FILED MAY 10, 2013

PUBLIC MATTER – DESIGNATED FOR PUBLICATION

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 11-O-11436
	)	
JOHN YOUNG SONG,	)	OPINION AND ORDER
	)	
A Member of the State Bar, No. 176292.	)	
	)	

John Young Song intentionally misappropriated $112,293 from a client by making at least 65 unauthorized withdrawals from his client trust account (CTA) over a three-year period. At trial, Song testified that he took the money as payment for post-judgment work on his client's case and as a loan to support his elderly parents.

The hearing judge found Song culpable of two counts of misconduct: (1) failure to maintain client funds in trust; and (2) moral turpitude due to misappropriation. The hearing judge further found that Song's case was aggravated by two factors (multiple acts of misconduct and lack of remorse/insight), and mitigated by five factors (no prior discipline, cooperation, good character, community/pro bono service, and payment of restitution).

A misappropriation case of this amount and duration generally calls for disbarment under standard 2.2(a)[1] unless "the most compelling mitigating circumstances clearly predominate." The hearing judge concluded the mitigation was not compelling, and recommended that Song be disbarred.

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

Song seeks review. He argues that disbarment is excessive because he presented compelling mitigation and his conduct was aberrational. The Office of the Chief Trial Counsel (State Bar) supports the hearing judge's disbarment recommendation. The issue before us is whether Song's mitigation is compelling enough to warrant deviation from the discipline recommended under standard 2.2(a).

We have independently reviewed the record (Cal. Rules of Court, rule 9.12), the standards, and the relevant case law. We adopt the hearing judge's findings except for one factor in mitigation – payment of restitution. While Song's remaining four mitigating factors are substantial, they are not compelling nor do they predominate over his serious misconduct and the aggravating factors. Like the hearing judge, we recommend standard 2.2(a)'s presumptive discipline of disbarment to protect the public and the courts, and to maintain high standards for the legal profession.

I. FACTUAL AND PROCEDURAL BACKGROUND[2]

In June 2001, Song filed a complaint in superior court on behalf of Son Young Lee, a long-time family friend. Lee sought $130,000 from defendants Richard and Grace Kim (*Lee v. Kim*) as payment on a promissory note. Song's initial fee agreement provided that Lee would pay him $150 per hour for legal services, plus a $4,000 non-refundable "retainer fee." Under the agreement, Song was entitled to place a lien for unpaid legal fees on any causes of action. Lee regularly paid the hourly fees for over a year, but stopped in August 2002 because they became onerous.

On November, 19, 2002, Lee and Song entered into a new fee agreement that changed Lee's payment from an hourly fee to a contingency fee. This agreement provided that Song would receive 15% of any judgment. Further, he would reimburse Lee for advanced costs up to

[2] Our factual background is based on the hearing judge's findings, Song's pretrial Stipulation as to Facts, and the trial evidence. (Rules Proc. of State Bar, rule 5.155(A) [hearing judge's factual findings entitled to great weight on review].)

$10,000 if more than $19,500 in attorney fees were awarded. No provision for post-judgment legal services or appellate work was included, but Song was authorized to place a lien for his fees and advanced costs on "any sums received." Neither of Song's fee agreements advised Lee to seek the advice of independent counsel about the attorney's liens.

On November 27, 2002, the jury in *Lee v. Kim* awarded Lee $130,000, plus post-judgment interest. Song performed additional legal services when the Kims subsequently appealed and filed for bankruptcy. In August 2004, the bankruptcy court discharged Lee's judgment. Yet, on September 30, 2005, Song unexpectedly received a $145,528.77 check ($130,000 judgment plus post-judgment interest) from the Kims' title insurance company that was payable to Song on behalf of Lee. Song deposited the check into his CTA and was required to maintain $133,699 as Lee's share of the proceeds.[3]

From 2005 to 2007, Song and his office staff tried unsuccessfully to contact Lee. In 2005, Song sent three letters requesting a response. The letters were not returned and Lee did not respond. Song also telephoned Lee five times but did not reach her. Thereafter, he instructed his staff to continue trying to contact Lee, and followed up a few times during 2006 and 2007, to no avail. Song believed Lee would eventually contact him.

