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State Bar Court of California Hearing Department San Francisco DISBARMENT		
Counsel For The State Bar Susan I. Kagan Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2037 Bar # 214209	Case Number(s): 07-O-11536	For Court use only PUBLIC MATTER FILED  JUL 12 2011 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Counsel For Respondent Samuel C. Bellicini Fishkin & Slatter, LLP 1111 Civic Dr Ste 215 Walnut Creek, CA 94596 (925) 944-5600 Bar # 152191	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT DISBARMENT <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: CHERYL CHAMBERS Bar # 189577 A Member of the State Bar of California (Respondent)	kwiktag ® 018 040 971 	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 3, 1997.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (9) pages, not including the order.

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- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☒ Costs to be awarded to the State Bar.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☐ **Prior record of discipline**
 - (a) ☐ State Bar Court case # of prior case
 - (b) ☐ Date prior discipline effective.
 - (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
 - (d) ☐ Degree of prior discipline
 - (e) ☐ If respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☒ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct. See page 7.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See page 7.

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- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See page 7.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. See page 7.
- (4) ☒ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. See page 7.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Respondent has no prior record of discipline. See page 7.

D. Discipline: **Disbarment.**

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) ☒ **Restitution:** Respondent must make restitution to The Elias and Ceola Bowie Living Trust in the amount of \$ 800,000.00 plus 10 percent interest per year from October 5, 2006, and less any payments made to the Elias and Ceola Bowie Living Trust in connection with the matter, Swift v. Chambers, Alameda County Superior Court Case No. RG08418326 . If the Client Security Fund has reimbursed The Elias and Ceola Bowie Living Trust for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than one (1) year days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW

Facts

1. In 2001, Respondent was hired by Elias and Ceola Bowie ("the Bowies") to handle their estate planning. Soon thereafter, Respondent drafted the "Elias and Ceola Bowie Living Trust" ("Bowie Trust") on behalf of the Bowies. Respondent's aunt, Yvonne Swift ("Swift"), was designated as trustee of the Bowie Trust. Respondent was designated as successor trustee of the Bowie Trust. On October 2, 2001, the Bowie's San Francisco home was transferred into the Bowie Trust.
2. In January 2005, Elias Bowie died and the Bowie Trust became irrevocable. In September 2005, Ceola Bowie's health deteriorated and she was placed in an assisted living facility. Soon thereafter, based on Respondent's suggestion, Swift decided to renovate the Bowie's San Francisco home, sell it and place the profits into the Bowie Trust for the care of Ceola Bowie and the benefit of the beneficiaries of the Bowie Trust. Swift asked Respondent to handle the renovation and sale of the Bowie's San Francisco home.
3. In December 2005, Swift and Respondent obtained a loan from World Savings Bank on behalf of the Bowie Trust to pay for renovations to the Bowie's San Francisco home. At the same time, Swift and Respondent opened a bank account at World Savings Bank on behalf of the Bowie Trust and were designated as co-trustees of the World Savings Bank account. At all relevant times herein, Respondent was a fiduciary of the funds in the World Savings Bank account held on behalf of the Bowie Trust. At all relevant times herein, all account statements for the World Savings Bank account were sent to Respondent.
4. In December 2005, the \$196,000.00 loan for renovations to the Bowie San Francisco home was deposited into the World Savings Bank account. Thereafter, the \$196,000.00 was used to renovate the Bowie's San Francisco home. From December 2005 through September 2006, respondent oversaw and paid for the renovations to the Bowie's San Francisco home from the \$196,000.00 loan in the World Savings Bank Account.
5. In September 2006, the Bowie's San Francisco home was sold for \$1,225,000.00. On October 3, 2006, Respondent wired transferred \$845,888.94 in funds from the sale of the Bowie's San Francisco home into the World Savings Bank account on behalf of the Bowie Trust.
6. From October 2006 until Ceola Bowie's death on August 29, 2008, Respondent properly used funds from the World Savings Bank account to pay for Ms. Bowie's care.
7. From October 5, 2006, through April 16, 2008, unbeknownst to Swift, Respondent made numerous withdrawals from the funds held in the World Savings Account for her own use and benefit. In total, Respondent misappropriated \$800,000.00 from the funds held in the World Savings Bank account on behalf of the Bowie Trust for her own use and benefit, in breach of her fiduciary duties.
8. Upon learning of Respondent's misappropriation, Swift filed a complaint on behalf of the Bowie Trust against Respondent in the matter, Swift v. Chambers, Alameda County Superior Court Case No. RG08418326 ("Swift v. Chambers"). In 2011, the parties entered into a settlement in the Swift v. Chambers

case wherein Respondent agreed to repay \$257,500.00 of the \$800,000.00 misappropriated from the Bowie Trust.

