PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

Filed February 7, 2013

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case Nos. 10-O-10777; 11-O-14894
	)	
KARL WERNER SCHOTH,	)	OPINION AND ORDER
	)	
A Member of the State Bar, No. 113572.	)	
	)	

Respondent Karl Werner Schoth practiced law in California for over 25 years without incident until a traumatic personal crisis caused him to deteriorate emotionally and professionally, resulting in the serious decline of his previously productive practice. At that point, low on funds and determined to pay his family's expenses, he misappropriated $136,430 from five clients during the course of one and a half years. Schoth has stipulated to his misconduct, and thus the only issue before us is the appropriate level of discipline.

The hearing judge recommended that Schoth be disbarred. On appeal, Schoth maintains that disbarment is excessive because compelling mitigating circumstances warrant a lesser discipline. The State Bar supports the hearing judge's decision.

We have independently reviewed the record (Cal. Rules of Court, rule 9.12), considering the specific factual findings raised by the parties. (Rules Proc. of State Bar, rule 5.152(C) [any factual error not raised on review is waived by parties].) We find that Schoth's mitigation evidence is impressive; indeed, we accord it greater weight than did the hearing judge. Even so, his mitigation does not clearly predominate, given the seriousness of Schoth's misconduct,

which occurred over a long period of time and was aggravated by additional dishonesty and significant harm to a client who was destitute and in poor health. Consequently, we conclude that the presumptive discipline of disbarment provided by standard 2.2(a) of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[1] is appropriate.

I. FACTUAL AND PROCEDURAL BACKGROUND

Schoth stipulated to the facts establishing his culpability as set forth below. We have also relied on additional facts adduced from the record where relevant.

Schoth was admitted to practice law in California in June 1984 and he has no prior discipline record. He had a successful personal injury practice, was highly regarded within the legal community, and dedicated considerable time and effort to advance the legal profession. In recognition of his standing in the legal community, he was invited to join the American Board of Trial Advocates in 1998. Schoth also was a long-time member of the California Association of Consumer Attorneys (CAOC) and served on its executive board from approximately 2003 until 2008. In this role, he worked to preserve victims' rights, most notably in his efforts with lawmakers in drafting legislation to amend fee limits in medical malpractice cases. He has given MCLE presentations and served as a court-appointed mediator.

A. SCHOTH'S EMOTIONAL DIFFICULTIES

Schoth's life took a dramatic turn in November 2005, when he learned that the eldest of his three daughters had been drugged and raped while at a party the previous year. At first, his daughter did not disclose what happened. After she finally told her family, she began therapy with a licensed marriage and family therapist, Lolita Domingue, in 2005. At that time, his

[1] Standard 2.2(a) provides that a "wilful misappropriation of entrusted funds . . . shall result in disbarment [unless] the amount of funds . . . is insignificantly small or if the most compelling mitigating circumstances clearly predominate . . . ." All further references to standards are to this source.

daughter "wasn't functioning in her life," having withdrawn from social activity, and was spiraling into an alcoholic haze. Schoth also sought treatment from Domingue because he was struggling emotionally, experiencing insomnia, angrier than he had ever been, and "absolutely obsessed" with the sexual assault. He confided to Domingue that he drove past the perpetrator's house "and he didn't like the kind of thoughts he was having about that." Schoth discontinued therapy after a few sessions because his daughter's treatment was the primary goal, and his symptoms had temporarily abated.

Due to their religious upbringing and view of sexuality, Schoth's wife and daughter kept the sexual assault a secret from everyone except the family and Domingue. By 2006, Schoth was having recurring dreams about his daughter's sexual assault and experiencing a deteriorating relationship with his wife. That same year, his daughter, who was then in her early 20's, revealed that she had been raped once before by a family friend.