Song held Lee's funds in his CTA for nearly two years. But in early March 2007, he began to routinely withdraw money from the account. Song made at least 65 unauthorized withdrawals from 2007 to 2010, in amounts ranging from approximately $1,000 to $15,000. By August 12, 2010, when he made the last withdrawal, the CTA balance dropped to $21,406, which was $112,293 less than he should have maintained for Lee.

Song admitted he took Lee's money from his CTA but extensively explained his reasoning. He claimed he was entitled to charge $23,128 against Lee's funds for his post-

[3] This amount is calculated under the contingency fee agreement as follows: $145,528 less $21,829 as Song's 15% contingency fee, plus $10,000 as reimbursement to Lee for costs.

judgment legal fees incurred in opposing the Kims' bankruptcy and appeal. He further claimed he withdrew the remaining funds as temporary loans to support his elderly parents, who had health and financial problems. Song emphasized that as the first-born son of immigrants, he felt tremendous cultural pressure to care for his parents without help from other family members – a concept known as the "filial son." In his written response to the Notice of Disciplinary Charges (NDC), Song asserted that "circumstances beyond his control caused him to appropriate portions thereof [from his CTA] from time to time." At trial, he testified that he did not "misappropriate" any money since he "fully intended to pay it back," and contended that Lee "would have consented" to lend it to him.

Lee did not appear at Song's discipline trial. Instead, Song testified that Lee became aware sometime in 2010 "through the grapevine" of her close-knit community that he had received the judgment in *Lee v. Kim*. Lee hired a new attorney who contacted Song about payment. In response, Song convened a family meeting seeking money to repay Lee. When he failed to timely pay her, she filed a civil lawsuit against him on September 8, 2010, based on his failure to pay the Kim settlement proceeds to her at an earlier date. The next day, Song's parents gave him their entire retirement savings of $139,500, which he deposited into his CTA.[4] On September 27, 2010, Song sent Lee a check for $133,699.

Two months later, the State Bar notified Song of its investigation. In April, 2011, Song paid Lee $80,000 to settle the civil lawsuit. The State Bar filed the NDC on March 21, 2012.

II. CULPABILITY

A. COUNT ONE: FAILURE TO MAINTAIN CLIENT FUNDS IN TRUST (RULES PROF. CONDUCT, RULE 4-100(A))[5]

[4] Song's father, a minister for 47 years, testified by written declaration. He was aware that his son felt cultural pressure to financially support and care for him and his wife, particularly when illness and home foreclosure struck in 2007. Even so, he stated: "My wife and I never could have imagined that [Song] was using some of the moneys in his trust account to assist us. Had we known, we would have stopped it immediately."

[5] All further references to rules are to this source unless otherwise noted.

Rule 4-100(A) requires that "funds received or held for the benefit of clients" shall be deposited in a CTA. Under this non-delegable duty, an attorney must maintain these client funds in trust until outstanding balances are settled. (*In the Matter of Bleecker* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113, 123.) Song admitted he took Lee's funds from his CTA for personal use, and that the account balance repeatedly fell below the amount he should have held for her. Song therefore violated rule 4-100(A).

B. COUNT TWO: MORAL TURPITUDE – MISAPPROPRIATION OF CLIENT FUNDS (BUS. & PROF. CODE, § 6106)[6]

Section 6106 prohibits an attorney from engaging in any act involving moral turpitude, dishonesty, or corruption. "There is no doubt that the wilful misappropriation of a client's funds involves moral turpitude. [Citations.]" (*Bate v. State Bar* (1983) 34 Cal.3d 920, 923.) Where, as here, an attorney knowingly converts client funds for his or her own purpose, the attorney clearly violates section 6106. (*Jackson v. State Bar* (1975) 15 Cal.3d 372, 382.)

