

1 MS. FLOCCHINI: I believe that it is  
2 included in Exhibit 2.

3 CHAIRMAN WERNER: Okay. I'll look at  
4 Exhibit 2 then.

5 Any questions of the State Bar, Clerk of Supreme Court

6 COMMISSIONER WENT: Yes. So in that divorce  
7 case, was any of that money reimbursed or put back  
8 into the account after October 2020 or is it all  
9 gone?

10 MS. FLOCCHINI: Yeah, as far as we know  
11 there has been no money put back into the account,  
12 it's only been depleted. And I can represent to you  
13 that we could find disbursements of approximately  
14 \$29,000 to Mr. Thonesavanh. So there was some money  
15 that was disbursed.

16 The Bar would argue, I would submit, that  
17 part of those disbursements was an effort to delay  
18 Mr. Thonesavanh from under -- from realizing there  
19 was conversion happening, but we absolutely  
20 acknowledge that \$29,000 was disbursed to the client  
21 from the funds.

22 MS. STRAND: Addition -- sorry, I'm going to  
23 jump in, Kait. Additionally there was payments made  
24 on behalf of the client in regard with the court  
25 order. The family owed like \$10,000 in taxes. They

1 paid like 10,000 or \$7,000 in private school tuition.  
2 There was, you know, a couple thousand in costs,  
3 bills, credit card bills, those sorts of things that  
4 were paid, and those were all referenced in the chart  
5 that's attached, I believe.

6 MS. FLOCCHINI: Yes.

7 MS. STRAND: There were disbursements made  
8 from that -- from those client funds with regard to  
9 the family's expenses within -- in line with the  
10 court order.

11 And then I'm not going to get into it too  
12 much right now, but just as a quick answer to your  
13 question, Mr. Aquino maintains that he paid  
14 Mr. Thonesavanh much of the cash -- or the money that  
15 he pulled out, he gave to Mr. Thonesavanh in cash;  
16 and there's some accounting and receipt issues going  
17 on there I'll get into more when I answer the  
18 question, but he maintains that he was paying  
19 Mr. Thonesavanh in cash.

20 COMMISSIONER WENT: What about that first  
21 case you showed us on the chart, Aguilar. It looked  
22 like they had been waiting for money since early, was  
23 it 2018? Do you know is there any evidence of those  
24 folks getting their money or is there no evidence of  
25 that?

1 MS. FLOCCHINI: We did not receive any  
2 evidence. Mr. Aquino did provide some references for  
3 clients where he believed we hadn't accurately  
4 accounted for the distribution of funds. I don't  
5 believe that was one of them, but even taking into  
6 account some of those numbers, it decreases the  
7 amount that we believe he's out of trust by at best  
8 \$20,000. So we're still looking at over \$700,000  
9 being misappropriated.

10 MS. STRAND: And on that one, Kait, I  
11 believe we sent over the documents on the Aguilar  
12 case. That amount that was outstanding was paid  
13 directly to the body shop for property damage to the  
14 vehicle and things like that. I can pull it up here  
15 in just a second, but that one I believe was paid in  
16 full. Unfortunately it doesn't take care of  
17 everything else, but I think the Aguilar matter.

18 Yeah, the records show that on 6-13 of 2018  
19 it was paid to GTE Motor, and I can have it pulled  
20 up. I can pull it up with screen share. Sorry,  
21 Kait. Give me just a second.

22 THE REPORTER: I'm sorry, were you saying  
23 2018 or 2019?

24 MS. STRAND: 6-18 of 2018. 8-13 of 2018.  
25 Sorry, I couldn't read. I need the glasses. So in

1 2018, August 13th of 2018 a payment was made to GTE  
2 Body Shop for the remaining balance of like \$4,000, I  
3 believe, and that took care of what was left in the  
4 trust account for the Aguilaras.

5 THE REPORTER: And, Miss Strand, if you can  
6 try to slow down a little. Your microphone, you're  
7 just very muffled sounding.

8 MS. STRAND: I apologize. I will try and do  
9 that.

10 I'm just trying to pull up the chart right  
11 now.

12 Do you know what page that's on, Aaron?

13 All right. I can pull that up. I'm sorry,  
14 we're having some technological issues, but if  
15 there's a break or when -- before the panel  
16 deliberates, I can pull up that document and show the  
17 Aguilaras were paid. And I'll let the panel ask any  
18 other questions while I get that done.

19 CHAIRMAN WERNER: Joe, did you have more  
20 questions?

21 COMMISSIONER WENT: That's it for me.

22 CHAIRMAN WERNER: Gale, did you have any  
23 questions?

24 COMMISSIONER KOTLIKOVA: No, I don't have  
25 any questions.

1 CHAIRMAN WERNER: Okay. Then I think I'm  
2 going to let Emily go, and then I may have some  
3 questions of both of you after I hear her case in  
4 chief, I guess, or Mr. Aquino's case in chief I  
5 should call it.

6 MS. STRAND: Yes. So what we're planning on  
7 doing is I'm going to kind of give you guys an  
8 overview and then we're going to allow Mr. Aquino to  
9 be sworn in and give you guys more details about what  
10 happened and answer any questions that the panel has  
11 directly.

12 But first I kind of want to give you an  
13 overview of what happened, because obviously any time  
14 we're talking about, you know, \$750,000, a million  
15 dollars, those are some terrifyingly large numbers,  
16 but it's not all what it seems in this case. I mean,  
17 there's definitely some money missing, but a lot of  
18 it comes down to accounting and records issues with  
19 Mr. Aquino.

20 Obviously if this was going on over the past  
21 three years, and if, you know, dozen and dozens and  
22 dozens of clients hadn't gotten paid, we would have  
23 dozens and dozens and dozens of grievances. What was  
24 happening here was that, you know, client money was  
25 definitely going into the trust account and going out

1 to pay expenses, and then Mr. Aquino was paying  
2 clients out of his personal account, out of his  
3 business account, whatever he needed to make sure  
4 that clients got paid, and that's why we don't have,  
5 you know, dozens and dozens and dozens of grievances.

6 Some clients didn't get paid but a lot of  
7 them did. And so that number, the million or the  
8 750,000 is a little bit misleading because that's the  
9 amount of money that we can't account for based on  
10 the records right now, and that's due a lot in part  
11 to Mr. Aquino's recordkeeping.

12 I would submit to the panel that that number  
13 is much lower and that we're going to need probably a  
14 forensic accountant to go through Mr. Aquino's  
15 records. And he's going to talk to you a little bit  
16 about the things that he's done, you know, during the  
17 pendency of the Bar case to try and answer those  
18 questions and get as many documents as he could to  
19 the Bar, but unfortunately he was evicted from his  
20 office and the bank closed some of his accounts and  
21 froze others, which has made it very difficult for  
22 him to get some of the necessary physical pictures of  
23 the checks.

24 We have the bank statements, but we need to  
25 get pictures of each and every check, and they've

1    been charging like a \$5 fee and sending it via mail  
2    for each check. That's made our team's efforts to  
3    put together a comprehensive list of what is still  
4    owed incredibly difficult.

5           So as part of what we're asking for,  
6    obviously Mr. Aquino is looking at a suspension, but  
7    what we want to do during the time that he is  
8    suspended is get a forensic accountant in here to go  
9    through his stuff and really figure out how much  
10   money is still owed so we can get a solid restitution  
11   amount for the clients.

12           Because this wasn't a case of, you know,  
13   malicious conversion where he was just, you know,  
14   taking these. He didn't buy a car, he didn't buy a  
15   second house, he's not out boating. This is, you  
16   know, money that's going into his business account  
17   and is getting all commingled in there, and that's  
18   definitely an issue but it's not, you know, to the  
19   level of an attorney that just decides to take  
20   clients' funds and go buy a Ferrari kind of thing.

21           And so I'm going to go over a couple of the  
22   ones that the Bar mentioned specifically that are the  
23   grievances that are listed on the complaint just so  
24   that we can get an overview of what happened in those  
25   specific cases and then I'm happy to answer any

1 questions before Mr. Aquino goes into his statements.

2 But, like I said, the first thing is really  
3 the lack of records in this case. So like with --  
4 let's start with the Mr. Thonesavanh matter. You  
5 know, he did that divorce and he did get over  
6 \$400,000. You know, we have the records showing that  
7 it went into the bank accounts, and then we have  
8 transfers to his business accounts and cash going  
9 out.

10 And Mr. Aquino maintains that those were  
11 cash payments to Mr. Thonesavanh who would come to  
12 his office quite regularly asking for, you know,  
13 basically advances on his case and payments, and that  
14 he had Mr. Thonesavanh sign receipts for all those,  
15 and that he does have a ledger that supports it.

16 Unfortunately when he got evicted from his  
17 office, that ledger went missing. And so that's one  
18 that if he could find that ledger during his  
19 suspension period and, you know, submit it to the Bar  
20 would be able to take care of several, you know,  
21 hundred thousand dollars worth of, you know,  
22 potentially missing client funds. And if he can't  
23 during his suspension, he's going to have to pay it  
24 back the same way.

25 With regard to the matter where he was

1 supposed to pay the other -- his client's attorney,  
2 he was taking money -- he had been charging the  
3 client approximately \$800 a month. The client ended  
4 up having to pay attorney's fees, and he asked if  
5 instead of, you know, him paying -- paying him \$800 a  
6 month, could he start take the 811 or \$853 and  
7 applying it towards the attorney's fees that he owed  
8 the other -- or that she owed the other attorney.  
9 Mr. Aquino said he was willing to do that. He was  
10 willing to even -- you know, he was going to lose  
11 some money because of like the credit card processing  
12 fee and stuff, he was willing to do that.

13 He took the first fee, sent it off to the  
14 attorney in July, and it actually came back  
15 undeliverable, and we submitted those records to the  
16 Bar. He sent another one and that check was cashed  
17 but then the next check also came back undeliverable,  
18 so he started just kind of holding this money. He  
19 should have, you know, certainly contacted the other  
20 attorney, figured out another process for doing that.  
21 He didn't, and so he ended up having to refund the  
22 client, and the client ended up settling with that  
23 attorney directly.

24 But the client did get refunded, you know,  
25 so it wasn't that, you know, all that money was

1 missing long term, it was just, you know, delayed  
2 payments to another attorney, which were obviously  
3 concerning, doesn't rise to the same level as, you  
4 know, what might initially appear when just reading  
5 the pleadings in this case.

6 With regard to the Schutzenhofers, those  
7 were the people who -- wait, let me make sure I got  
8 this right. The Schutzenhofers were the ones that  
9 had the medical liens that were not fully paid. The  
10 Bar has stated in their case in chief that, you know,  
11 no medical payments had been made on behalf of the  
12 Schutzenhofers.

