory in every case of attorney misappropriation. (See, e.g., *Edwards v. State Bar*, *supra*, 52 Cal.3d 28 [12 years' discipline-free practice, no acts of deceit, full repayment made before aware of complaint to State Bar resulting in one-year actual suspension]; *Howard v. State Bar* (1990) 51 Cal.3d 215 ["relatively small sum" of $1,300 misappropriated and rehabilitation from alcoholism and drug dependency; six-month actual suspension].) However, if we deviate from recommending disbarment, we must articulate clear reasons for doing so. (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5 [clear reasons required for departure from standards].) Here, we find no reasons to deviate from the presumed sanction of disbarment.

We see nothing in the record that illustrates Abdeljawad has learned from his misconduct and would not engage in such misconduct again. To the contrary, the evidence shows the opposite. The egregiousness of Abdeljawad's misappropriation in three client matters, totaling well over $1.7 million, is compounded by his breaches of fiduciary duty to Noble and Crespo. He also made misrepresentations to them and later to OCTC when it investigated those matters. He also made multiple misrepresentations to OCTC in the Hickman matter as well. Finally, Abdeljawad's multiple circumstances in aggravation greatly outweigh his two circumstances in mitigation. We are particularly troubled by the lack of candor he demonstrated during his disciplinary trial and that he shows little remorse for how his actions have harmed his clients, particularly a vulnerable client such as Crespo. Disbarment, in light of the misconduct proven in this case, is clearly warranted.

VI. RECOMMENDATIONS

We recommend Eyad Yaser Abdeljawad, State Bar Number 308427, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys. We further recommend that he be ordered to comply with California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date the Supreme Court order imposing discipline in this matter is filed.[32] (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [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].)

VII. MONETARY SANCTIONS

The hearing judge imposed $5,000 in monetary sanctions in this matter. (Rules Proc. of State Bar, rule 5.137.) We have examined the totality of the facts and circumstances in this matter and found culpability in 17 of the charged counts, including intentional misappropriation of significant sums of money and other acts of moral turpitude. We conclude that no basis exists in the record to deviate from the presumed maximum monetary sanction of $5,000 under rule 5.137(E)(2) of the Rules of Procedure of the State Bar. Therefore, we further recommend that Eyad Yaser Abdeljawad be ordered to pay monetary sanctions to the State Bar of California Client Security Fund in the amount of $5,000 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means

[32] Abdeljawad 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, 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).)

permitted by law. Monetary sanctions must be paid in full as a condition of reinstatement or return to active status unless time for payment is extended pursuant to rule 5.137 of the Rules of Procedure of the State Bar.

VIII. RESTITUTION

We also recommend that Eyad Yaser Abdeljawad make restitution (and furnish satisfactory proof of such restitution to the Office of Probation) to the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court (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). Reimbursement to the Fund is enforceable as a money judgment and may be collected by the State Bar through any means permitted by law:

1. Lisa Noble, as administrator of the estate of Daniel Strange, in the amount of $700,929.10 plus 10 percent interest per year from July 25, 2019;

2. Bertha Crespo in the amount of $117,586.24 plus 10 percent interest per year from November 13, 2019; and

3. Accurate Builders c/o David Mauroni and Scott Agueros in the amount of $170,086.60 plus 10 percent interest per year from May 1, 2020.

IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an

attorney who is actually suspended or disbarred must be paid as a condition of applying for reinstatement or return to active status.

X. INVOLUNTARY INACTIVE ENROLLMENT

The hearing judge's order that Eyad Yaser Abdeljawad be transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4) effective September 9, 2022, will remain in effect pending the consideration and decision of the Supreme Court, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

McGILL, J.

WE CONCUR:

HONN, P. J.

RIBAS, J.