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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>DISBARMENT</b>		
<b>Counsel For The State Bar</b>  Sherrie B. McLetchie Deputy Trial Counsel 180 Howard Street San Francisco CA 94105 (415) 538-2297  Bar # 85447	<b>Case Number(s):</b>  08-O-10247; 10-O-5063; 10-O-5485-LMA	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <i>R</i>  MAY 19 2011  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>Counsel For Respondent</b>  Katy M. Young Nossaman LLP 50 California Street, 34th Floor San Francisco CA 94111 (415) 398-3600  Bar # 267791	<b>Submitted to: Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> James D. Sandison  Bar # 148812  A Member of the State Bar of California (Respondent)		

**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 12/5/90.
- (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 ( 17 ) 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.
- (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. See 08-O-10247 and 10-O-05063 "Facts".
- (4) ☒ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice. See 08-O-10247 and 10-O-05063 "Facts".

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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 08-O-10247, 10-O-05063, and 10-O-05485 "Facts".
- (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. By entering into this stipulation, respondent has displayed cooperation to the State Bar during disciplinary proceedings.
- (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.
- (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 over 20 years of practice. However, the present misconduct is serious.

Respondent's personal bankruptcy was very recently converted by order of the US Bankruptcy Court, Northern District of California, from a Chapter 11 (In re: James Donald Sandison & Julianne Marie Sandison, case number 10-51745-B-11) to a Chapter 7.

Due to the pendency of a preliminary injunction against respondent, obtained by the Attorney General of California, respondent is enjoined from expending any of his funds to hire a forensic accountant.

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**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 \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ plus 10 percent interest per year from \_\_\_\_\_. If the Client Security Fund has reimbursed \_\_\_\_\_ 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 \_\_\_\_\_ days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

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In the Matter of:  
James D. Sandison

Case Number(s):  
08-O-10247; 10-O-5063; 10-O-5485-LMA

### **Nolo Contendere Plea Stipulations to Facts, Conclusions of Law, and Disposition**

The terms of pleading nolo contendere are set forth in the Business and Professions Code and the Rules of Procedures of the State Bar. The applicable provisions are set forth below:

#### **Business and Professions Code § 6085.5 Disciplinary Charges; Pleas to Allegations**

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

- (a) Admission of culpability.
- (b) Denial of culpability.
- (c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere will be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court will find the member culpable. The legal effect of such a plea will be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

#### **Rules of Procedure of the State Bar, rule 5.56. Stipulations to Facts, Conclusions of Law, and Disposition**

**"(A) Contents.** A proposed stipulation to facts, conclusions of law, and disposition must comprise:

[1] . . . [1]

(5) a statement that the member either:

- (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
- (b) pleads nolo contendere to those facts and misconduct;

[1] . . . [1]

**(B) Plea of Nolo Contendere.** If the member pleads nolo contendere, the stipulation must also show that the member understands that the plea is treated as an admission of the stipulated facts and an admission of culpability."

I, the Respondent in this matter, have read the applicable provisions of Business and Professions Code section 6085.5 and rule 5.56 of the Rules of Procedure of the State Bar. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea will be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

Date

4/25/11

Respondent's Signature

Print Name

JAMES D. SANDISON

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:        JAMES D. SANDISON

CASE NUMBER:            08-O-10247; 10-O-5063; 10-O-5485-LMA

**VARIANCE BETWEEN THE NDC AND STIPULATION**

Any variance between the language of the Notice of Disciplinary Charges filed October 5, 2010, and the language of this Stipulation is waived.