13 Well, the chart attached to the documents  
14 today shows that some liens were paid on behalf of  
15 the Schutzenhofers, but we will admit that not all of  
16 them were paid; and there are some outstanding  
17 medical bills for them, but the allegation that he  
18 just didn't do anything, didn't pay any doctors is  
19 incorrect. You know, there was some payments made.

20 You know, with regard to how we kind of got  
21 into this whole process, you know, the clients that  
22 didn't, you know, necessarily make complaints, and  
23 for this money that was commingled you really have to  
24 look at what was going on in Mr. Aquino's life at the  
25 time.

1           And, again, he's going to get into more  
2 detail, but what happened is he had a business  
3 partner who was responsible for the financial side of  
4 the firm basically, and that business partner left;  
5 and Mr. Aquino maintained, you know, control and  
6 retained control over the operating account, or over  
7 his IOLTA account, but he relied very heavily on  
8 staff to manage his operating account and his  
9 business savings account and kind of the day-to-day  
10 operations.

11           And so he, you know, very naively relied on  
12 staff who had access to those accounts, and they  
13 would say, Hey, we need \$5,000 transferred from the  
14 IOLTA account to, you know, pay this client, and he  
15 would transfer the money over. And he didn't do the  
16 diligence to follow up to make sure that that client  
17 was getting paid, and instead we see that, you know,  
18 restaurants and concert tickets and things were being  
19 spent on the business account and some of those  
20 clients weren't getting paid.

21           And to his credit, when he found out about  
22 that, you know, a couple of times obviously he dealt  
23 with the staff that was involved, but he also --  
24 that's when he would come in and pay out of his  
25 personal account, get a cashier's check to take care

1 of the lienholder or the client, but it became an  
2 ongoing problem where there was, you know, more going  
3 out of the business account than was coming in,  
4 frankly, and it wasn't going to the clients where it  
5 needed to be going.

6 And, like I said, that really comes down to  
7 a failure to supervise staff and that certainly, you  
8 know, that's where the Bar needs to get involved.  
9 That's certainly discipline-worthy, but whether it's  
10 disbarment-worthy, you know, I'm going to leave up to  
11 the panel. I would argue that, you know, he's young,  
12 he was naïve, it was his first time running a firm by  
13 himself and he made some very serious errors. Things  
14 got very screwed up.

15 Eventually when he came to the knowledge  
16 that, you know, things were as screwed up as they  
17 were, that's when he probably should have contacted  
18 the Bar and asked for help. He didn't. He did, you  
19 know, rob Peter to pay Paul for a couple, you know,  
20 almost a year trying to figure out how he was going  
21 to work his way out of this, and then ultimately  
22 couldn't and that's when, you know, the Bar stepped  
23 in, froze his accounts. And since that time we've  
24 been doing our best to make sure that clients get  
25 paid from the money that is remaining in his accounts

1 and trying to close out the accounts that are  
2 remaining.

3 You know, obviously this is a serious case,  
4 and there's a lot of other, you know, mitigating  
5 factors that he's going to speak about. The same  
6 time that all this was going on with his staff,  
7 Mr. Aquino was having some pretty serious familial  
8 problems. He and his family came down with, you  
9 know, hand, foot and mouth disease that actually  
10 required, you know, some pretty serious medical  
11 intervention for his family. So he was away from the  
12 office and again relying on that staff a couple --  
13 two staff members in particular who were really  
14 letting him down, frankly.

15 He also was dealing with some depression and  
16 some ADHD issues, got off his medication during this  
17 time, which was not a good recipe for him taking care  
18 of what he needed to take care of. And so, you know,  
19 things very quickly spiralled out of control.

20 With all of that being said, I think that,  
21 you know, disbarring Mr. Aquino and basically, you  
22 know, saying walk away isn't going to solve the  
23 problem in this case. And I think it doesn't do what  
24 the Bar's here to do, which is protect the public.  
25 The Bar is here to protect the public and ensure

1     that, you know, they are taken care of.

2             I think the best way to do that is to  
3     suspend Mr. Aquino, because that allows the Bar and  
4     the Nevada Supreme Court to retain control over him.  
5     During that time they can do things like order the  
6     forensic accountant to go through, order that he, you  
7     know, pay restitution, order that he take additional  
8     classes, order that he basically get all of this  
9     dealt with before he, you know, potentially  
10    reapplies.

11            Now, there's no guarantee that if he  
12    reapplies they're even going to admit him. It's  
13    just, you know, a potential light at the end of the  
14    tunnel three, four, five years down the road.  
15    Readmittance takes time. That can take up to a year  
16    or more. So, I mean, we're looking at something that  
17    may not happen for, you know, five or six years, and  
18    by that point, you know, Mr. Aquino may be a very  
19    different person, and he may be fit to practice law  
20    at that point.

21            I would agree with Miss Flocchini, right now  
22    he's not fit to practice law and he shouldn't be  
23    handling client funds. But, you know, just taking  
24    away his license and letting him walk out the door  
25    doesn't solve the problem. It's not going to get

1 these people paid and it's not going to, you know,  
2 prevent other attorneys from doing this again. It's  
3 not going to act as a deterrent because people will  
4 realize that if you steal client funds and if you get  
5 disbarred, you can just walk away, which isn't, you  
6 know, what we want to do as attorneys.

7 I also, again, did some research, and this  
8 is not the first case unfortunately that the Bar has  
9 dealt with with these serious large amounts. There's  
10 another case that I think some of our panel members  
11 may have been familiar with, State Bar of Nevada  
12 versus Gewerter that just went up to the Supreme  
13 Court. Mr. Gewerter had three different State Bar  
14 cases alleging various serious allegations, including  
15 the conversion of \$750,000 in clients funds. It was  
16 his third discipline, formal discipline, and the  
17 State Bar only suspended him for four years.

18 So I think that --

19 MR. PITARO: Supreme Court.

20 MS. STRAND: Or, I'm sorry, the Supreme  
21 Court only suspended him for four years. So I think  
22 the argument that, you know, Mr. Aquino is a much  
23 younger attorney. Mr. Gewerter is in his fifties,  
24 sixties, so and, you know, had a substantial history  
25 and practice and basically should have known better

1 and had years and years of experience.

2 Here Mr. Aquino, you know, tried to strike  
3 out on his own after his business partner left,  
4 definitely shouldn't have done that, things  
5 definitely went downhill, but to say that he can  
6 never practice again, you know, when 20 years down  
7 the road things may be very different, five years  
8 down the road things may be very different, I think  
9 that just doesn't necessarily solve anyone's  
10 problems. And I think it's excessive here, given his  
11 young age and his lack of prior discipline. If we're  
12 not going to disbar somebody like Mr. Gewerter, I  
13 think that, you know, we definitely shouldn't be  
14 doing it to Mr. Aquino.

15 So I'm going to let him go into a little bit  
16 more detail about what was going on with, you know,  
17 his personal life and this staff member that was  
18 really, you know, basically just sabotaging him  
19 throughout this whole thing.

20 I'm happy to answer any specific questions  
21 either after or before, whatever the panel prefers,  
22 but at this time I would ask that maybe we can get  
23 him sworn in so that he can tell you a little bit  
24 more about what was going on.

25 CHAIRMAN WERNER: Okay. We can do that.

1 MS. STRAND: I'm going to trade places with  
2 him so that Debbie can hear him better.

3 CHAIRMAN WERNER: All right. Debbie, do you  
4 want to swear him in or do you want me to?

5 (Discussion off the record.)

6 CHAIRMAN WERNER: All right. Well, go ahead  
7 and swear in Mr. Aquino then.  
8 Thereupon--

9 AARON AQUINO  
10 was called as a witness by the Respondent, and having  
11 been first duly sworn, testified as follows:

12 CHAIRMAN WERNER: All right. Mr. Aquino,  
13 it's my understanding that you have some, either a  
14 prepared statement or you were going to say some  
15 things, and then after that we can have some  
16 questions. So please go ahead.

17 DIRECT EXAMINATION

18 RESPONDENT AQUINO: Thank you. I mean, I  
19 didn't really having anything really prepared --

20 THE REPORTER: I'm sorry, I can't hear you.  
21 You need to sit much closer.

22 RESPONDENT AQUINO: I didn't really have  
23 anything prepared, I just wanted to get some, you  
24 know, clarification of what really was going. You  
25 know, frankly, number one, it's hard --

1 THE REPORTER: I'm sorry, I'm still  
2 having -- I can't hear you clear enough.

3 RESPONDENT AQUINO: Can you hear me now?

4 THE REPORTER: Let me turn the volume up on  
5 the computer. Maybe that will help.

6 RESPONDENT AQUINO: Better?

7 THE REPORTER: Yeah, I think maybe if you  
8 just try to slow down.

9 RESPONDENT AQUINO: Okay. I'll try to speak  
10 slowly, although admittedly I do talk really, really  
11 fast.

12 First off, this is really hard for me to  
13 talk about, and frankly it's embarrassing. You know,  
14 the truth is I failed in a lot of my duties as far as  
15 it should have never gotten to this point. But, you  
16 know, I just wanted to provide a little context of,  
17 you know, what was really going on. And, you know,  
18 this wasn't anything ever intentional or planned or  
19 anything like that.

20 The first I really got wind of this was not  
21 too long ago. For my first six, seven years I've had  
22 the benefit of my work wife, my associate who handled  
23 all the finances, and unfortunately she had left me  
24 for a better paying position. I relied on hiring  
25 staff to handle accounting and naively giving them

1 access to the operating account, and just having them  
2 tell me, Hey, you need to transfer this much from the  
3 trust to the operating because we need to pay these  
4 bills out.

5 And it wasn't until more recently that I  
6 found out some of those bills weren't getting paid  
7 out or getting paid to the wrong person. For  
8 example, a lot of the medical providers would sell  
9 their liens to a lienholder. That would either not  
10 get noted or the wrong lienholder was paid. And but  
11 regardless of whatever the situation was, you know,  
12 as soon as I learned about it, I would fix it.

13 And I think I've shown a history of, you  
14 know, if clients pointing out something or someone  
15 pointing out something to me, I would fix it  
16 immediately, because I never want anybody else, any  
17 third person to get hurt. And that's still my  
18 intention, regardless of whatever that consequence is  
19 rendered today might be, I'm in no way trying to  
20 stray away from any responsibility I got.

21 And really it's been hard to come up with  
22 what that consequence is because I didn't learn about  
23 this until come January, all three of my Wells Fargo  
24 accounts were frozen and I didn't know why. I  
25 learned after the fact that, you know, there had been

1 a petition to freeze accounts and a temporary  
2 suspension filed the day before Thanksgiving that I,  
3 you know, I can attest I never received. I had Bill  
4 Terry handling my case, and unfortunately I learned  
5 of his passing explaining my accounts are frozen when  
6 I'm calling and emailing him and asking, Hey, what's  
7 going on.