Song conceded he took Lee's money from his CTA, but presents two defenses to the misappropriation charge. First, he claims he was entitled to $23,128 to pay for his post-judgment legal services. This defense lacks merit. The contingency fee agreement did not provide for compensation for these services, and Lee did not otherwise agree to pay it. In the absence of client consent, an attorney may not unilaterally withhold entrusted funds even though he may be entitled to reimbursement. (*Most v. State Bar* (1967) 67 Cal.2d 589, 597.)

Next, Song argues that his withdrawals were merely temporary loans to help him support his parents. He testified that Lee, as a close family friend, would have agreed to, and in fact later ratified, these so-called loans. Song claims Lee told him she "would have consented had [he] asked." His argument has no merit in the context of attorney discipline. As a fiduciary, an attorney may not borrow client funds without first satisfying the requirements of rule 3-300, one

[6] All further references to sections are to this source unless otherwise noted.

of which is client consent.[7] Song never obtained Lee's consent to withdraw the money as loans or for any other reason. We find that Song misappropriated Lee's entrusted funds in violation of section 6106. (*McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1033 [withdrawing funds from CTA without authority is clear and convincing proof of § 6106 violation].)[8]

III. AGGRAVATION AND MITIGATION

The offering party bears the burden of proof for aggravation and mitigation. The State Bar must establish aggravating circumstances by clear and convincing evidence. (Std. 1.2(b).)[9] Song has the same burden to prove mitigating circumstances. (Std. 1.2(e).)

A. TWO FACTORS IN AGGRAVATION

The hearing judge found two aggravating factors: (1) multiple acts of misconduct (std. 1.2(b)(ii)); and (2) lack of insight and remorse. (Std. 1.2(b)(v).) We agree.

[7] Rule 3-300 requires attorneys securing loans from clients to: (1) adhere to terms that are fair and reasonable and fully disclosed in writing to the client; (2) advise in writing that the client may seek the advice of an independent lawyer and give the client a reasonable opportunity to seek that advice; and (3) obtain the client's written consent to the loan terms.

[8] For discipline purposes, we consider Song's culpability for this count only since the misconduct underlying both counts is the same – misappropriation of Lee's funds.

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

1. Multiple Acts of Misconduct (Std. 1.2(b)(ii))

Song asserts that the hearing judge erred in assigning aggravation for this factor because he was charged with and found culpable of only one count of moral turpitude for misappropriating funds. His argument is misplaced because multiple acts of misconduct as aggravation are not limited to the counts pleaded. (*In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555.) Here, we view Song's 65 improper CTA withdrawals as multiple acts of misconduct that constitute significant aggravation. (*In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594 [multiple acts in aggravation for one count of moral turpitude where attorney made 11 misrepresentations over two years].)

2. Lack of Insight and Remorse (Std. 1.2(b)(v))

Lack of remorse and failure to acknowledge wrongdoing are aggravating factors in attorney discipline cases. (*Weber v. State Bar* (1988) 47 Cal.3d 492, 506.) Although Song acknowledged his misconduct and expressed regret for the misappropriation at *oral argument*, the record below provides clear and convincing evidence that he lacks insight and remorse.

Song testified at the hearing below: "I did not misappropriate. I fully had intentions of giving back the money. I never – and also it wasn't, I believe, volitional. I had felt tremendous pressure. It wasn't a voluntary deed in the common sense." At trial, Song vowed not to repeat his "stupid" and "naïve" mistakes, but on review, he argues that misappropriating his client's entrusted funds was not willful or volitional. The hearing judge properly concluded that Song lacked remorse and insight: "Throughout this proceeding [Song] has denied culpability for any wrongdoing and has argued the reasonableness of his conduct. In the face of those actions, his occasional utterances at trial that he feels remorse for his actions are not particularly persuasive." We assign the most significant aggravating weight to this factor because Song's lack of insight makes him an ongoing danger to the public. (See *In the Matter of Spaith* (Review Dept. 1996) 3

Cal. State Bar Ct. Rptr. 511, 519 [justifying use of CTA funds for office expenses based on intent to repay raises "concern as to whether respondent has recognized the extent of his wrongdoing, and cast[s] a shadow on his other evidence of remorse"].)