**FACTS AND CONCLUSIONS OF LAW**

**08-O-10247**

**Facts**

1. Prior to May 1999, AT&T decided to employ outside counsel to pursue theft of cable services matters against individuals and entities that pirated cable services.
2. In about May 1999, respondent and attorney Mark Hitman ("Hitman") formed a joint venture, Hitman and Sandison ("H&S"), to represent AT&T regarding the theft of cable matters.
3. Prior to February 2005, AT&T's cable services were reallocated to Comcast and Comcast agreed to continue the contract with H&S under the terms of the original AT&T contract, with H&S receiving 40 percent and Comcast receiving 60 percent of the funds collected.
4. Beginning in 2005, Comcast of Sacramento and Stockton began handling most of the cable theft cases in house. By the end of 2005, Comcast of Fresno also handled most of the cable theft cases in house.
5. Between February 2006 and February 2009, respondent received \$297,099.91 in Comcast funds.
6. Respondent did not notify Comcast that he received \$297,099.91 between February 2006 and February 2009.
7. Instead, respondent notified Comcast of his receipt of only a portion of the total funds he collected on Comcast's behalf between February 2006 and February 2009.
8. On September 27, 2006, Comcast terminated its contract with H&S.
9. On September 27, 2006, Hitman terminated his relationship with respondent.
10. Unbeknownst to Hitman, between February 2006 and November 2008, respondent continued to collect, deposit and distribute Comcast funds.

### Wells Fargo Trust Account

11. Prior to February 2006, respondent and Hitman maintained a Wells Fargo attorney client trust account number ending in 172 under the name Hitman and Sandison ("Wells Fargo trust account").

12. Between February 2006 and November 2008, respondent deposited a total of at least \$257,923.88 of Comcast funds into the Wells Fargo trust account.

13. Pursuant to the fee agreement, H&S owed Comcast at least \$154,754.33, or 60 percent of the total amount deposited.

14. Between February 2006 and November 2008, respondent paid Comcast a total of \$138,520.82.

15. Thereafter, respondent continued to owe Comcast an additional \$16,233.51 and was obligated to maintain those funds in a trust account until paid out to Comcast.

16. On April 15, 2009, the balance in the Wells Fargo trust account was \$97.19.

17. Respondent withdrew the Comcast funds from the Wells Fargo trust account without Hitman's knowledge and used the funds not for the use and benefit of Comcast.

18. Comcast demanded that respondent provide it with the funds respondent collected, minus the agreed upon 40 percent fee, which respondent did not pay Comcast.

19. Respondent did not provide Comcast with any of \$16,233.51 he owed Comcast.

20. Although respondent received Comcast's demands, respondent did not maintain at least \$16,233.51 in the Wells Fargo trust account or any other trust account from the date of its receipt until paid out to Comcast.

21. On December 13, 2006, respondent maintained in the Wells Fargo trust account approximately \$33,000, belonging entirely to Comcast.

22. On December 14, 2006, respondent withdrew the \$33,000 in funds belonging entirely to Comcast from the Wells Fargo trust account and used the funds not for the use and benefit of Comcast.

23. On February 8, 2007, respondent transferred \$33,000 of his own personal funds into the Wells Fargo Trust Account.

24. On March 5, 2007, respondent issued checks to Comcast using the funds he deposited on February 8, 2007, to cover the checks to Comcast.



25. Respondent did not maintain the \$33,000 in funds belonging entirely to Comcast in the Wells Fargo trust account or any other trust account from December 14, 2006, until February 8, 2007.

Wells Fargo Business Account

26. Prior to February 2006, respondent and Hitman maintained a Wells Fargo general business account number ending in 164 under the name Hitman and Sandison ("Wells Fargo Business Account"). It was not an attorney client trust account.

27. Between November 2007 and September 2008, respondent deposited a total of \$29,040.51 of Comcast funds into the Wells Fargo Business Account without Hitman's knowledge or permission. Respondent did not deposit or maintain these funds in an attorney client trust account.

28. Pursuant to the fee agreement, H&S owed Comcast \$17,424.31, or 60 percent of the total amount deposited.

29. Respondent failed to pay Comcast its portion of the funds deposited into the Wells Fargo Business Account.

30. Respondent continues to owe Comcast \$17,424.31 and was obligated to maintain those funds in a trust account until paid out to Comcast.

31. Respondent withdrew Comcast's funds from the Wells Fargo Business Account without Hitman's knowledge and used the funds for his personal use and benefit and not for the use and benefit of Comcast.

32. Respondent did not deposit and maintain the \$17,424.31 in the Wells Fargo Trust Account or any other trust account from the date of receipt until paid out to Comcast.

River City Aegis Investments Account

33. Prior to August 2007, respondent maintained an account at River City Bank, account number ending in 398, under the name Aegis Investments, LLC ("River City Aegis Investments Account").

34. The River City Aegis Investments Account was a general business account and not an attorney client trust account. Hitman was not an account holder and had no authority to make withdrawals from the account.