8 And at that point it was just trying to do  
9 damage control because now I didn't have access to  
10 the accounts. I couldn't pay clients. I couldn't  
11 pull up records even online. And I've been trying to  
12 get to the Bar as much of the information to show  
13 them how some of the stuff might not be correct in  
14 their assumption, because a lot of this is based on  
15 assumption. It's based on assumption that all of  
16 this is PI case. PI accounts for a little more than  
17 20 percent of my business.

18 The first example, it was a property damage  
19 settlement. You know, I do a lot of family. I do --  
20 and if, you know, I hope that, you know, if I receive  
21 good communication, I could have explained all this,  
22 but unfortunately I never received that communication.  
23 Nothing was ever sent to me.

24 When things were finally sent to me this  
25 year via counsel, it showed an address with the State

1 Bar that's more than seven years old. And previously  
2 I had gotten communication before these grievances to  
3 my correct address, so I don't know where, you know,  
4 why that took place, but had I known, you know,  
5 questions that the Bar had, I would gladly explain  
6 them to me; or in the past I've had my counsel, Bill  
7 Terry, explain that and be able to respond to me,  
8 because the last thing I want is, you know, things  
9 based on assumption, and I want questions answered.  
10 And if there's anybody or I need to be, you know,  
11 made right, I want to do that.

12 At this point I've had to go through  
13 every -- more than 150 clients and try to, you know,  
14 account for every case after being, you know, trying  
15 to hold together an office with no income essentially  
16 going on six months and trying to keep a staff  
17 together. But now I'm office-less, staff-less and  
18 I'm still trying to take care of clients, trying to  
19 get them substitute counsel for frankly cases that a  
20 lot of people don't even want to take and they're  
21 left hanging. But I'm still trying to do it because  
22 I don't want them, you know, suffering because I  
23 can't represent them anymore.

24 At this whole time, you know, getting  
25 evicted from the house, eviction notice from the

1 office and dealing with, you know, I've had some  
2 depression and ADHD, you know, my wife also got  
3 shingles twice, and she's in her early thirties, so I  
4 had to take care of that.

5 You know, I do want to get any unresolved  
6 clients taken care of. I really do. It's just been  
7 an issue trying to get that done because I've been  
8 frozen my accounts. I have no access to accounts. I  
9 don't -- I can't identify deposits. Check images, I  
10 have to request -- I call in to Wells Fargo, pay a \$5  
11 fee and wait a couple weeks to get an image to see if  
12 it matches whatever I got, and this is after  
13 providing records from an office that's been trashed  
14 because I was evicted, and doing it all by myself  
15 while still trying to support, you know, my three  
16 kids, my wife with no income.

17 So that's basically what's going on right  
18 now, and I'm just asking the Bar to give me an  
19 opportunity to be able to rectify that, whatever they  
20 feel is, you know, appropriate. But I don't want  
21 this to be the end, because I do, if there's any  
22 clients that need to be made, you know, made well, I  
23 want to get them that. And I think my history has  
24 shown that. As soon as one of them communicates that  
25 to me, I do rectify that. And I'll submit on that

1 and answer any questions.

2 CHAIRMAN WERNER: All right. So I'm going  
3 to -- I think that I'm going to let the State Bar ask  
4 you some questions, but before I do that I wanted to  
5 ask you, what do you think would be the most  
6 appropriate consequence here? You say you don't  
7 think that you should be disbarred, but what do you  
8 think the best or most appropriate consequence would  
9 be for your actions?

10 RESPONDENT AQUINO: I think a suspension  
11 that would allow me to audit my accounts, or get a  
12 forensic accountant in to see, you know, what is the  
13 accurate number, if there is an accurate number,  
14 because there's never an intent to steal or take  
15 anything away. I wouldn't have identified every  
16 transaction with the matter number if that was my  
17 intent is to hide and to try to steal things. You  
18 know, I'm just not an accountant. I'm not, you know,  
19 QuickBooks certified or any of that and I relied on  
20 staff that did.

21 So with that, you know, in coming back I  
22 would like a partner or mentor, someone who does  
23 that. To be honest, I never want to handle any of  
24 that. I don't. I just want to practice law.

25 And I would think two years would be enough

1 time for me to get everything straightened and paid  
2 out. And having a mentor, do whatever CLEs or  
3 education needed, but I don't think I'm done being  
4 able to help people out through practicing law.

5 CHAIRMAN WERNER: All right. I'm going to  
6 let Kait ask you some questions, I'm assuming she has  
7 some, and then I probably -- I might have some more,  
8 Mr. Went may have some, and Gale may have some as  
9 well.

10 So, Kait, did you want to ask questions at  
11 this time?

12 MS. FLOCCHINI: Yes, Chair. Thank you.

13 CROSS-EXAMINATION

14 BY MS. FLOCCHINI:

15 Q. I'm going to do -- I'm going to try to do a  
16 share screen. I apologize, apparently everyone is  
17 watching Netflix in my neighborhood. Is the  
18 operating account summary on everyone's screen?

19 CHAIRMAN WERNER: I still have black screen  
20 on mine from -- it says you're sharing but nothing's  
21 showing up. I don't know if anybody else can see it,  
22 but...

23 MS. FLOCCHINI: Okay.

24 COMMISSIONER WENT: No, nothing.

25 MS. STRAND: Last time you shared, Kait, it

1 took a minute to load, so I don't know if you want  
2 to...

3 MS. FLOCCHINI: Thank you. Are we loaded  
4 yet?

5 CHAIRMAN WERNER: No.

6 MS. FLOCCHINI: Okay.

7 MS. FAUST: Kait, would you like me to try?

8 MS. FLOCCHINI: I was going to -- yes, let's  
9 try that. I will stop the share and see if my  
10 computer will just settle down. I would like to look  
11 at Exhibit 18, please. Chair Werner, if I may, can  
12 we go off the record for ten minutes just to...

13 CHAIRMAN WERNER: Yeah. Do you want to take  
14 a ten-minute break?

15 MS. FLOCCHINI: See if I can get this  
16 straightened out on the computer so I don't --  
17 everyone's not delayed. I think that would be a good  
18 use of our time, and everyone can stretch their legs,  
19 things like that.

20 CHAIRMAN WERNER: Yeah, we can take a  
21 ten-minute break. My clock says 11:00 o'clock right  
22 now, so why don't we come back at 11:10 and see if we  
23 can reconvene and get it going.

24 (A recess was taken.)

25 MS. STRAND: I was able to pull up the

1 document with the payment on the Aguilar matter, so  
2 maybe I'll share my screen for just a second.

3 MS. FLOCCHINI: When we are ready, Chair, I  
4 think we can go back on the record.

5 CHAIRMAN WERNER: I'm ready, as long as  
6 we're ready. Yeah, go ahead.

7 MS. STRAND: I just wanted to show the panel  
8 that I wasn't making it up. If you look at the Wells  
9 Fargo operating account ending in 3270, and you look  
10 at August of 2018, you'll see on August 13th, I mean  
11 obviously this is my copy because it has the notes,  
12 but there was a \$4,309 payment to GT5 Motor.

13 And if you go to Exhibit 15, and you look at  
14 8-13, you can see that there was a check made out for  
15 the \$4,309, so those are the right ones, right?  
16 Yeah, \$4,309.01. I think that takes care of that  
17 one, but obviously we've still got to touch base on  
18 all the rest. And can I figure out how to stop  
19 sharing my screen maybe? There we are. I'm back.  
20 All right. Now I'm going to let Mr. Aquino come take  
21 a seat and you guys can finish asking him whatever  
22 questions you need.

23 CHAIRMAN WERNER: Okay. So, Mr. Aquino,  
24 you're still under oath. You understand that,  
25 correct?

1                   RESPONDENT AQUINO: Understood.

2                   CHAIRMAN WERNER: Okay. I'm going to  
3 have -- let Miss Flocchini continue to ask you  
4 questions, and then we'll go on from there as to  
5 other questions that people have.

6                   MS. FLOCCHINI: Thank you.

7 BY MS. FLOCCHINI:

8           Q. I'm going to pull up Exhibit 18 again. And  
9 can everyone see the chart that's on my screen again?

10           CHAIRMAN WERNER: Nope.

11           MS. FLOCCHINI: Not yet?

12           RESPONDENT AQUINO: Not seeing it.

13           MS. FLOCCHINI: Was it thinking about it?

14           CHAIRMAN WERNER: There we go. No, we got  
15 it now.

16           MS. FLOCCHINI: Okay.

17           CHAIRMAN WERNER: At least I got it.

18 BY MS. FLOCCHINI:

19           Q. Mr. Aquino, are you able to see Exhibit 18  
20 on the screen?

21           A. Yeah.

22           Q. Okay. And I wanted to draw your attention  
23 to the deposits here on July 16th. It's about  
24 two-thirds of the way down on the page, the deposits  
25 of the Schutzenhofers settlement funds. Do you see

1 those two lines for \$15,000 each?

2 A. Yeah.

3 Q. Okay. And I will slowly scroll through the  
4 page. If you would review the lines thereafter,  
5 there's -- there's, you know, probably six or seven  
6 lines on that particular page, and then there's a  
7 full page here going from July 17th through  
8 July 25th. And then if you'll just review those  
9 charges that are through July 27th there where your  
10 operating account goes into the negative. Do you see  
11 that?

12 A. Yeah.

13 Q. Okay. And so I'll go back to the first  
14 page, now that we've had a chance to review all of  
15 them. So we've got the Schutzenhofers' money being  
16 deposited on July 16th, correct?

17 A. Yes, that's correct. It's just not on the  
18 screen before me right now.

19 Q. Okay.

20 A. Oh, wait, there. I see it now.

21 Q. Okay. And the deposit was into your  
22 operating account, correct?

23 A. According to this chart, yes.

24 Q. And you understand that Rule of Professional  
25 Conduct 1.15 requires that you deposit client funds

1 into a client trust account, right?

2 A. Yes, that's correct.

3 Q. But you deposited these into your operating  
4 account, correct?

5 A. Well, I'm not sure if I did because -- and  
6 this is going back almost three years. I just know  
7 that date it could have been the staff that deposited  
8 it into the wrong account, because my mom's birthday  
9 is the day after on the 17th, so there's a good  
10 chance I wasn't in town and just had them make the  
11 deposit, and they obviously, according to this chart,  
12 deposited it incorrect.

13 Q. Okay. So your position is that staff did  
14 this and you weren't aware?

15 A. That's correct, because I would never have  
16 them deposit a settlement check into an operating  
17 account.

18 Q. Do you review your operating account  
19 statements?

20 A. I reviewed them on QuickBooks and then I  
21 learned later that Intuit doesn't exactly sync  
22 correctly, so it won't have the exact same  
23 transactions as Wells Fargo would, or it would  
24 inaccurately reflect the wrong status on there. So  
25 it could say voided, paid, or whatever it may be and

1 have it confused.