After learning of this second sexual assault, Schoth "started shutting down emotionally" out of "self-protection." He began drinking heavily at the office and lost his ability to focus and to sustain his previous work ethic. As a consequence, he tried only two cases between November 2005 and the end of 2010. Schoth's decline caused his income to drop significantly.[2] As his family's sole wage earner, he feared that he could not meet their financial obligations, including a mortgage and his two daughters' college tuition. In 2008, he withdrew $200,000 from his retirement savings, which he spent by early 2009. Then he withdrew his wife's $75,000 inheritance, without her knowledge, and the funds in his 401K account. When that money was spent, Schoth turned to his client trust account (CTA).

[2] Before learning of his daughter's sexual assaults, Schoth made between $200,000 and $400,000 per year. In 2006, his income dropped to $64,000 and in 2009, it was $46,591.

B. SCHOTH'S MISAPPROPRIATIONS

The first misappropriation from a client involved the Betty Jean Ganley estate. In 2000, Schoth prepared a will and living trust for Betty Jean Ganley. After she died in 2005, he represented her son, Joseph Ganley (Ganley), in his petition to be appointed executor of the estate. Due to debts and tax liens on the property, Wells Fargo Bank obtained a court order to sell Betty Jean Ganley's home, which was the estate's principal asset. As beneficiaries, Ganley and his sister, Kathleen Peterson (Peterson), agreed that Schoth should deposit the sale proceeds into his CTA until the assets of the estate could be properly disbursed. When the sale closed on July 23, 2009, Schoth deposited $173,692 into his CTA.[3]

Schoth paid $57,545 for obligations of the estate, but as of September 24, 2009, he was required to maintain $117,352 in the CTA on behalf of the beneficiaries. However, by October 29, 2009, the CTA balance was just $1,760. When the funds were not forthcoming, Ganley and Peterson repeatedly asked about the status of their inheritance. For example, on May 4, 2010, Peterson wrote: "It has been months since I have been given any news regarding the status of what is left of my mother's estate. I know my brother has made repeated attempts to find out the status as well as to try and get additional funds from the estate advanced to him with no success." Schoth either did not respond to their inquiries, or he told them that the funds were tied up in the probate proceedings. In fact, Schoth was using these funds for his own benefit.

Between December 2009 and the end of January 2011, Schoth paid approximately $45,000 in increments to Ganley and Peterson. As of the end of March 2011, all of the funds in the Betty Jean Ganley estate had been paid to the beneficiaries.[4]

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[3] Earlier, in May 2009, Schoth deposited into his CTA a $1,205 refund from a third party on behalf of the Betty Jean Ganley estate.

[4] Schoth repaid approximately one-third of the funds owed to Ganley and Peterson before he was contacted by the State Bar investigator on January 4, 2011.

Schoth also failed to maintain adequate funds in his CTA on behalf of four other clients during the fall of 2009. In each case, Schoth distributed all of the funds due to his clients, but he delayed paying their lienholders, often for several months, and used these funds for his personal expenses.

In the Geraldo Avila matter, Schoth deposited $100,000 in his CTA on July 23, 2009, as a partial settlement of Avila's work-related personal injury claim. Of that sum, Schoth was required to maintain $15,000 to satisfy a workers' compensation lien, but he delayed paying the lien until November 17, 2009. Before then, the balance of Avila's funds in his CTA fell to $1,760.

Schoth also represented Veronica Malloy in a personal injury matter arising from an automobile accident. On August 31, 2009, he deposited a settlement check for $19,500 into his CTA. He distributed the funds owed to Malloy, but he failed to maintain $5,791 in his CTA on behalf of a lienholder. His CTA balance dropped to $450 before he finally paid the lienholder on December 30, 2010.

On November 19, 2010, Schoth deposited a $6,500 settlement into his CTA for personal injuries suffered by another client, Jose Serrano. Although Schoth was required to maintain $1,700 to pay the San Bernardino County Collections Department, his CTA balance fell to $450 before he finally paid the agency in full on January 17, 2011.

Finally, Schoth represented Helen Zellman for personal injuries arising from an automobile accident. He obtained a settlement of $8,250, which he deposited into his CTA on July 14, 2010. Again, he timely distributed the funds owed to Zellman, but he failed to timely pay two medical liens in the amounts of $1,046 and $150. On July 20, 2010, his CTA balance dropped to $190, and six months passed before he paid the medical liens.