35. On August 23, 2007, respondent deposited \$7,411.77 in Comcast funds in the River City Aegis Investments Account.

36. Pursuant to the fee agreement, H&S owed Comcast \$4,447.06, or 60 percent of the total amount deposited.

37. Respondent withdrew the Comcast funds from the River City Aegis Investments Account without Hitman's knowledge and used the funds not for the use and benefit of Comcast.

38. Respondent did not deposit and maintain the \$4,447.06 in Comcast funds in a trust account.

39. On March 29, 2010, respondent paid Comcast \$4,407 with a check drawn on respondent's personal account to compensate Comcast for the funds respondent deposited on August 23, 2007.

40. Respondent continues to owe Comcast \$40 from the funds respondent deposited on August 23, 2007.

41. By not depositing and maintain \$4,447.06 in Comcast funds in an attorney client trust account from receipt until paid out to Comcast, respondent failed to maintain the balance of funds received for the benefit of a client in an attorney client trust account.

#### River City Trust Account

42. On May 20, 2008, respondent opened River City Bank attorney client trust number account ending in 483 ("River City Trust Account") under the name "Hitman & Sandison" without Hitman's knowledge or permission.

43. On June 3, 2008, respondent deposited a total of \$480 in Comcast funds into the River City Trust Account.

44. Pursuant to the fee agreement, H&S owed Comcast \$288, or 60 percent of the total amount deposited.

45. Respondent did not pay Comcast its portion of the Comcast funds deposited into the River City Trust Account.

46. Respondent did not maintain the \$288 in Comcast funds in a trust account.

#### River City Business Account

47. On May 20, 2008, respondent opened a River City business checking account under the name "Hitman & Sandison" ("River City Business Account") without Hitman's knowledge or permission.

48. The River City Business Account was a general business account and not an attorney client trust account. Hitman was not an account holder and had no authority to make withdrawals from the account.

49. On February 9, 2009, respondent deposited a total of \$2,243.75 in Comcast funds into the River City Business Account.

50. Pursuant to the fee agreement, H&S owed Comcast \$1,346.25, or 60 percent of the total amount deposited.

51. On February 17, 2010, the balance in the River City Business Account was zero.

52. Respondent did not pay Comcast any portion of Comcast funds respondent deposited into the River City Business Account.

53. Respondent withdrew the Comcast funds from the River City Business Account without Hitman's knowledge and used the funds not for the use and benefit of Comcast.

54. Respondent did not deposit and maintain the \$1,346.25 in Comcast funds in a trust account.

Funds Respondent Did Not Maintain in Trust

55. Respondent continues to owe Comcast a total of \$35,332.07 and did not maintain that amount in trust from the date of receipt until paid out for the benefit of Comcast

56. In addition, respondent did not maintain in trust the \$33,000 he withdrew from the Wells Fargo Trust Account on December 14, 2006.

57. By not depositing and maintaining Comcast's funds in trust in an attorney client trust account from the date of receipt until paid out to Comcast (minus the agreed upon attorney's fees), respondent failed to maintain the balance of funds received for the benefit of a client in an attorney client trust account.

Conclusions of Law

1. By not depositing and maintaining Comcast's funds in trust in an attorney client trust account from the date of receipt until paid out to Comcast (minus the agreed upon attorney's fees), respondent failed to maintain the balance of funds received for the benefit of a client in an attorney client trust account in wilful violation of rule 4-100(A) of the Rules of Professional Conduct.

2. By misappropriating \$35,332.07 from Comcast, respondent committed an act involving moral turpitude, dishonesty or corruption.

3. By misappropriating an additional \$33,000 from Comcast (although repaid), respondent committed an act involving moral turpitude, dishonesty or corruption.

#### **10-O-05063**

##### **Facts**

1. The allegations under case number 08-O-10247, above, are incorporated by reference as if fully set forth herein.

2. Pursuant to the joint venture agreement between Hitman and respondent, Hitman was entitled to receive half of the total fees collected from the Comcast cases, regardless of when the funds were collected.

3. Respondent informed Hitman that H&S received very little in Comcast funds after February 2006 and that no funds were received after September 2006.