2 Q. So your position is that QuickBooks didn't  
3 give you accurate information?

4 A. That's correct.

5 Q. Let's look at the charges here at the  
6 bottom. American Express. It looks like it was a  
7 transfer, an ACH. That's a transfer to the American  
8 Express Company, right?

9 A. That's correct.

10 Q. Would that have been your American Express?

11 A. That would be I'm assuming the office one,  
12 and there were multiple cards, I think three or four  
13 staff cards for that.

14 Q. So are you telling the Bar for the first  
15 time that your employees used your clients' money?

16 A. No, that's not what I'm saying. I'm just  
17 saying that the question was was that my American  
18 Express. It could have been or it could be some of  
19 my staffs.

20 Q. And were they personal accounts for your  
21 staff?

22 A. No, they were office -- they're business  
23 credit cards with staff names and then I review them  
24 about once a quarter. And, you know, unfortunately,  
25 you know, I did learn of some staff members using it

1 for personal things, and they were ultimately let go.

2 Q. Let's look at this page here. Let me know  
3 when the table that starts with July 17th pulls up.

4 A. It's pulled up.

5 Q. Okay. The first line is a charge for Curry  
6 House, right?

7 A. That's correct.

8 Q. So I guess I should ask first, is that  
9 related to the Schutzenhofers?

10 A. No, probably not related to the  
11 Schutzenhofers.

12 Q. But since there's 33,000 -- \$30,000 of the  
13 Schutzenhofers' money in there, you were spending the  
14 Schutzenhofers' money at Curry House, right?

15 A. Well, I don't know if I personally was doing  
16 it, but it shouldn't have been there in the first  
17 place.

18 Q. And we have payment of advertising expenses,  
19 right?

20 A. Yes.

21 Q. Okay. And that was -- the Schutzenhofers'  
22 money was used to pay your advertising expenses,  
23 correct?

24 A. According to this chart, it would assume --  
25 it looked like that.

1           Q.     Okay. And if I go to almost the middle of  
2     the page before these new deposits come in, there's  
3     some charges for Seafood City, there's a department  
4     store, there's a pharmacy. Would your position be  
5     that you didn't realize you were spending your  
6     clients' money with these charges?

7           A.     Just presented with this now, I can't  
8     account for it right now.

9           Q.     Okay. And you know that Exhibit 18 was a  
10    pre-admitted exhibit, right?

11          A.     Yes.

12          Q.     Okay. And you would review your bank  
13    statements or your QuickBooks statements when they  
14    came in, right, as a business owner?

15          A.     I'd review it about once every quarter.

16          Q.     And is it your position today that you  
17    didn't realize when you reviewed the July of 2018  
18    statements that you were spending your clients' money  
19    at department stores and restaurants?

20          A.     And I don't believe I realized that until  
21    after auditing post-grievance all this.

22          Q.     Okay. Your counsel referenced earlier that  
23    there was a payment to an auto body shop for \$4,300  
24    and change, right?

25          A.     That's correct.

1 Q. And that was a payment that was supposed to  
2 coincide with this deposit here?

3 A. That's correct.

4 Q. You received \$4,297 on behalf of your  
5 clients, right?

6 A. That's correct.

7 Q. So why did you pay \$4,303 to the auto body  
8 company?

9 A. I believe there was some sort of fee that I  
10 just ate it for that client that wasn't originally  
11 included in the property damage estimate, and it was  
12 less than 12 bucks so I just paid it from my own.

13 Q. And did you get copies of the Exhibits 14,  
14 15, 16 and 17 that the State Bar admitted?

15 A. If they're bank statements, then I believe  
16 so.

17 Q. Okay. I'm going to try to pull up  
18 Exhibit 16 here. I apologize for the brief delay  
19 here. I wanted to address some particular testimony  
20 and if I -- I'm afraid that if I stop the share  
21 screen, I won't be able to go back in. I appreciate  
22 the panel's indulgence.

23 Mr. Aquino, do you see a check on the  
24 screen?

25 A. Yes.

1 Q. Okay. And this check is drawn on your  
2 Nevada IOLTA account, correct?

3 A. Yes.

4 Q. And it's dated July 10th, 2020. Are we  
5 looking at the same document?

6 A. Yes.

7 Q. Check number 1995, right?

8 A. Yes.

9 Q. And this is a check that's made out to  
10 client Jeff Huang, correct?

11 A. Yes.

12 Q. You identified earlier for the panel that  
13 you weren't able to evaluate whether or not all of  
14 the missing funds were accurate because you couldn't  
15 get checks, right?

16 A. I couldn't get access to all the checks.  
17 Normally when you have online access at Wells Fargo,  
18 I could just zoom through any transaction, click on  
19 "view image," but with the statements, you know, I  
20 just got the breakdown of amounts.

21 Sometimes the check wouldn't be identified,  
22 and then I'd have to call Wells Fargo, put in a  
23 request and they would send it snail mail and pay a  
24 \$5 fee. And if it's not what I believed it to be,  
25 then I would have to go through the statements again,

1 try to think what might be a certain check and do  
2 that process over again.

3 Q. The State Bar provided you with all of the  
4 documents that we subpoenaed, right?

5 A. If it was just the statements, yes.

6 Q. So are you saying that these checks that are  
7 included in Exhibit 16 right now weren't provided to  
8 you or that you didn't see them?

9 A. No, I'm not saying that they weren't  
10 provided. It's just, you know, there's thousands of  
11 documents and I'm assuming -- you know, I have no  
12 reason to question if it wasn't provided or not, so  
13 I'm going to say it was probably provided.

14 Q. Okay. So instead of reviewing the documents  
15 that have been provided in the case, you  
16 independently went to the bank and asked for checks.  
17 That's what you're telling us?

18 A. For certain matters, yeah. If I couldn't  
19 locate any information specifically in the discovery  
20 that was given, or if I couldn't find it in the file,  
21 I would call the bank and request it.

22 Q. Okay. I'm trying to pull up particular  
23 pages in the IOLTA account. Do you see Exhibit 19,  
24 which is the summary of IOLTA account ending in 9286  
25 on the screen?

1 A. Yes.

2 Q. Okay. And do you see the third from the top  
3 line item dated 4-18-18?

4 A. Yes.

5 Q. And the one above it is dated 4-17-18,  
6 right?

7 A. That's correct.

8 Q. And both of those, if we follow the chart  
9 over to the farthest column, identify that they --  
10 one was for fees and one was for client costs related  
11 to the Thonesavanh divorce matter, right?

12 A. Yes.

13 Q. Okay. And then those funds were transferred  
14 into your checking account, right?

15 A. That's correct.

16 Q. Do you see Exhibit 18 in front of you?

17 A. Is that page 11 of?

18 Q. Yes.

19 A. Yes.

20 Q. Okay. So Exhibit 18 is the summary of your  
21 operating account which ends in 3270, right?

22 A. Yes.

23 Q. And we're looking at the 11th page of the  
24 exhibit, which are -- the transactions are dated  
25 between April 10th and April 18th of 2018, right?

1           A.     Yes.

2           Q.     Okay.  And we see the -- about two-thirds of  
3     the way down we see the transfer for attorney's fees  
4     on 4-17, right?

5           A.     Yes.

6           Q.     And then on 4-18 we see the transfer for  
7     allegedly client costs related to Mr. Thonesavanh,  
8     right?

9           A.     Yes.

10          Q.     Okay.  And then let's look at the deductions  
11     that come thereafter.  Do you see page 12 of  
12     Exhibit 18?

13          A.     Yes.

14          Q.     Okay.  And there are some debits from the  
15     account.  Can you tell me which ones of these are  
16     related to Mr. Thonesavanh's costs?

17          A.     Let's see, possibly Cox Communication.  And  
18     this is me just going off the top of my head because  
19     I know we were ordered to pay a bunch of utility  
20     bills and other costs, one of them was definitely Cox  
21     Communication.

22                 And it's likely it could also be a  
23     reimbursement from a previous cost, but I couldn't  
24     tell you exactly, you know, just looking at this from  
25     the top of my head.  And, I mean, and that's been

1 essentially the problems going through all these  
2 records for not only for this case but for every  
3 case.

4 Q. Mr. Aquino, you would agree that it's your  
5 obligation to keep a clear accounting of your  
6 clients' funds and how they're spent, right?

7 A. Yes.

8 Q. Okay. And the only line here that you think  
9 could have been related to Mr. Thonesavanh is this  
10 Cox Communication payment on April 19th, 2018, right?

11 A. Yes. As I look at it now, that could  
12 possibly be it. A lot of times we wouldn't even  
13 charge them until afterwards and just get  
14 reimbursement because a lot of times I don't even  
15 know what total costs are going to get paid.

16 Q. Okay. And I apologize, I'm going to have to  
17 open up a new document. Hopefully we will continue  
18 to get the screen sharing.

19 A. Honest, actually the -- what I'm looking at  
20 right now, this screen, 4-27-18, the 6,594, that's  
21 U.S. Treasury. That's definitely their tax, fines  
22 and fees.

23 Q. Okay.

24 A. Also 4-18-18, Silver State Schools. Let's  
25 see, that's theirs. Well, a couple of these are.

1 Q. Okay. I'm pulling up the stipulation of  
2 facts here. So are you looking at, on your screen,  
3 the ledger of transactions for Thonesavanh that is  
4 the second table attached to the stipulation of  
5 facts?

6 A. Yes.

7 Q. Okay. In here, in the middle of the page  
8 there's a date 9-11-2017, and there's a payment to  
9 Cox Communications. You've identified that it was  
10 for the Thonesavanh matter. That would have been the  
11 payment that you were supposed to make for your  
12 client's utility bills, right?

13 A. They're could have been multiple payments,  
14 just like there's multiple payments for Silver State  
15 Schools, multiple payments for Las Vegas Valley Water  
16 District.

17 Q. Would that have been consistent with the  
18 decree of divorce?

19 A. There was a lot of still -- a lot of  
20 contesting afterwards, even per the terms of the  
21 divorce regarding what was, you know, a valid bill or  
22 not. So it was a lot of, you know, back and forth  
23 cooperating with opposing counsel trying to get those  
24 resolved.

25 Q. Okay. So your position is that you didn't

1 keep records of the client costs that you were  
2 paying?

3 A. No, I never said that. I just can't find  
4 all of them.

5 Q. Well, for this cost that you paid in 2017,  
6 you identified it was for the client, right?

7 A. Yes.

8 Q. So you knew how to keep track of whether or  
9 not it was related to a client, right?

10 A. Well, it could have been my staff paying  
11 them because they -- to be honest this is a lot of  
12 stuff the staff would do. In this one, this is a  
13 reference made in a check. The other one was made  
14 via payment online. A lot of times if we can make a  
15 payment online and if they learned how to do that.  
16 And I know definitely we had him come in and give us  
17 all his login information because this was becoming  
18 too tasking, we would do that.

