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State Bar Court of California

Hearing Department
Los Angeles**PUBLIC MATTER**

Counsel For The State Bar Larry DeSha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1336 Bar # 117910	Case Number (s) 10-J-00535-RAH	(for Court's use) <div style="text-align: center;"> FILED OCT 25 2010 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Susan L. Dill 818 Grand Blvd., Ste. 550 Kansas City, MO 64106 (816) 221-9199 Bar # 132607	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: SUSAN L. DILL Bar # 132607 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 December 11, 1987.
- (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 entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (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".

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

- (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):
- ☒ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☐ costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs entirely waived

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** [see standard 1.2(f)]
- (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.
- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (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.

- (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 Stipulation Attachment, page 8, para. 6 and page 9, para. 11.
- (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 Stipulation Attachment, page 8, para. 8.
- (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. See Stipulation Attachment, page 9, para. 9.
- (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

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of two (2) years.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of thirty (30) days.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

(2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☒ No Ethics School recommended. Reason: See Stipulation Attachment, page 9, paras. 12-14..
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☐ The following conditions are attached hereto and incorporated:

- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**
- ☐ No MPRE recommended. Reason:

- (2) ☐ **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.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she 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 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: **SUSAN L. DILL**

CASE NO.: **10-J-00535-RAH**

FACTS:

1. Respondent became a member of the State Bar of California on December 11, 1987. She practiced law in California for only about 25 months before moving to the state of Missouri in March 1990, never to return to practice in California. She promptly changed her State Bar membership status to voluntarily inactive as of April 1, 1990, and paid the annual inactive membership fee until calendar year 1996. She has been on involuntary inactive status since August 12, 1996, for failure to pay the annual membership fees for inactive status. All events described herein occurred in the state of Missouri.

2. In October 2006 Respondent was hired to represent a client to recover damages for personal injuries suffered in an automobile accident. They made an oral contingency fee agreement which provided that Respondent would receive one-third of the damages recovered. The case was settled on October 5, 2007 for \$15,000.00. Respondent did not have a client trust account when she received the settlement check shortly thereafter, and she deposited the \$15,000.00 into her general office account.

3. There were no medical liens on the settlement funds, Respondent was entitled to take a fee of \$5,000.00, and the client was entitled to the remaining \$10,000.00.

4. On November 27, 2007, Respondent sent the client a check for \$2,500.00, with a short handwritten explanation that it was "one-fourth of your settlement." Respondent sent the remaining \$7,500.00 to the client about four weeks later, which was more than 60 days after Respondent deposited the funds into her general office account.

5. Respondent never gave the client an accounting for the settlement funds, i.e., anything showing how much was received and how the funds were disbursed.

6. The client contacted the attorney disciplinary authorities in Missouri, complaining of the delayed payment and lack of an accounting. Respondent cooperated fully in the resulting investigation, and readily admitted the facts set forth above.

7. On January 4, 2010, the Supreme Court of Missouri issued its disciplinary order no. SC90579 for the case of In Re Susan Dill. The order found Respondent culpable of violating three rules of the Rules of Professional Conduct for attorneys in Missouri, which rules have a similar counterpart under the California Rules of Professional Conduct. These violations of Missouri rules were of (1) rule 4-1.15(a) by failing to keep the client's funds separate from her own, (2) rule 4-1.15(d) by failing to promptly deliver client funds, and (3) rule 4-1.15(d) by failing to provide the client with a written settlement statement upon the conclusion of the matter.

8. The Supreme Court of Missouri found a mitigating factor of remorse, holding that Respondent (1) "deeply regrets that she failed to correctly assess her professional obligations in this matter," (2) "acknowledges that [her client] deserved better treatment," and (3) "learned from her mistake."

9. The Supreme Court of Missouri found a mitigating factor of good character, holding that "Respondent is able to produce references and statements tending to demonstrate her overall good character and reputation."
10. The Supreme Court of Missouri imposed discipline of a public reprimand of Respondent.
11. Respondent has cooperated fully with the State Bar of California in its investigation of this matter, has readily admitted all of the facts set forth in this stipulation, and has agreed that her misconduct in Missouri is appropriate for discipline in California.
12. On November 5, 2009, Respondent attended a course of 1.8 hours on client trust account procedures, sponsored by the Missouri Bar. She received credit for 1.8 hours toward the Missouri Bar's requirements for continuing legal education.
13. On November 10, 2009, Respondent attended a course of 3.0 hours on time management and efficiency, sponsored by the Missouri Bar. She received credit for 3.0 hours toward the Missouri Bar's requirements for continuing legal education.
14. On December 4, 2009, Respondent attended a course of 8.1 hours on law office management, sponsored by the Missouri Bar. She received credit for 8.1 hours toward the Missouri Bar's requirements for continuing legal education, which included 3.0 hours for legal ethics.