9. To date, Respondent has repaid \$^{3250.00}4 of the \$800,000.00 misappropriated from the Bowie Trust.
Conclusions of Law

By misappropriating \$800,000.00 in funds from the Bowie Trust for her own use and benefit in breach of her fiduciary duties, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of section 6106 of the Business and Professions Code.

PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was May 25, 2011.

COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the State Bar has informed respondent that as of May 25, 2011, the estimated prosecution costs in this matter are approximately \$3,236.03. Respondent acknowledges that this figure is an estimate only and that it does not include State Bar Court costs which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

FACTS SUPPORTING AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

Standard 1.2(b)(iii). Respondent's misconduct was surrounded by bad faith and dishonesty.

Standard 1.2(b)(iv). Respondent's misconduct caused significant harm to the beneficiaries of the Bowie Trust.

MITIGATING CIRCUMSTANCES

Standard 1.2(e)(v). Respondent displayed spontaneous candor and cooperation to the State Bar during the disciplinary proceedings.

Standard 1.2(e)(vii). Respondent displayed remorse for her misconduct.

Respondent has been practicing law since 1997, and has no prior record of discipline.

SUPPORTING AUTHORITY

Standard 2.2(a) requires disbarment for the willful misappropriation of entrusted funds.

Standard 2.3 requires an actual suspension or disbarment for a respondent that has committed an act of moral turpitude. Respondent committed multiple acts of moral turpitude.

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Disbarment is the proper discipline for misappropriation, even when the respondent has no prior record of discipline. (See *In re Abbott* (1977) 19 Cal.3d 249 [disbarment for misappropriation of over \$29,000; no prior record of discipline]; *Kaplan v. State Bar* (1991) 52 Cal.3d 1067 [disbarment for misappropriation of approximately \$30,000 and lying to the State Bar; no prior record of discipline]; *Chang v. State Bar* (1989) 49 Cal.3d 114 [disbarment for misappropriation of over \$7,000; no prior record of discipline]; *Kelly v. State Bar* (1988) 45 Cal.3d 649 [disbarment for misappropriation of approximately \$20,000; no prior record of discipline]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal.State Bar Ct.Rptr. 511 [disbarment for misappropriation of approximately \$40,000 in one client matter; no prior record of discipline]; *In the Matter of Keuker* (Review Dept. 1991) 1 Cal.State Bar Ct.Rptr. 583 [disbarment for misappropriation of approximately \$66,000 in one client matter; no prior record of discipline].)

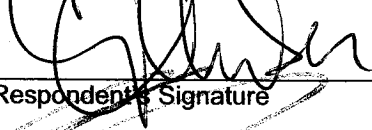

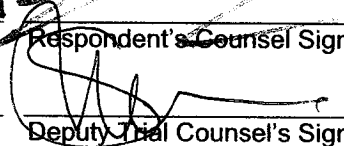
Based on Respondent's misappropriation of \$800,000.00 from the Bowie Trust for her own use and benefit and in violation of her fiduciary duties, disbarment is the appropriate level of discipline in this matter.

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In the Matter of: CHERYL CHAMBERS	Case number(s): 07-O-11536
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>6/10/2011</u> Date	 Respondent's Signature	<u>Cheryl Chambers</u> Print Name
<u>14 June 2011</u> Date	 Respondent's Counsel Signature	<u>Samuel C. Bellicini</u> Print Name
<u>6/15/11</u> Date	 Deputy Trial Counsel's Signature	<u>Susan I. Kagan</u> Print Name

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In the Matter of: CHERYL CHAMBERS	Case Number(s): 07-O-11536-PEM
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DISBARMENT ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date July 11, 2011 Pat McElroy
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, On July 12, 2011, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:


- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

SAMUEL C. BELLICINI
FISHKIN & SLATTER, LLP
1111 CIVIC DR STE 215
WALNUT CREEK, CA 94596

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

SUSAN I. KAGAN , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 12, 2011.


Lauretta Cramer
Case Administrator
State Bar Court