19 Q. Okay. Did you provide any of that  
20 information to the Bar between when you received the  
21 grievance in October of 2020 and today?

22 A. I never received the grievance in October.  
23 I learned of the grievance after the fact, after my  
24 accounts were frozen. And anything that I did could  
25 find, you know, I of course forwarded that. And I'm

1 still going through all of it, it's just, like I  
2 said, I was evicted and had to gather whatever,  
3 whatever trashed documents on the floor and try to  
4 compile them and put them back into their files and  
5 recover what I can and sort that all out by myself  
6 essentially.

7 Q. Was your email address  
8 Aaron@AquinoLawGroup.com?

9 A. Yes.

10 Q. And so what you're representing today is  
11 even though the State Bar received a "read" receipt  
12 of an email containing the underlying grievance for  
13 the Thonesavanh matter, you didn't receive that  
14 grievance? That's what you're telling us, in October  
15 of 2020?

16 A. That's correct, because if I -- I definitely  
17 would have notified my counsel, Bill Terry, if I got  
18 anything like that, because he got a similar message  
19 like that in March of that same year saying that  
20 they're pondering a temporary suspension and freezing  
21 accounts, and he got that message, he called the Bar  
22 Counsel at the time, Mr. Matthew Carlyon, and we  
23 explained it and took care of it.

24 So that wasn't the case here. I didn't get  
25 it. I didn't get anything in the mail. I don't know

1     how to explain a "read" receipt, although my staff  
2     has access to my email, my kids have access to my  
3     email when they play on my phone, and I'm not saying  
4     that they did it, but I just know that I never  
5     received it.

6           Q.     Okay. So you had counsel in October of  
7     2020, right?

8           A.     Yes.

9           Q.     When were you evicted from your office?

10          A.     I believe March.

11          Q.     March of 2021?

12          A.     I'm checking for you. March 2021.

13          Q.     Okay. And you'd agree that the complaint  
14     that alleges all of the misappropriation, or the  
15     majority of misappropriation matters was filed in  
16     January of 2021, right?

17          A.     That's correct.

18          Q.     And so your position is that between January  
19     of 2021 and March of 2021 you didn't try to compile  
20     the documentation to try to answer the complaint,  
21     right, and so now it's lost to you?

22          A.     No, that's not what I'm saying. I didn't  
23     even have a copy of that complaint in January. All I  
24     had was my account's frozen, me trying to call Bill  
25     Terry and finding out he passed away, and then just

1     trying to do damage control from there.

2           Q.     What was your address in January of 2021?

3           A.     Residential or office?

4           Q.     Either.

5           A.     Office, 5150 Spring Mountain Road, Suite 12.

6     My house is 9023 Tony Ridge Avenue. And subsequently  
7     when I received a copy of the complaint after,  
8     through counsel, my current counsel, it referenced a  
9     6767 Windmill, which I haven't been for seven years  
10    maybe.

11          Q.     But your business address is 5150 West  
12    Spring Mountain Road, Suite 12, right?

13          A.     That's correct.

14          Q.     Okay. And so there's no reason why the mail  
15    shouldn't have made it when we sent the complaint in  
16    January of 2021, right?

17          A.     Just a second. No, I didn't receive  
18    anything as far as the mail goes in regards to the  
19    original petition in November, the order in December.  
20    And in January when everything happened, I did  
21    eventually receive it through my current counsel.

22          Q.     Okay. So you don't have an -- if the  
23    complaint, and I'll represent that the complaint does  
24    identify the Spring Mountain address, you don't have  
25    a reason why that mail shouldn't have made it to you

1 at the time that it was sent, correct?

2 A. No, I don't have a reason that I can think  
3 of.

4 Q. Okay. And prior to that you were working  
5 through counsel, correct?

6 A. Yes.

7 Q. I see another transfer here. I'm looking at  
8 Exhibit 18 again. Do you still have that up on your  
9 screen?

10 A. If it's the -- states 4-18-18 to 4-27-18,  
11 yes.

12 Q. Okay. Great. And about two-thirds of the  
13 way down, on 4-25 there's a transfer of funds that  
14 you've identified was related to Mr. Thonesavanh,  
15 right?

16 A. Yes.

17 Q. The amount is \$5,716.62, right?

18 A. That's correct.

19 Q. Okay. After that can you tell me what  
20 charges were related to Mr. Thonesavanh that you paid  
21 with those funds?

22 A. I'm looking through it right now.

23 Q. Are you looking at a paper copy there?

24 A. No, I'm looking at copies of expenses that  
25 I've gathered thus far. Was it 5,716?

1 Q. Yep.

2 A. I'm not seeing it, no. I'm sorry.

3 Q. I'm sorry, I paged down because it looked  
4 like you were looking at something else and it's most  
5 of the way down the page.

6 A. Oh, Okay. Reference a debit for 5,000 but I  
7 can't find it. Oh, transfer, 5,716.62. There is on  
8 4-27-18. Let's see.

9 Q. And I can scroll down if you want. Just let  
10 me know, Mr. Aquino, if you'd like me to page down to  
11 page 13 of that exhibit.

12 A. I'm sorry, I'm trying to go through these  
13 and trying to identify these. Sorry, I can't  
14 identify it from -- as it stands right now.

15 Q. Okay. So there's nothing on this page that  
16 you can identify that's related to Mr. Thonesavanh's  
17 costs, right?

18 A. No, as of right now, no, I can't.

19 Q. Okay. How about this page? Anything on  
20 page 13 of Exhibit 18 that's related to  
21 Mr. Thonesavanh's costs?

22 A. Not that I can tell.

23 Q. Okay. And if I look at May 2nd, 2018, I see  
24 that the balance in the account is \$751.33. Do you  
25 see that also?

1 A. Oh, yes.

2 Q. Okay. So it's fair to say that all of the  
3 money that you transferred that you identified was  
4 related to Mr. Thonesavanh has been spent but we  
5 can't find a cost related to Mr. Thonesavanh, right?

6 A. Well, it could have been reimbursement for a  
7 cost paid previously.

8 Q. Okay. So would that have been previous to  
9 the transfer that you made on 4-18-2018?

10 A. Yes, it could likely be that, and a lot of  
11 times it was because I wouldn't know exact amounts of  
12 costs until after paying for them.

13 Q. So you agree that on 4-18-2018 you  
14 transferred \$5,716.62 that you identified as client  
15 costs related to Mr. Thonesavanh, right?

16 A. Yes.

17 Q. And then a week later you transferred the  
18 same exact amount, identified again that it was  
19 related to client costs for Mr. Thonesavanh but the  
20 only thing we found is approximately \$400, or almost  
21 \$500 charge related to Cox Communications that you  
22 think might have been a cost that you paid, right?

23 A. Yes, but, like I said, it could have very  
24 likely been a reimbursement for costs up to that  
25 point. A lot of times I didn't transfer it right

1 away because I expect, especially for that case,  
2 there's a number of costs that were paid out for that  
3 case, over a hundred thousand were to multiple  
4 vendors, because we had to resolve all their property  
5 disputes.

6 In trying to sell their property, we had to  
7 resolve all their debt regarding all their utilities,  
8 and with over a year in litigation, they had a  
9 significant amount of utilities, HOA fees that had to  
10 get paid for.

11 Q. So you're saying that there was a new debt  
12 because -- okay, if you had all the debts on  
13 April 18th of 2018, wouldn't you have transferred the  
14 amount, a full amount related to that on April 18th,  
15 2018?

16 A. No, and that was the reason for such  
17 contested resolution of the case after the divorce  
18 because per the terms of the divorce, there would be  
19 arguments as to, okay, if we're going to sell the  
20 house, well, who has to reimburse all the debt on the  
21 house before we can sell it.

22 And it was at the time my client's position  
23 that she was intentionally delaying the selling of  
24 the house because she had free rent. So not paying  
25 these debts, letting them accumulate, and then

1 saying, okay, but now you got to pay half of this.

2 Q. Okay. So, Mr. Aquino, my question is I  
3 don't see any costs that are incurred paid out on  
4 behalf of Mr. Thonesavanh between April 18th of 2018  
5 and April 25th of 2018. But you have two separate  
6 transfers, right?

7 A. Yes.

8 Q. And your position is that both of those  
9 transfers were for pre-incurred debt --

10 A. Yes.

11 Q. -- right?

12 A. Yeah, that's the only reason why I would do  
13 that and identify it.

14 Q. So my question is why would you be  
15 transferring twice in a one-week period instead of  
16 just doing one transfer for the \$11,400?

17 A. Yeah, and at the top of my head I couldn't  
18 tell you exactly because there's an ungodly amount of  
19 costs from that case. But if it's what my staff had  
20 calculated, you know, that's the amount that I would  
21 transfer and then they would pay out whatever it is.  
22 And if it's a regular bill, like a mortgage, plus  
23 whatever it may be, that could be likely what those  
24 two costs are.

25 Q. Okay. And you don't have any documentation

1     that would substantiate this, right?

2           A.     Not that I can find at this moment, and  
3     that's what I've been working on by myself.

4           Q.     Okay.

5           A.     And I intend to, you know, get those.

6           Q.     And if you were prepaying these clients'  
7     debts, whose money were you using to prepay them?

8           A.     Well, it might not necessarily even be other  
9     clients' money if he had funds in the trust.

10          Q.     Okay.  If he had funds in the trust,  
11     wouldn't you have used his funds to pay those bills  
12     directly?

13          A.     Well, like I said, I had staff handle it,  
14     and I wouldn't allow staff access to the trust so I  
15     would -- they were signatories on the operating so  
16     they can pay those costs or pay them online, and I  
17     definitely don't have a debit or credit card for the  
18     trust account.

19          Q.     So you made all the transfers out of the  
20     trust account into the operating company?

21          A.     Yes.  Whatever amount that they, you know,  
22     told me, oh, these costs need to be paid out and this  
23     is the amount that it is, they'd ask me to transfer  
24     that and then I would review it, and then every  
25     quarter I would also review those and try to make

1       sure that they matched whatever the staff was saying.

2           Q.     But you didn't find any of this information,  
3       these documents that you could provide to the Bar,  
4       between when the complaint was filed in January  
5       (inaudible) 2021, right?

6           THE REPORTER: I'm sorry, you broke up  
7       there. After "the complaint was filed in January..."  
8       BY MS. FLOCCHINI:

9           Q.     -- when the complaint was filed in January  
10      of 2021 and when you were evicted from your office in  
11      March of 2021, right?