II. CULPABILITY

Schoth stipulated to misappropriating a total of $136,430. The amounts in each case were: (1) $115,592 from Ganley and Peterson; (2) $13,240 from Avila; (3) $5,341 from Malloy; (4) $1,250 from Serrano; and (5) $1,006 from Zellman.

Failure to Maintain Client Funds in Trust (Rules Prof. Conduct, rule 4-100(A))[5] – Counts 1, 3, 5, 7, 9

Schoth stipulated to five counts of failing to maintain funds in his CTA that he had received for the benefit of five clients in violation of rule 4-100(A). The record supports the stipulation and the hearing judge's conclusion that Schoth is culpable of all five counts.

Moral Turpitude (Bus. & Prof. Code, § 6106)[6] – Counts 2, 4, 6, 8, 10

Schoth further stipulated that he committed acts involving moral turpitude, dishonesty, or corruption by misappropriating his clients' funds. (*In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708, 712 ["repeated dipping of respondent's trust account below the required balance constitute[s] a basis for a finding of moral turpitude"].) The record supports the stipulation and the hearing judge's conclusion that Schoth is culpable of five counts of moral turpitude for misappropriating $136,430 from five clients.

III. AGGRAVATION AND MITIGATION

Because Schoth stipulated to all of the charged misconduct, the only evidence considered at the three-day trial was evidence of aggravation and mitigation. The offering party bears the burden of proof for aggravating and mitigating circumstances. The State Bar must establish

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[5] All further references to rules are to this source unless otherwise noted. Rule 4-100(A) provides: "All funds received or held for the benefit of clients by a member or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts labeled 'Trust Account,' 'Client's Funds Account' or words of similar import . . . ."

[6] All further references to sections are to this source unless otherwise noted. Section 6106 provides: "The commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension."

aggravating circumstances by clear and convincing evidence,[7] while Schoth has the same burden to prove mitigating circumstances (std. 1.2(e)). The hearing judge found that Schoth did not establish a nexus between his serious emotional problems and his misappropriation. The hearing judge did not find that Schoth's other mitigation evidence was sufficiently compelling to avoid the presumptive discipline of disbarment provided by standard 2.2(a).

A. THREE FACTORS IN AGGRAVATION

We adopt, with modification, the following factors, which the hearing judge found as aggravating circumstances: (1) multiple acts of misconduct (std. 1.2(b)(ii)); (2) bad faith, dishonesty, concealment (std. 1.2(b)(iii)); and (3) client harm (std. 1.2(b)(iv)).

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

Schoth repeatedly allowed his CTA balance to drop below the amount he was required to maintain in five client matters. Furthermore, he committed ten ethical violations during a period of one and a half years from October 2009 through March 2011. We assign substantial weight to Schoth's multiple acts of misconduct.

2. Bad Faith, Dishonesty, Concealment (Std. 1.2(b)(iii))

The hearing judge found that Schoth's misconduct was aggravated by his repeated misrepresentations to Ganley and Peterson that their inheritance funds were tied up in the probate proceedings and could not be distributed to them. All the while, Schoth was using these funds for his own benefit. We conclude that Schoth's misconduct was surrounded by dishonesty and concealment due to these misrepresentations, which significantly aggravate Schoth's misappropriations. (*In re Naney* (1990) 51 Cal.3d 186, 195 [acts of dishonesty outside of original misappropriations considered aggravating under std. 1.2(b)(iii)].)

[7] 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.)

3. Client Harm (Std. 1.2(b)(iv))

The hearing judge found that Schoth caused significant harm to Ganley and Peterson, who were deprived of funds that rightfully belonged to them as beneficiaries under the will. We find that the State Bar proved by clear and convincing evidence that Ganley was significantly harmed, but that Peterson was not.