B. FOUR FACTORS IN MITIGATION

Song introduced evidence of six factors in mitigation: (1) no prior discipline record; (2) candor and cooperation; (3) restitution as remorse/recognition of wrongdoing; (4) good character; (5) community service and pro bono work; and (6) extreme emotional difficulties. The hearing judge afforded mitigation credit for the first five factors but gave no credit for extreme emotional difficulties. As detailed below, we assign varying degrees of credit to four factors (no discipline record, cooperation, good character, and pro bono/community service) and no credit to two factors (payment of restitution as remorse and extreme emotional difficulties).

1. Limited Credit for Lack of Prior Discipline Record (Std. 1.2(e)(i))

Song was admitted to the Bar in June 1995 and practiced law for 12 years before he began to misappropriate Lee's funds. The hearing judge reduced the weight of this factor because Song's misconduct was serious and spanned three years. Song asserts that the hearing judge erred and urges us to assign full mitigation credit. We agree with the hearing judge.

Standard 1.2(e)(i) provides for mitigation in the absence of discipline over many years and where the present misconduct is not serious. However, where the misconduct is serious, the Supreme Court in *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029, explained that a prior record of discipline-free practice is most relevant for mitigation where the misconduct is aberrational and unlikely to recur. Here, Song conducted himself dishonestly for three years. The 65 unauthorized withdrawals he made from his CTA do not reflect aberrational misconduct. And, as we discussed, he has shown a lack of insight by offering ill-founded explanations for his misappropriations. Consequently, we are not persuaded by Song's 12-year record of discipline-

free practice that he will avoid future misconduct. The hearing judge properly assigned limited weight to this factor.

2. Credit for Cooperation (Std. 1.2(e)(v))

Song stipulated to facts that established his culpability and facilitated the trial. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability and facts].) He is entitled to mitigating credit for his cooperation.

3. Limited Credit for Good Character (Std. 1.2(e)(vi))

Standard 1.2(e)(vi) provides for mitigation for "an extraordinary demonstration of good character . . . attested to by a wide range of references in the legal and general communities and who are aware of the full extent of the member's misconduct." Song presented two witnesses and numerous declarations in support of his good character. His father, his brother (a public interest attorney), medical professionals, businessmen, several attorneys, and a retired judge uniformly praised Song as hard-working, competent, generous, honest, and trustworthy. Yet many witnesses believed that the charges against Song were due to a mistake, an accounting problem, or a misunderstanding. Moreover, some did not know that Song had stipulated to facts establishing his misconduct. (*In re Aquino* (1989) 49 Cal.3d 1122, 1130-1131 [seven witnesses and 20 support letters not significant mitigation because witnesses unfamiliar with details of misconduct].) Although Song proved his good character from the relevant communities, he failed to establish that his witnesses knew the full extent of his misconduct. We therefore assign limited weight to Song's good character evidence.

4. Significant Credit for Community Service and Pro Bono Work

Song's community service and pro bono work are mitigating factors. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) Beginning at age nine, he served as an interpreter for the parishioners in his father's church. Before becoming an attorney, he provided translation for

Korean immigrants and traveled to Mexico to build homes and provide shoes to the poor. After graduating from law school, he founded the Korean American Coalition in Orange County and served as its president for three years. In 1996, he received the "Chung Sol Award" for his outstanding community service. Song has handled several pro bono cases and testified that he has "never forsaken a client due to money." He described his deeply held commitment to these causes, which was corroborated by some of his witnesses. We find that Song's commendable service to his community properly merits significant mitigation.