12          A.     That's correct, because during that time I  
13      also got locked out of my storage, so I was gathering  
14      documents for this, as well as documents for just --  
15      basically all the documents to cover the range that  
16      the grievance is, you know, questioning.

17          Q.     Mr. Aquino, you would agree that you have an  
18      obligation to provide your clients with an accounting  
19      of the distribution of their funds, right?

20          A.     Yes.

21          Q.     And you would agree that you didn't provide  
22      an accounting to Mr. Thonesavanh for his -- the  
23      disbursement of the fund, the property settlement  
24      funds from the divorce, right?

25          A.     No, I wouldn't agree with that. He would

1 frequently get, you know, his accounting. And then  
2 when he hired counsel, I spoke with his new counsel  
3 and said I can get that to him, but subsequently I  
4 spoke with Bill Terry who said, Oh, no, I'll go talk  
5 to him, and I don't know if that ever happened.

6 Q. And did you provide the Bar with copies of  
7 any of the accountings that you provided to your  
8 client?

9 MS. STRAND: I think we have copies of the  
10 checks for Thonesavanh in the --

11 RESPONDENT AQUINO: Also expenses.

12 MS. STRAND: -- in what we provided you,  
13 Kait. I think that's one of the things that I sent  
14 over, and if not it would be a mistake on my firm's  
15 end and not Mr. Aquino, because he is showing that  
16 they are in our mutual Dropbox, some checks for  
17 Thonesavanh.

18 BY MS. FLOCCHINI:

19 Q. Are those accountings that identify a chart  
20 that identifies expenses and them being paid?

21 MS. STRAND: Hang on one second.

22 RESPONDENT AQUINO: Yeah. No, I don't have  
23 access to my actual ledger, and that's one of the  
24 things I'm finding. I did, you know, re-audit and,  
25 you know, have costs accounted for for over a least

1 the checks and the debits over a hundred thousand  
2 where that I can provide, you know, if I were given a  
3 suspension and time to audit the account.

4 BY MS. FLOCCHINI:

5 Q. Mr. Aquino, you would agree that there was  
6 no trial in Mr. Thonesavanh's matter, right?

7 A. No, we settled that at settlement  
8 conference, and then there were some subsequent  
9 motions afterwards, but, no, it never made it to  
10 trial.

11 Q. Okay. And there were no experts hired in  
12 the case, right?

13 A. No. I mean, there were accountants hired,  
14 CPA, but for experts for trial, no.

15 Q. There were no depositions taken in the case,  
16 right?

17 A. No.

18 Q. And none of the items where you identify  
19 client costs were related to paying some sort of  
20 expense, a transcript expense, an expert bill or  
21 something like that related to the costs, right?

22 A. Well, I don't have an actual digital ledger  
23 that I can share right now, but I do have the costs  
24 tallied that I can provide, you know, in an audit.

25 Q. Did you provide that to the Bar already?

1           A.     I provided costs, fees and...

2                   MS. STRAND:   There should have been a  
3     handwritten note with costs.   I think you and I  
4     talked about it, Kait.   It's the one that identifies  
5     like the schooling and the taxes, and that's the  
6     extent of what we have.   It's just Mr. Aquino's  
7     handwritten tally of what he was able to identify  
8     from his memory because he does not have access to  
9     the documents.

10          BY MS. FLOCCHINI:

11               Q.     Okay.   Mr. Aquino, do you use online  
12     QuickBooks?

13           A.     I did at one point.

14               Q.     And what did you use in 2018?

15           A.     Likely online.

16               Q.     And what did you use in 2019?

17           A.     Probably still QuickBooks.

18               Q.     And then what did you do in 2020?

19           A.     We tried to get everything on Clio, and at  
20     that point the only reason I would use QuickBooks is  
21     just to print out checks, but not keep track of like  
22     invoices or anything like that.

23               Q.     And was Clio an online program or was it  
24     something that you downloaded onto a computer?

25           A.     It's online.

1 Q. Okay.

2 A. I minimally had staff. They weren't where I  
3 wanted them to be as far as entering everything that  
4 I told them to enter.

5 MS. FLOCCHINI: Okay. Okay. I think those  
6 are all the questions I have, Mr. Aquino.

7 Thank you, Chair.

8 RESPONDENT AQUINO: Thank you.

9 CHAIRMAN WERNER: Gale, did you have any  
10 questions that you wanted to ask of Mr. Aquino?

11 COMMISSIONER KOTLIKOVA: No, I don't have  
12 any questions.

13 CHAIRMAN WERNER: Joe, did you have any  
14 questions that you wanted to ask?

15 COMMISSIONER WENT: I do.

16 EXAMINATION

17 BY COMMISSIONER WENT:

18 Q. Mr. Aquino, I see letters from attorney  
19 James Kwon in October and November 2020. Do you  
20 recall those?

21 A. Yes.

22 Q. It appears from the letters that he's asking  
23 you about the money that you were supposed to be  
24 holding for the divorce case. Do you remember that?

25 A. Yes.

1           Q.     What was your response to those letters? I  
2     don't know that I saw any correspondence back to him  
3     from you. How did you deal with that? How did you  
4     react to those letters and what did you tell him?

5           A.     I talked to him personally. He was actually  
6     in Hawaii, and we would have really actually good  
7     conversations to help resolve the situation because,  
8     you know, I've had him on previous cases and we work  
9     well together, and, you know, I think he can attest  
10    to that as well. And when I spoke with Bill about  
11    it, he said that he would talk to James, and I don't  
12    know if that ever happened.

13          Q.     Okay. So from your perspective you took no  
14    action with respect to those letters, except defer to  
15    counsel; is that what you're saying?

16          A.     And provided information to counsel and  
17    asked him, Hey, do you -- should I keep talking to  
18    him or are you going to talk to him? Because he's  
19    done that in the past where, you know, even though it  
20    might be a civil matter, Bill would, you know, if he  
21    can resolve it, he'll try to resolve it.

22          Q.     Receiving those letters must have alerted  
23    you to a problem there with those funds. Did you  
24    investigate upon receiving those letters? Did you  
25    look into it? How did you -- how did you address it

1 at your office?

2 A. No, I didn't think there was an issue with  
3 the funds. He just didn't like the answer.

4 COMMISSIONER WENT: Okay. That's all I  
5 have.

6 EXAMINATION

7 BY CHAIRMAN WERNER:

8 Q. In response to the request from Mr. Kwon,  
9 was an accounting ever made? Did you ever put it  
10 into a spreadsheet or write it out on a yellow sheet  
11 or whatever and show Mr. Kwon an actual accounting?

12 A. We made, and it was like the third or fourth  
13 time over, we made entire copies of a number of  
14 boxes, banker boxes full of everything, made them  
15 available. And I told Bill you can pick it up at any  
16 point. That never happened. And then I was evicted  
17 and left putting -- trying to put together boxes.

18 Q. Do you still have those boxes then that you  
19 put together for the, for that client?

20 A. Parts of it. Some of it with footprints on  
21 it and moving dolly tire marks, but I've got a good  
22 amount of them.

23 Q. Looking at the agreement, or the stipulation  
24 of facts it says in regard, like it looks like the  
25 first matter that's addressed in the stipulation of

1 facts is the Schutzenhofers' case. And in that it  
2 says, under letter H, Respondent was aware that  
3 multiple medical providers had an interest in the  
4 Schutzenhofers' settlement funds; however, respondent  
5 has not disbursed funds to any of those providers.  
6 Is that right?

7 A. I don't agree with that entirely. I know  
8 that some providers were paid and checks were made  
9 out to all the providers. Just at this time I don't  
10 know which ones in particular weren't paid.

11 Q. So when you --

12 A. I'm sorry for cutting you off, but I've been  
13 working with counsel to try to get those, but that's  
14 been, you know, part of the problem is I don't have  
15 access to those accounts. If I see, you know, from  
16 the bank statements that I do have copies of, and I  
17 see an amount and I don't know what it is, I have to  
18 call Wells Fargo, make a request, pay the \$5 and wait  
19 a couple weeks and then hope that that's what I'm  
20 hoping it is, and if it's not, do it again. But my  
21 counsel has been helping me do that.

22 Q. And did you, like, for example, you knew  
23 that the Schutzenhofers was a specific item in the  
24 Bar's complaint. Did you look through the records  
25 provided by the State Bar in regard to the

1 Schutzenhofers?

2 A. Yes, I did.

3 Q. Okay. And then after reviewing and then you  
4 stipulated that you haven't paid any providers,  
5 correct?

6 A. Yes, I did stipulate to that.

7 Q. Okay. And then in regard to Grosso, you  
8 stipulated that you didn't incur the costs of  
9 \$4,486.67 that you charged Mr. Grosso, correct?

10 A. That's correct. And, you know, I believed  
11 some of those included attorney fees, because at that  
12 point my CPA said it doesn't matter how I label it,  
13 as long as I can identify where the source came from.

14 Q. Earlier we looked at some documents, and you  
15 were -- you were indicating that at least a few times  
16 you received money and it was deposited into the  
17 operating account instead of the trust account from  
18 insurance settlements, correct?

19 A. Correct.

20 Q. Okay. And you said that you knew that was  
21 wrong but your staff might have done it when you were  
22 gone?

23 A. Yes, that's correct. And, you know, and I  
24 could see how it could be done because I left on my  
25 desk, you know, two booklets of deposit slips, and I

1 wrote on a giant Sharpie, Hey, this is trust, this is  
2 operating, and, you know, I can see how they easily  
3 mixed those two up.

4 Q. When you returned from your vacation after,  
5 or your -- when you went to your parent's birthday,  
6 or whenever you were out of the office, did you go  
7 back through and double-check all the deposits and  
8 payments that were made in your absence?

9 A. I don't know if I did it immediately after,  
10 but I tried to do that at least every quarter. Every  
11 three months I would go through and make sure. And,  
12 you know, subsequently after leaving I would find out  
13 employees would try to hide that mistake sometimes.

14 Q. I guess I'm just curious because it doesn't  
15 look like in the records that you ever corrected the  
16 mistake regarding the Schutzenhofers, and I think  
17 there was a couple other that I saw, but I don't ever  
18 see like correction, transferring the money back into  
19 trust account, oops, or, you know, like correction or  
20 anything like that. Did I just miss that? Did it  
21 happen? Do you remember specifically doing that?

22 A. No, I don't remember specifically doing  
23 that. The only time I would specifically remember if  
24 it said "replace check" then I obviously replaced the  
25 check, if I didn't see that it was deposited, but I

1 can't specifically remember doing that.

2 Q. The Bar's stipulated facts, that you agreed  
3 to, talk about you not communicating with Miss Apo,  
4 for example. Why wouldn't you respond to Miss Apo's  
5 requests for information?