Ganley had a serious heart condition and lived with his mother in her home for many years before she died. He received Social Security disability payments as his primary support. After Wells Fargo sold his mother's home, Ganley was forced to move out. Although Schoth distributed approximately half of the funds owed to Ganley between December 2009 and March 2011, Ganley lived a marginal existence during that period. Had he received all of his funds in a timely manner, Ganley could have improved his living circumstances.

Peterson, who received five checks from Schoth totaling $22,286 from December 2009 until March 2011, was gainfully employed during this time. Although she testified that her job situation was uncertain, there is no evidence that Peterson actually needed the money to maintain her standard of living or was otherwise specifically harmed by the delay in her receipt of the funds.

B. FIVE FACTORS IN MITIGATION

The hearing judge found the record supported four factors in mitigation: (1) no prior discipline record (std. 1.2(e)(i)); (2) candor and cooperation (std. 1.2(e)(v)); (3) good character evidence (std. 1.2(e)(vi)); and (4) remorse and recognition of wrongdoing (std. 1.2(e)(vii)). She did not assign any mitigative weight to Schoth's emotional difficulties because she found that he failed to establish a nexus between these difficulties and his misconduct. (Std. 1.2(e)(iv).) We ultimately agree with the hearing judge's findings in mitigation, although our analysis differs to

some extent. We also find additional mitigation for Schoth's significant community service work. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785; *Schneider v. State Bar* (1987) 43 Cal.3d 784, 799.)

1. No Prior Record of Discipline (Std. 1.2(e)(i))

The hearing judge found that Schoth's 25 years of discipline-free practice before his misconduct is a significant mitigating factor and is an indicator that further misconduct is unlikely to recur. The State Bar argues that Schoth is entitled to either diminished or no mitigation because his misconduct was very serious. However, the Supreme Court instructs that "[p]rior exemplary conduct and a distinguished career may be relevant as factors indicative of the probability that misconduct will not likely recur" provided the misconduct, although serious, does not involve a recurring pattern over a long period of time. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [prior exemplary conduct less relevant as evidence where serious pattern of misconduct and no acceptance of responsibility].) We have not found a pattern of misconduct and, accordingly, Schoth is entitled to significant mitigation for his lack of a prior discipline record.

2. Candor and Cooperation (Std. 1.2(e)(v))

We agree with the hearing judge that Schoth's candor and cooperation in this discipline proceeding are mitigating factors. Schoth stipulated not only to the underlying facts, but to his culpability, including moral turpitude. This greatly facilitated the trial in this matter, and we assign significant weight to his cooperation. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521.)

3. Good Character (Std. 1.2(e)(vi))

Ten witnesses – nine attorneys and one judge – testified to Schoth's good character.[8] Testimony by members of the bar is entitled to great consideration because attorneys and judges are strongly interested in maintaining the administration of justice. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.) Most of these witnesses were established practitioners and leaders in the legal community, who had either worked with Schoth or opposed him on cases. Several had known him for over a decade, and some for even longer. Many witnesses had lost touch with Schoth after he withdrew emotionally in 2005, but recounted his remorse when Schoth explained his misconduct to them in 2011. The common theme in the character witness testimony was that Schoth was an honest attorney who worked tirelessly for his clients and always put their interests first.

For example, Joe Hilberman, a mediator and former Los Angeles County Superior Court judge, recalled defending a case when he was in private practice in which Schoth generated an unlikely settlement. Schoth then waived his fee to ease the client's psychological burden and provide financial security to an emotionally troubled client. Peter Fonda, an attorney since 1973 who held leadership roles in defense attorney organizations, on State Bar committees, and for judicial evaluations, has known Schoth since he was in law school. Fonda believes Schoth is of "the highest quality and character as an attorney" and possesses a keen understanding of ethical issues.

Fellow members of the CAOC board recalled his hard work for that organization and the protection of consumer rights. Former CAOC president Sharon Arkin, who worked closely with

[8] The judge testified only to Schoth's competence as an attorney when he appeared at a trial in 2011. We agree with the hearing judge that this testimony is not relevant because Schoth's competence is not at issue here.