4. In truth and in fact, respondent knew that he collected a total of \$297,099.91 in Comcast funds between February 2006 and February 2009.

5. Respondent concealed from Hitman respondent's receipt of the majority of the \$297,099.91 respondent collected in Comcast funds.

6. Pursuant to the fee agreement with Comcast, H&S was entitled to receive 40 percent of the funds collected, or \$118,839.97.

7. Pursuant to the joint venture agreement between Hitman and respondent, Hitman was entitled to receive \$59,419.99 as his share of the attorney's fees.

8. Between February 2006 and February 2009, respondent paid Hitman a total of \$3,031.17 in attorney's fees.

9. Respondent did not pay Hitman \$56,388.82 that respondent owed Hitman in attorney fees.

10. Respondent continues to owe Hitman \$56,388.82.

11. Respondent misappropriated \$56,388.82 from Hitman.

##### **Conclusion of Law**

By misappropriating \$56,388.82 from Hitman, respondent committed acts involving moral turpitude, dishonesty or corruption

**Facts**

1. Effective May 18, 2006, by order of the California Supreme Court, Daniel Patrick Whaley ("Whaley") was suspended from the practice of law in the State of California for 18 months after Whaley stipulated to misconduct including acts involving dishonesty, moral turpitude, or corruption.

2. Thereafter, new disciplinary charges were filed against Whaley, and, effective May 20, 2007, Whaley's resignation from the State Bar with charges pending was accepted by the California Supreme Court. At no time after May 18, 2006, was Whaley eligible to practice law in the State of California.

3. On April 26, 2008, Stephanie Wills was killed in a motor vehicle accident. She was survived by her husband, Brian Wills ("Wills"), and their three minor children.

4. On July 1, 2008, Whaley met with Wills to discuss legal representation regarding Stephanie Wills' accident. At the time that Whaley met with Wills, Whaley told Wills that he had retired from the practice of law, but offered to represent Wills in pursuing an insurance claim for the benefit of Wills and his children. At no time did Whaley inform Wills that he had resigned with charges pending or that he had been ineligible to practice law under Business and Professions Code section 6125 since May 18, 2006.

5. On July 1, 2008, Whaley presented Wills with an attorney client fee agreement providing for a 25 percent contingency fee. Unbeknownst to Wills, the fee agreement identified attorney Jeffrey M. Jones<sup>1</sup> ("Jones") as the attorney. Whaley did not provide Wills with a copy of the fee agreement. Nor did Whaley bring to Wills' attention that Jones was listed as Wills' attorney on the fee agreement. At the time that Wills signed the fee agreement, Wills was under the impression that the fee agreement listed Whaley as his attorney.

6. Between July 2008 and February 2010, Whaley provided legal services to Wills in regard to Wills' insurance claims.

7. Between July 2008 and February 2010, Whaley held himself out as an attorney eligible to practice law to Wills.

8. Between July 2008 and June 2009, Whaley used Jones' client trust account and name to process Wills' settlement checks.

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<sup>1</sup> State Bar membership number 125421.

9. Effective July 8, 2009, Jones was placed on involuntary inactive status after he submitted his resignation from the State Bar with charges pending.

10. On July 8, 2009, respondent agreed to allow Whaley to use respondent's name and trust account in the Wills' matter.

11. Respondent never presented Wills with an attorney client fee agreement. Nor did Wills ever sign any fee agreement naming respondent as his attorney.

12. In January 2010, Whaley negotiated a settlement with Bristol West Insurance on behalf of Wills after representing to the Bristol West claims representative that he was Wills' attorney.

13. Beginning in July 2009 and continuing through February 2010, respondent permitted Whaley to use respondent's name on correspondence with Bristol West Insurance and on at least one settlement check.

14. On February 13, 2010, Whaley received a \$30,000 Bristol West settlement check made payable to Wills.

15. On February 13, 2010, without Wills' knowledge or authorization, Whaley signed or caused another to sign Wills' name to the \$30,000 settlement check.

16. On February 22, 2010, Whaley arranged for respondent to deposit the \$30,000 settlement check into a trust account respondent maintained at River City Bank.

17. At no time did respondent have any contact or communication with Wills. Nor did respondent notify Wills that Whaley was ineligible to practice law.