6 A. And that's my fault. I -- sometimes I would  
7 give clients my cellphone, and I set the wrong  
8 expectation that it's appropriate for them to text me  
9 and have them text back immediately. If I don't text  
10 them back immediately, it's like my wife where, you  
11 know, it's upsetting to them.

12 But I would get back to her as soon as I  
13 could. I never just ignore it. And as soon as she,  
14 you know, made the grievance, I had actually refunded  
15 her money prior to receiving that grievance because  
16 she had asked, and I gave it to her the next day.

17 Q. So the exhibits that are attached to the  
18 stipulation of facts includes an itemization of, I'm  
19 not even sure how many because I don't think they're  
20 numbered, but a lot of personal injury clients that  
21 are allegedly moneys you received that should still  
22 be around. Do you remember seeing that?

23 A. Yes. And I think it was just a general  
24 ledger of every single personal injury settlement  
25 regardless of there was an issue with it or not.

1           Q.     So when I looked through it, it identifies  
2     just the cases where they -- where it appears that  
3     there is still money outstanding, and then other  
4     cases it shows nothing, like that it all resolved.  
5     Do you see it that way or do you need me to show you  
6     the document?

7           A.     No, no, I've got the document in front of  
8     me. It just lists every single personal injury  
9     client that they identified through that time period,  
10    regardless if there's an issue or not. And a lot of  
11    these aren't even personal injury clients.

12          Q.     Right. And what's interesting I guess is  
13    that if you look through a lot of them, it doesn't  
14    show that there's any balance or amount owing, so  
15    like those are resolved, but then there are others  
16    that it shows an amount that should be in the client  
17    trust account. Do you see that in the far right-hand  
18    column?

19          A.     Yes.

20          Q.     So like a lot of them are blank, which means  
21    they think that -- or the Bar thinks that that's  
22    already been resolved, and then there are others that  
23    have amounts to them. Do you see that?

24          A.     Yes.

25          Q.     And that's where they come up -- as far as I

1 can tell that's where they are coming up with this  
2 \$700,000 of missing funds.

3 A. That's correct.

4 Q. Okay. And I know it's a lot of work, but  
5 did you go through these and say, you know, like, for  
6 example, any of these cases are not personal injury?  
7 And I guess the reason I'm asking this is because the  
8 ones that I'm looking at, you know, it's like Safeco  
9 Insurance paid on a case. I don't -- I've never seen  
10 Safeco pay on a family law case or a contract case  
11 like that, it's just usually it's a personal injury  
12 case, right?

13 A. Oh, no, no. I'm not alleging that this is  
14 every case that's gone through the trust account.  
15 This is what they identified as the personal injury  
16 client ledger.

17 Q. Right.

18 A. So --

19 Q. So some of these -- I think I understood  
20 your testimony as some of these you are contending  
21 are not personal injuries cases?

22 A. That's correct.

23 Q. Okay. Did you specifically identify which  
24 ones you think are not personal injury cases?

25 A. Well, I've been working with counsel to do

1     that.  It's just been a very uphill battle in doing  
2     that, and I still intend to do that.

3           Q.     Have you found any that, on this list that  
4     you can specifically identify for me and say, See,  
5     this is not a personal injury case?

6           A.     Yes.  The first one.  That's a property  
7     damage settlement.

8           Q.     Let me go back to the first page because I  
9     was down quite a few pages here.  So the Raul  
10    Abejuela and Erika Aguilar case.

11          A.     Yes, that was a property damage settlement  
12    case.

13          Q.     Right.  And then -- and that one, so we  
14    can -- we can say, and you showed us the check  
15    already, that one the Bar was estimating that  
16    there's -- there should be \$2,864 in your trust  
17    account and there's not because you paid more than  
18    the settlement amount to a property damage, some --  
19    for property repairs?

20          A.     That's correct.

21          Q.     All right.  Any others that you were able to  
22    identify or is it just the one?

23          A.     Sorry, panel's indulgence while I do.  Page  
24    two, Bunagan, Atilano, at the bottom there's  
25    \$14,006.88.

1 Q. Okay.

2 A. That's actually a probate case that that  
3 client was using towards her \$20,000 retainer.

4 Q. She was -- she was using an insurance  
5 payment to pay her retainer?

6 A. Yes. This is a life insurance payment for  
7 the daughter of Bunagan to help pay for the probate  
8 case, and she paid on top of that.

9 Q. Okay. And did you provide that information  
10 to the State Bar?

11 A. I've been working with counsel to get all  
12 this information, so I don't know if they have it or  
13 not. But, like I said, that's something I intend to  
14 do with all of these.

15 Q. All right. And so the understanding that I  
16 have, or at least that's been represented here today,  
17 is that you, like this is mostly just your staff  
18 wasn't being closely supervised, you don't really  
19 like doing accounting; and, therefore, you just kind  
20 of would push it off; and, therefore, we kind of got  
21 into this mess where you owe money that you haven't  
22 paid and that isn't in your accounts; is that right?

23 A. Very generally, yes. It's not that I pushed  
24 off. I trusted staff to give me accurate breakdowns  
25 of everything, and but I'd submit on the rest.

1 Q. But you don't have like...

2 A. So I would recognize it's not perfect  
3 accounting, and that's where I failed, but there's  
4 never, you know, an attempt to misappropriate. And,  
5 you know, I don't even -- I don't believe it's  
6 anywhere close to whatever the allegations are. But  
7 I do recognize, you know, the failure and I'm willing  
8 to account for it accurately. So, you know, I  
9 couldn't give the panel an exact amount that I think  
10 because at the time I would think that they're all  
11 paid for. So, you know, that's something I'm working  
12 with counsel to get an accurate amount.

13 Q. But I guess -- I guess what I'm trying to  
14 distinguish on your case is, you know, fairly  
15 recently there was an attorney who had a similar type  
16 representation, his name was Rob Graham, and he said,  
17 Look, there's all this missing money and it's just I  
18 think it was all supposed to be there and I was  
19 spending, you know, what I needed to to run my  
20 office.

21 But the State Bar said, Um, I'm sorry, sir,  
22 but there's missing a lot of money here. And there's  
23 no one -- there's not an accounting, you know, of  
24 each -- like usually in firms I will see for every  
25 single client there is in their file, here are the

1 costs for this file, whether it's a long distance  
2 charge, postage, copies, runner fees, filing fees,  
3 whatever, and then you have it broken down per client  
4 in their file so you know, Okay, Mr. Aguilar, I paid  
5 this much on your account, or I paid on this -- this  
6 much on your behalf.

7 What I'm trying to find out is where -- like  
8 did you just not even attempt to do that or you did  
9 but it's now lost?

10 A. No. And you're right. And I'm familiar  
11 with the case, and I know that ideally what's my --  
12 our standards are supposed to be. They're supposed  
13 to have everything scanned. They should have  
14 breakdown of costs and fees for every case, and they  
15 should be scanned.

16 And unfortunately, you know, I should have  
17 supervised to make sure that they were doing that for  
18 every single case. I've got them for a good amount  
19 of cases but not every case. And then having the  
20 accounts frozen, I couldn't backtrack easily to try  
21 to resolve, you know, anything that I didn't have  
22 scanned.

23 And then just, you know, losing access to my  
24 office just compounded that problem. And it's not  
25 one that I'm trying to stray away from, because I do

1 want to be able to go back to this and have something  
2 for everything.

3 Q. Do you still have access to your Clio?

4 A. Yes.

5 Q. So you can go into the file and see what's  
6 scanned in and what costs are associated with the  
7 file, right?

8 A. Yes. And that's what I've been doing on my  
9 own.

10 Q. Okay. And I guess you've already admitted I  
11 guess in the stipulation that you violated some of  
12 these duties, you're just saying that it was  
13 negligent on your part and not intentional; is that  
14 right?

15 A. That's correct.

16 Q. Okay. And that you admit that there has  
17 been injury or potential injury to your clients; is  
18 that right?

19 A. That's right.

20 Q. And then as far as, you know, aggravating  
21 circumstances, the Bar says there is a pattern of  
22 misconduct, it looks like based on the amount of  
23 these files that have no information or no accounting  
24 on or appear to be missing funds that that would be a  
25 pattern. Do you agree with that?

1 A. Yes.

2 Q. Okay. And in your defense I think you said  
3 that the mitigating factors that you are putting  
4 forth is that you have suffered through some  
5 depression and some ADHD; is that right?

6 A. That's correct.

7 Q. Okay. Are you receiving treatment from  
8 anyone for those, the depression or the ADHD?

9 A. Yes, I have a psychologist.

10 Q. Okay. And are there other mitigating  
11 factors that you want us to consider as the panel as  
12 we debate, you know, what's happening going forward?

13 A. Nothing that's already, that hasn't already  
14 been said, no. I'll submit on it.

15 Q. Okay.

16 MS. STRAND: Can I chime in there, Chair?

17 CHAIRMAN WERNER: Sorry, I was looking down.  
18 Is that Emily?

19 MS. STRAND: Yes.

20 CHAIRMAN WERNER: Yeah, I will give you an  
21 opportunity to argue after. I was just -- I'm not  
22 trying to ask him to argue for his own case. I think  
23 that's going to be your job.

24 MS. STRAND: I just wanted to make sure.

25 CHAIRMAN WERNER: I just wanted to make sure

1 if he was going to have any other fact-based  
2 assertions on that, I wanted to hear them from him.

3 MS. STRAND: Understood.

4 BY CHAIRMAN WERNER:

5 Q. And a lot of times people ask as a  
6 mitigating factor for they want to raise the issue of  
7 remorse. Were you planning on raising that, sir?

8 A. Oh, definitely. I'm sorry I didn't touch on  
9 that. And that goes into part of, you know, my  
10 beginning where, you know, frankly this is the most,  
11 you know, the hardest thing to talk about and most  
12 embarrassing thing that no one ever wants to talk  
13 about it.

14 Not only, you know, the effect is has on my  
15 business that I had for ten years that's now gone, my  
16 former staff, my former clients, even my wife and my  
17 kids, for them to open up and Google things online  
18 and then, you know, have my mother-in-law calling me  
19 and asking for explanations, you know, there's --  
20 there's no way I'd wish that on anybody.

21 But all -- you know, I'm not trying to  
22 garner any sympathy because, you know, I failed, and,  
23 you know, I want to do everything that the Bar's  
24 willing to let me do to make up for that.

25 CHAIRMAN WERNER: All right. Does anyone

1 else on the panel have any other questions that they  
2 wanted to ask of Mr. Aquino?

3 All right. Then I guess I will say it's  
4 time for the counsel to -- I mean, you kind of  
5 already did your closings, but if you wanted to say  
6 any last words, I would like to hear those before we  
7 go to our deliberation.