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CONCLUSIONS OF LAW:

1. Respondent's failure to deposit the settlement funds in a client trust account was a willful violation of rule 4-100(A) of the California Rules of Professional Conduct.
2. Respondent's failure to promptly pay \$10,000.00 to the client was a willful violation of rule 4-100(B)(4) of the California Rules of Professional Conduct.
3. Respondent's failure to provide the client with a written accounting after the completion of legal services was a willful violation of rule 4-100(B)(3) of the California Rules of Professional Conduct.

SUPPORTING AUTHORITY:

Statute

"A certified copy of a final order made by any court ... authorized by law ... to conduct disciplinary proceedings against attorneys, of ... any state ... of the United States, ... determining that a member of the State Bar of California committed professional misconduct in such other jurisdiction shall be conclusive evidence that the member is culpable of professional misconduct in this state, subject only to the exceptions of [an issue as to whether the misconduct warrants discipline under California law and rules, and an issue as to whether the proceedings lacked fundamental constitutional protection]."

Business & Professions Code, section 6049.1

Standards

Standard 2.2(b) requires an actual suspension of at least three months for commingling client funds with personal funds, irrespective of mitigating circumstances. It also requires an actual suspension of at least three months for any other violation of rule 4-100 without misappropriation. Respondent has three violations of rule 4-100 without misappropriation, including one count of commingling.

However, the California Supreme Court is "not bound to follow the standards in a talismanic fashion," but is "permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (Citations.) ... [A]lthough the standards were established as guidelines, ultimately, the proper ... discipline rests on a balanced consideration of the unique factors in each case. (Citations.)"

In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 984.

The Review Department in Van Sickle imposed discipline of an actual suspension of one-half of that in the pertinent standard, i.e., three months instead of six months. A greater reduction from 90 days to 30 days is appropriate here because (1) the Supreme Court of Missouri has already determined that a public reproof was sufficient to protect its citizens and the integrity of its courts and legal profession, and (2) Respondent promptly made her client whole, in less than three months after her misconduct. Van Sickle was ordered to pay restitution totaling \$8,124.99, with simple interest of 10 percent per annum for more than 10 years, making the restitution order for more than \$16,300.00.

Case Law

"In a proceeding under section 6049.1, the appropriate degree of discipline is not presumed by the other state's discipline, but is open to determination in this state. (Citation.)"

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213, 217

PENDING PROCEEDINGS:

The disclosure date referred to on page 2, paragraph A.(7), was September 3, 2010.

COSTS:

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of September 8, 2010, the costs in this matter are \$1,636.00. 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.

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In the Matter of SUSAN L. DILL	Case number(s): 10-J-00535-RAH
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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 Fact, Conclusions of Law and Disposition.

September 27, 2010
Date


Respondent's Signature

Susan L. Dill
Print Name

Date

Respondent's Counsel Signature

Print Name

September 27, 2010
Date


Deputy Trial Counsel's Signature

Larry DeSha
Print Name

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In the Matter Of SUSAN L. DILL	Case Number(s): 10-J-00535-RAH
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ORDER

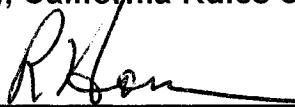
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ 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 135(b), 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.)**

10-20-10

Date



Judge of the State Bar Court

RICHARD A. HONN

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 Los Angeles, on October 25, 2010, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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

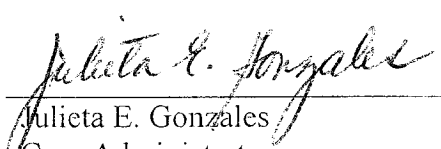
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SUSAN L DILL ATTORNEY AT LAW
818 GRAND BLVD STE 550
KANSAS CITY, MO 64106

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

Ernest Larry DeSha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 25, 2010.



Julieta E. Gonzales
Case Administrator
State Bar Court