5. No Credit for Remorse/Recognition of Wrongdoing or Payment of Restitution (Std. 1.2(e)(vii))

The hearing judge assigned some mitigation credit for Song's restitution payment to Lee before the State Bar began its investigation. But this repayment was not spontaneous. Rather, Song waited until Lee reappeared with her attorney, demanded payment, and ultimately filed a lawsuit against him. "Restitution paid under the threat or force of disciplinary, civil or criminal proceedings is not properly considered to have any mitigating effect. [Citations.]" (*Hitchcock v. State Bar* (1989) 48 Cal.3d 690, 709.) We assign no mitigation credit for Song's repayment to Lee.[10]

6. No Credit for Extreme Emotional Difficulties (Std. 1.2(e)(iv))

To receive mitigation under this standard, an attorney: (1) must prove that he or she suffered from extreme emotional difficulties at the time of the professional misconduct, (2) which an expert establishes were directly responsible for the misconduct, and (3) he or she no longer suffers from such difficulties. Song established the first requirement – he has suffered from anxiety and depression for years. However, he failed to prove the other two requirements – that these difficulties were responsible for his misconduct and that he is fully rehabilitated from his problems.

[10] We also reject Song's request for mitigation for hiring an accountant to better manage his CTA because it does not address his intentional misappropriation of client funds.

Song testified that he has taken antidepressants and undergone therapy for at least ten years to treat his inferiority complex resulting from stringent cultural expectations of him. Song believed that his emotional difficulties caused a deep depression which, along with financial pressures, clouded his judgment. He testified that his misconduct would not recur because medication and therapy have alleviated his depression, his finances have stabilized, and his father has released him from his "filial son" obligations.

Song also presented the declarations of two treatment providers. Dr. Oliver Nguyen, his long-time friend and treating physician, has prescribed medication for his anxiety and depression since 2005. Dr. Elizabeth Kim, a psychologist and family friend, has counseled Song since the late 1990s for anxiety and stress related to "unimaginable" cultural pressure to succeed and provide for his family. Song's brother corroborated Dr. Kim's assessment of family pressures.

We commend Song's progress and commitment to ongoing therapy but find that this record falls short of establishing that his emotional difficulties caused the misconduct. (See *In re Naney* (1990) 51 Cal.3d 186, 197 [emotional distress from marital difficulties and similar problems not mitigating unless directly responsible for misconduct].) First, Dr. Nguyen did not believe Song had committed any wrongdoing since he thought the State Bar charges were "the result of a misunderstanding." Second, neither expert opined that Song's emotional problems actually caused him to misappropriate client funds. (*Ibid.* [expert testimony that stress may cause impaired judgment and distortion of values fell short of establishing that attorney's marital problems caused misappropriations].)

Further, Song failed to prove he is fully rehabilitated from his emotional difficulties. His experts did not provide specifics about future prognosis or his stage of recovery. Dr. Nguyen stated: "Recently, Mr. Song is doing much better with controlling his blood pressure, anxiety, and depression . . . Mr. Song's conditions continue to improve and I believe he is making good progress." Dr. Kim acknowledged: "Mr. Song has made great progress in reigning in his

depression, stress and feelings of hopelessness. I am confident that Mr. Song will continue to progress positively in coping with the stressors in his life." These generalized appraisals do not prove by clear and convincing evidence that Song no longer suffers from emotional problems. (See *In re Lamb* (1989) 49 Cal.3d 239, 246 [proof of complete, sustained recovery and rehabilitation must be established to qualify for mitigation credit for emotional problems].) We assign no mitigating weight to Song's emotional difficulties.

IV. LEVEL OF DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts and the legal profession, to preserve public confidence in the profession, and to maintain high professional standards for attorneys. (Std. 1.3.) Our analysis begins with the standards, which the Supreme Court has instructed us to follow "whenever possible" (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11) to promote consistency. (*In re Silverton* (2005) 36 Cal.4th 81, 91.) Standard 2.2(a) applies here because it is the most severe, and deals specifically with misappropriations.[11]

Under standard 2.2(a), an attorney who misappropriates entrusted funds should be disbarred unless "the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate . . . ." This standard "correctly recognizes that willful misappropriation is grave misconduct for which disbarment is the usual form of discipline." (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38; see *Grim v. State Bar* (1991) 53 Cal.3d 21, 29 [misappropriation is grievous breach of professional ethics violating basic notions of honesty]; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221 [willful misappropriation of client funds is theft].) Song bears a heavy burden to overcome the standard's disbarment presumption. In evaluating whether an attorney has proved compelling

[11] The other applicable standard, 2.3, calls for disbarment or suspension for acts of moral turpitude, depending on the extent to which the victim is harmed or misled, the magnitude of the misconduct, and the degree to which the misconduct relates to the practice of law.

mitigation that clearly predominates, we carefully consider the particular set of facts and circumstances before us on a case-by-case basis, weighing all aggravating and mitigating factors. (*In re Young, supra,* 49 Cal.3d at p. 266.)