18. Beginning in July 2009 and continuing through February 2010, respondent permitted Whaley to provide legal services to Wills and permitted Whaley to hold himself out as an attorney to Wills.

#### Conclusion of Law

By allowing Whaley to use his name and client trust account while Whaley provided legal services to Wills, and by not notifying Wills of Whaley's ineligibility to practice law, respondent aided and abetted Whaley's unauthorized practice of law in wilful violation of rule 1-300(A) of the Rules of Professional Conduct.

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## PENDING PROCEEDINGS

The disclosure date referred to, on page 2, paragraph A(7), was April 15, 2011.

## COSTS OF DISCIPLINARY PROCEEDINGS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 15, 2011, the prosecution costs in this matter are approximately \$3,375. 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.

## AUTHORITIES SUPPORTING DISCIPLINE

### Standards for Attorney Sanctions for Professional Misconduct

#### 2.2 Offenses Involving Entrusted Funds or Property

- (a) Culpability of a member of wilful misappropriation of entrusted funds or property shall result in Disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. . . .

#### 2.3 Offenses Involving Moral Turpitude, Fraud, Dishonesty or Concealment

Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within

#### 1.6 Determination of Appropriate Sanction

- (a) . . . If two or more acts of professional misconduct are . . . acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.

### Case Law

In *Kaplan v. State Bar* (1991) 52 Cal.3d 1067, the misconduct was the "grievously improper" intentional misappropriation of \$29,000 from the attorney's own law firm. Kaplan had practiced for 12 years without prior discipline, suffered from emotional problems, marital stress, and the terminal illness of his mother-in-law. Despite making full restitution upon being confronted with the misappropriation, Kaplan was disbarred.

Misappropriation of client funds is a grievous breach of an attorney's ethical responsibilities and generally warrants disbarment unless the most compelling mitigating circumstances clearly predominate. (See *Grim v. State Bar* (1991) 53 Cal. 3d 21, 29, disbarred on a \$5,546 misappropriation; *Chang v. State Bar* (1989) 49 Cal. 3d 114, 128, disbarred on a \$7,000 misappropriation; *Kelly v. State Bar* (1988) 45 Cal. 3d 649, 656, disbarred on a \$19,000 misappropriation; *Gordon v. State Bar* (1982) 31 Cal.3. 748, 757 disbarred on an aggregate misappropriation of \$27,000, and *In the Matter of Blum* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170, disbarred on a \$55,000 misappropriation (no priors over ten years of practice).

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**WAIVER OF REFERRAL TO STATE BAR COURT PROGRAM FOR RESPONDENTS  
WITH SUBSTANCE ABUSE AND/OR MENTAL HEALTH CONDITIONS**

In signing this stipulation, respondent hereby acknowledges that the State Bar Court's separate program for respondents with substance abuse or mental health conditions has been fully explained to him, that he has had an opportunity to request to be considered for that program, and that he has specifically waived any such consideration.


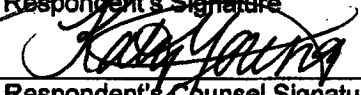
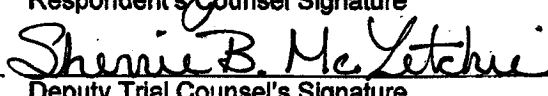


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In the Matter of: James D. Sandison	Case number(s): 08-O-10247; 10-O-5063; 10-O-5485-LMA
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### SIGNATURE OF THE PARTIES

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>4/25/11</u> Date	 Respondent's Signature	<u>James D. Sandison</u> Print Name
<u>5/2/11</u> Date	 Respondent's Counsel Signature	<u>Katy M. Young</u> Print Name
<u>5/3/11</u> Date	 Deputy Trial Counsel's Signature	<u>Sherrie B. McLetchie</u> Print Name

(Do not write above this line.)

In the Matter of: James D. Sandison	Case Number(s): 08-O-10247; 10-O-5063; 10-O-5485-LMA
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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 James D. Sandison 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

May 19, 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 May 19, 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:

KURT W. MELCHIOR  
NOSSAMAN LLP  
50 CALIFORNIA ST 34TH FL  
SAN FRANCISCO, CA 94111

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

SHERRIE B. McLEITCHIE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 19, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court