Schoth on the organization's legislative issues, described him as a "very up front, dependable, forthright, trustworthy" individual with a "committed interest in doing what was right."

The hearing judge discounted the weight of the character evidence because Schoth's witnesses were all attorneys. However, many testified to knowing him and his family through social engagements and Schoth's extensive community service work. We find these witnesses presented strong evidence of Schoth's character in both the legal and general communities. Accordingly, we afford significant weight to Schoth's character witness testimony. (*In re Brown* (1995) 12 Cal.4th 205, 223 [court considered as evidence of good character nine letters from attorneys plus testimony of one attorney, with no other character evidence from members of general community].)

4. Remorse/Recognition of Wrongdoing (Std. 1.2(e)(vii))

We agree with the hearing judge that Schoth is entitled to substantial mitigation credit for remorse and recognition of wrongdoing. First and foremost, he repaid about one-third of the misappropriated money before he was contacted by the State Bar. Second, he has fully and repeatedly acknowledged his wrongdoing to his therapist, his family, and his peers in the legal community. (*In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 13 [finding mitigation where respondent did not disavow responsibility for debt, acknowledged misappropriation, repaid one client before learning of complaint to State Bar, and paid restitution in full before NDC filed].)

5. Extreme Emotional Difficulties (Std. 1.2(e)(iv))

To receive mitigation credit under standard 1.2(e)(iv), an attorney who suffers from extreme emotional difficulties "at the time of the act of professional misconduct" must establish by expert testimony that the difficulties were "directly responsible for the misconduct" and that the attorney no longer suffers from such difficulties.

Schoth presented testimony from his treating therapist, Lolita Domingue, to establish that the misappropriations were causally related to his serious, chronic, and emotional reaction to his daughter's sexual assaults. In April 2011, after the State Bar commenced its investigation, Schoth entered therapy with Domingue to address his behavior that led to the misappropriations and to deal with the consequences of possibly losing his law license. By then, he was experiencing insomnia, a racing heartbeat, and stomach problems.

Domingue determined that Schoth was suffering from post-traumatic stress disorder (PTSD) stemming from his feelings of helplessness after the two assaults on his daughter and from his ongoing unresolved feelings about them. Domingue testified that Schoth manifested typical PTSD symptoms. He reacted to his daughter's traumas with shock, followed by irritation, relationship difficulties, and avoidance behavior, including excessive drinking, compulsive Internet use, and infidelity. He resorted to these antisocial behaviors to avoid feeling like a failure for not protecting his daughter. As a consequence, he lost interest in work and was unable to earn a living, which exacerbated his turmoil. Yet his strong determination to protect his family from further harm drove him to take funds from his own retirement account, his wife's savings, and his CTA. Schoth attended 18 sessions with Domingue in the nine months preceding his discipline trial and expressed his commitment to continue that therapy.

Although the State Bar questions the bona fides of Domingue to give her opinion on the causation of Schoth's misconduct, her testimony supports a finding that his emotional difficulties contributed to his behavior. His despair and resulting antisocial behavior directly affected his law practice and played a significant part in his desperate actions of misappropriating his clients' funds to support his family. While we do not excuse his misconduct, we do find it has a nexus with his emotional state.

However, finding a nexus does not alone satisfy the requisites of standard 1.2(e)(iv), which also requires that Schoth prove he "no longer suffers from such difficulties." In a November 30, 2011 report, Domingue noted that Schoth was no longer a danger to the public because he was "committed to the process of recovery. This is progress which positions him to have *a good prognosis for full recovery in treatment*." (Italics added.) We are heartened by Schoth's progress and commend his commitment to ongoing therapy. But we do not find clear and convincing evidence that he no longer suffers from his emotional problems given Domingue's recent assessment that Schoth had yet to achieve full recovery. Accordingly, we do not afford mitigating weight to Schoth's emotional difficulties.