Song misappropriated $112,293, a significant sum, over three years. Without question, the amount and length of time place his misconduct on the most serious end of the discipline spectrum for misappropriation. This is not a case of a single careless mistake. Song deliberately took substantial funds for his personal use with full knowledge that they belonged to his client. In essence, he treated his CTA as an open-ended line of credit, justifying his withdrawals because he needed money for personal matters. Song's 65 misappropriations in three years do not constitute aberrational misconduct. (*Hitchcock v. State Bar, supra,* 48 Cal.3d at p. 709 [multiple acts of misappropriation over two-year period not isolated incident]; *Kelly v. State Bar* (1988) 45 Cal.3d 649, 657 [taking $20,000 in client funds over five months not isolated act].)

We acknowledge that Song presented substantial mitigation through his extensive community and pro bono service, cooperation with the State Bar, good character, and 12-year discipline-free record. Even so, he did not prove two important rehabilitative factors in mitigation – recognition of wrongdoing and full recovery from the emotional problems he claims led to his wrongdoing. Thus, we have concerns that future personal struggles could trigger similar serious misconduct. (*Kaplan v. State Bar* (1991) 52 Cal.3d 1067, 1073 ["Without assurance that Kaplan's emotional problems are solved, we must be concerned that routine marital stresses or medical emergencies in the future will trigger similar behavior"]; *Grim v. State Bar, supra,* 53 Cal.3d at p. 31 ["It is precisely when the attorney's need or desire for funds is greatest that the need for the public protection afforded by the rule prohibiting misappropriation is greatest"].)

In the final analysis, Song's overall mitigation is not "the most compelling," nor does it "clearly predominate" when weighed against his egregious wrongdoing and the aggravating

factors. (Std. 2.2(a).) Unfortunately, Song chose to honor financial obligations to his family at the expense of the duties he owed to his client. Many attorneys experience financial and emotional difficulties comparable to Song's. "While these stresses are never easy, we must expect attorneys to cope with them without engaging in dishonest activities as did respondent." (*In the Matter of Spaith*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 522.) "Misappropriation of a client's funds simply cannot be excused or substantially mitigated because of an attorney's needs, no matter how compelling." (*Hitchcock v. State Bar*, *supra*, 48 Cal.3d at p. 709.) The severe sanction of disbarment is warranted here and is consistent with relevant case law.[12]

V. RECOMMENDATION AND ORDER

We recommend that John Young Song be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys admitted to practice in this state.

We recommend that Song 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 effective date of the Supreme Court order in this matter.

We recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable as provided in Business and Professions Code section 6140.7 and as a money judgment.

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[12] See generally, *Grim v. State Bar*, *supra*, 53 Cal.3d 21 (disbarred for misappropriating $5,546, despite good character and cooperation); *Gordon v. State Bar* (1982) 31 Cal.3d 748 (disbarred for misappropriating over $27,000, despite 13 years of discipline-free practice, financial difficulties, emotional difficulties due to divorce, remorse, and lack of harm); *In the Matter of Spaith*, *supra*, 3 Cal. State Bar Ct. Rptr. 511 (disbarred for misappropriating $40,000, aggravated by client harm and uncharged misconduct, despite 15 years of discipline-free practice, emotional problems, restitution, remorse, good character, community service, cooperation by stipulating to culpability and community service).

The hearing department ordered Song involuntarily enrolled as an inactive member of the State Bar as required by section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D). The involuntary inactive enrollment became effective on August 14, 2012, and Song has remained on involuntary inactive enrollment since that time and will remain on involuntary inactive enrollment pending the final disposition of this proceeding.

PURCELL, J.

WE CONCUR:

REMKE, P. J.

EPSTEIN, J.