8 MS. STRAND: Kait, did you want to go first?

9 MS. FLOCCHINI: I think as the movant I get  
10 the last shot, so I'll let you go ahead. Thank you.

11 MS. STRAND: Perfect. All right. I mean, I  
12 don't have too much to add. Obviously, you know,  
13 this a mess. It really is. But I think as the panel  
14 saw, you know, there's -- in that chart you can see  
15 there's money outstanding. You know, the \$700,000  
16 number that we're looking at is an absolute maximum.

17 If he can provide no documents, no support,  
18 if we can't trace it with a forensic accountant, that  
19 is the absolute maximum. I think the actual number  
20 is going to turn out to be significantly less, but I  
21 don't think Mr. Aquino is capable, really has the  
22 skills to trace what happened, and I think that's why  
23 we're going to need an expert.

24 Unfortunately because, you know, of the pace  
25 of these hearings, it wasn't the sort of thing that

1 we could reasonably do, you know, basically since we  
2 took over when Bill died and now. It just didn't --  
3 wasn't reasonable for us. And that's why I think as  
4 part of his suspension, if that's what the panel is  
5 inclined to do, we should definitely take into  
6 consideration, you know, requiring him to hire a  
7 forensic accountant, take CLEs before he comes back  
8 to practice.

9 Obviously the clients are going to have to  
10 paid in full and/or shown proof that there were  
11 payments made before he can be admitted, and then  
12 maybe then down the road the Bar will let him in, or  
13 maybe they won't and that will be a decision for  
14 another time when they decide if he really is  
15 reformed. But obviously right now he has a lot of  
16 work to do.

17 I also just wanted to quickly touch on the  
18 panel's question regarding aggravation and  
19 mitigation, just because I know Mr. Aquino isn't as  
20 familiar with the, you know, ten or so factors as  
21 Kait and I are.

22 One of the factors that I did want to touch  
23 on is, you know, experience in the practice of law.  
24 While Mr. Aquino has been practicing for longer than,  
25 you know, like we, what we would consider a new

1 attorney, he did just take over this practice in --  
2 what was it, 2017?

3 RESPONDENT AQUINO: 2017.

4 MS. STRAND: -- 2017, which is basically  
5 when all of this hit the fan, for lack of a better  
6 word. So he was relatively new to being a solo  
7 practitioner. And as I know the panel members know  
8 from sitting on these Bar, these Bar hearings, that's  
9 where we tend to have a lot of our troubles with new  
10 solo practitioners who don't have the support system,  
11 the staff, the accounting set up to make sure that  
12 they succeed.

13 And so I think that these are the sorts of  
14 things that can be dealt with by ensuring that if he  
15 does ever come back, he has a mentor, CLEs, he  
16 doesn't practice on his own, those sorts of things.  
17 But I think it does, you know, help explain some of  
18 it, and that's why I want the panel to consider it as  
19 a mitigating factor.

20 And also the absence of prior discipline  
21 that we talked about earlier. He does have prior  
22 discipline that was with regard to diligence, and  
23 that's what that public reprimand was for, but it was  
24 not with regard to the client fees, which is  
25 obviously the biggest concern here.

1           And so those are just the ones that I would  
2     want the panel to consider, you know, his mental and  
3     emotional state at the time, the fact that he's  
4     relatively young in the practice of solo practice  
5     law. Because any time you switch to a new area of  
6     law or doing a new type, I think you're a baby  
7     attorney all over again a little bit.

8           That, you know, he is remorseful and very  
9     apologetic and he is going to make good on all this,  
10    he just needs some help from the Bar and some experts  
11    to get him there. And with that I would submit.

12           MS. FLOCCHINI: Chair, did you want me to go  
13    ahead or did you have questions or?

14           CHAIRMAN WERNER: I think I'm going to let  
15    you do yours and then I'll think about if I want to  
16    ask the questions that I -- that are possibly  
17    thinking in my head or if I'll just discuss them with  
18    the panel.

19           MS. FLOCCHINI: Okay. Thank you. Again,  
20    thank you for your time and your dedication to the  
21    voluntary service on behalf of the Bar and our  
22    self-regulating process.

23           First I want to address that this was  
24    Mr. Aquino's opportunity to tell us where we were  
25    wrong in the assumption that funds had been

1 misappropriated. The first complaint, particularly  
2 regarding the Schutzenhofers, was filed in February  
3 of 2020. That's a whole year before Mr. Aquino was  
4 evicted from his office, he says, and lost access to  
5 files.

6 The second complaint and the grievances that  
7 had arose therefrom came through well before  
8 Mr. Aquino was evicted from his office and yet he's  
9 still telling us, I'm sure that there's documents  
10 that will show this isn't what it is.

11 I submit to you that this is evidence of the  
12 aggravating factors. Mr. Aquino is not taking  
13 responsibility for what happened, and it does not  
14 show remorse. Respectfully Mr. Aquino's response to  
15 whether or not he had remorse for what had happened,  
16 for the money that is missing from his clients for  
17 years was that he was embarrassed, that he thought it  
18 was unfortunate he had to bring this before his  
19 family, that he couldn't pay his employees, that he  
20 had lost his practice. I did not hear Mr. Aquino say  
21 that he was sorry to the clients who had been  
22 injured. It was -- it was all about him. That's not  
23 remorse, that's sorry he got caught.

24 These are things that need to be taken into  
25 consideration when the panel decides the ultimate

1 sanction for the recommendation to the court. And  
2 this is why the Bar is recommending that the panel  
3 tell the Supreme Court that Mr. Aquino should be  
4 disbarred from the practice of law, not that there  
5 should be a suspension, but that he's lost his  
6 opportunity to represent the public.

7 You know, there were a couple of points that  
8 go along with, this was the time, this was the time  
9 to bring these thing up. The Bunagan accounting was  
10 attached to the complaint in a chart. You know, we  
11 didn't get any documentation to substantiate that  
12 that was not a personal injury case that should be  
13 included in the chart.

14 Again, the Schutzenhofers, that claim was in  
15 the complaint that was filed in February of 2020.  
16 And instead of showing us that medical providers had  
17 been paid, Mr. Aquino presented us with checks that  
18 never cleared the account alleging that medical  
19 providers had been paid, but those checks never made  
20 it to the providers. That's Exhibit 24, admitted  
21 Exhibit 24 in all of the hearing documents.

22 So even though he had over a year to compile  
23 the documentation, what he did was send us checks,  
24 copies of checks that never cleared and continues to  
25 make the representation that he's sure there were

1 some providers that were paid, even though he  
2 stipulated that they weren't.

3 This is not an attorney who understands the  
4 wrongful nature of their conduct and is prepared to  
5 be remediated. This is the reason why the Bar is  
6 recommending that you tell the Supreme Court he  
7 should be disbarred.

8 I wanted to address the issue of  
9 restitution. Yes, the Bar wants people to be able to  
10 get the money that they deserve to get, but the  
11 Supreme Court has told us that the purpose of the  
12 disciplinary process is to protect the public from  
13 injury and to protect the integrity of the  
14 profession. There were other mechanisms that these  
15 clients can engage in to try to recover their funds  
16 separate and apart from the disciplinary process.

17 Our goal is to protect the public from  
18 attorneys that can't be trusted, and to protect the  
19 integrity of the profession, not to try to recover  
20 funds for the people who have been damaged. There  
21 are civil complaints that can be filed by the  
22 victims. There's criminal prosecutions that could be  
23 pursued. Frankly there's Client Security Funds that  
24 could be used that's an alternate mechanism through  
25 the State Bar.

1           So while restitution is a secondary goal of  
2     the Office of Bar Counsel, we like to see people be  
3     made whole, the Supreme Court has specifically told  
4     us that's not the purpose for the disciplinary  
5     process, and it shouldn't be a factor that influences  
6     the recommendation that this panel makes to the  
7     Supreme Court.

8           The Bar does not do this with a light heart.  
9     We have all worked diligently to obtain our bar  
10    licenses. We protect them vigorously when we are  
11    practicing law. And I acknowledge that this is a  
12    stiff consequence for what has happened, but the  
13    level of consequence is not as important as  
14    effectuating the goal to protect the public and to  
15    protect that integrity of the profession.

16           So even though it's a difficult  
17    recommendation to make today, I'm going to conclude  
18    by simply asking that this panel find that disbarment  
19    is the appropriate sanction for the misconduct that  
20    this panel has heard about and seen today, and that  
21    you make that recommendation to the Supreme Court.  
22    Thank you.

23           CHAIRMAN WERNER: All right. I guess, I  
24    think, unless anyone has any questions, I think we  
25    will let Kristi put us in our little special room so

1 we can talk it over as a panel and then we'll let you  
2 guys know what we decide.

3 MS. FLOCCHINI: Do you want to set a time so  
4 that our court reporter could grab something to eat  
5 or something like that? I know we've been going a  
6 long time.

7 CHAIRMAN WERNER: I guess I would ask fellow  
8 panel members, did you want to break for a minute  
9 before we come back and reconvene to discuss as a  
10 panel or do you want to discuss as a panel? It's  
11 hard for me to predict a timeframe because, you know,  
12 if everybody says, "I already know what I want to do"  
13 in five seconds, then I know -- then it's, you know.

14 MS. STRAND: Do the panel members want to go  
15 into the breakout room for just a second to discuss  
16 how long they might need or do we want to just set a  
17 time to come back after lunch?

18 CHAIRMAN WERNER: Yeah, let's do that.  
19 Let's do that. We'll go into a room for five minutes  
20 or something, or a couple minutes, I don't know how  
21 many long it will take, but just a couple minutes and  
22 then we'll let you know an estimate of time and that  
23 way I can talk to them about if they want a break or  
24 whatever.

25 MS. FLOCCHINI: Okay. Thank you.

1 MS. FAUST: Okay. I will put you in there  
2 right now.

3 CHAIRMAN WERNER: All right.

4 (A recess was taken.)

5 CHAIRMAN WERNER: So we're back on the  
6 record in the matter of Mr. Aquino. The panel has  
7 deliberated and discussed everything. They've  
8 reviewed the, you know, exhibits, the arguments,  
9 everything that has been presented by both sides.

10 The panel, you know, is concerned that  
11 Mr. Aquino would be a -- would present a hazard to  
12 the public or a danger to the public if he were  
13 allowed to practice law at this time. We think he  
14 should be suspended for a period of three years.

15 We believe that if Mr. Aquino decides to  
16 seek reinstatement, that he should have a mentor so  
17 that someone could help him. We believe that prior  
18 to seeking reinstatement he should complete at least  
19 five hours of CLE on law practice management.

20 We believe that Mr. Aquino should not engage  
21 in the solo practice of law going forward. It's just  
22 not something that seems to -- it would -- to do so  
23 would be a potential hazard to the public, based on  
24 the past experience and information that we have.

25 We believe that before Mr. Aquino could seek