6. Community Service

Although the hearing judge did not find this factor in mitigation, we afford significant mitigating weight to Schoth's community service as a member of the CAOC board. He invested countless hours to advance the organization's causes, including attempting to change laws to benefit personal injury plaintiffs. (*Calvert v. State Bar, supra,* 54 Cal.3d at p. 785; *Schneider v. State Bar, supra,* 43 Cal.3d at p. 799.)

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.) We balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to ensure that the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266; *Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) Our analysis begins with the standards. The Supreme Court has instructed that we should follow them "whenever possible" (*In re Young*, *supra*, 49 Cal.3d at p. 267, fn. 11), and give them great weight to promote "the consistent and uniform

application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91, internal quotations and citation omitted.) We focus on standard 2.2(a), which is the most severe and deals specifically with misappropriations.[9]

Under standard 2.2(a), misappropriation of entrusted funds calls for disbarment unless "the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate . . . ." Schoth misappropriated over $135,000, a substantial sum. "Misappropriation is more than a grievous breach of professional ethics. It violates basic notions of honesty and endangers public confidence in the legal profession. [Citations.]" (*Grim v. State Bar* (1991) 53 Cal.3d 21, 29.) Without question, Schoth's misconduct places him on the most serious end of the misappropriation spectrum given the amount of the funds involved, the number of clients, and the length of time during which the misappropriations occurred. This is not a case of a single careless mistake. Schoth deliberately took funds for his personal use with full knowledge that they belonged to his clients or to lienholders. The seriousness of Schoth's misconduct is greatly aggravated by his misrepresentations to a vulnerable client, who was in poor health and needed his money to alleviate his problems.

To be sure, Schoth's evidence in mitigation is very strong, including good character testimony from respected members of the legal community, remorse, candor and cooperation, extensive community service, and 25 years of discipline-free practice. He repaid one-third of the funds before the State Bar contacted him, and he repaid the remaining misappropriated funds one year prior to the hearing in this matter. Schoth has taken full responsibility for his misconduct. But, Schoth did not establish that he is fully rehabilitated from the emotional difficulties that led

[9] Standard 1.6(a) directs that when multiple acts of misconduct call for different sanctions, we apply the most severe sanction. The other applicable standard, 2.3, calls for disbarment or suspension for acts of moral turpitude.

to his misconduct. Thus, we remain concerned that other serious upheavals may trigger similar behavior. (*Kaplan v. State Bar* (1991) 52 Cal.3d 1067, 1072.) Moreover, Schoth's misconduct involved "a level of dishonesty that raises concerns beyond those associated with misappropriation of others' funds." (*Ibid*.) In the final analysis, Schoth's evidence in mitigation, while indeed compelling, does not "clearly predominate" over his grievous misconduct. (Std. 2.2(a).) Accordingly, the severe sanction of disbarment is warranted and is consistent with relevant case law.[10]

V. RECOMMENDATION AND ORDER

We recommend that Karl Werner Schoth 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 Schoth 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 section 6086.10 and that such costs be enforceable as provided in section 6140.7 and as a money judgment.

The hearing department ordered Schoth 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

[10] *Kaplan v. State Bar*, *supra*, 52 Cal.3d 1067 [attorney disbarred for misappropriating $29,000 from his law firm and lying about it, despite more than 10 years of discipline-free practice]; *Gordon v. State Bar* (1982) 31 Cal.3d 748 [attorney disbarred for misappropriating over $27,000 from multiple clients, 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 [attorney disbarred for misappropriating $40,000 from vulnerable clients and misleading clients about status of funds, aggravated by client harm, despite 15 years of discipline-free practice, emotional and marital problems, restitution, remorse, good character, cooperation by stipulating to culpability, and community service].

Bar, rule 5.111(D). The involuntary inactive enrollment became effective on May 15, 2012, and Schoth has remained on involuntary inactive enrollment since that time and will remain on involuntary inactive enrollment pending the final disposition of this proceeding.

EPSTEIN, J.

WE CONCUR:

REMKE, P. J.

PURCELL, J.