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State Bar Court of California Hearing Department Los Angeles DISBARMENT		
<p>Counsel For The State Bar</p> <p>Melanie J. Lawrence 1149 South Hill Street Los Angeles, CA 90015 (213)765-1066</p> <p>Bar # 230102</p>	<p>Case Number(s): 10-O-00044</p> <p style="text-align: center; font-size: 1.2em;">PUBLIC MATTER</p>	<p>For Court use only</p> <p style="text-align: center; font-size: 1.5em;">FILED</p> <p style="text-align: center;">JUN 20 2011 <i>[Signature]</i></p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Ellen Pansky 1010 Sycamore Ave., #308 South Pasadena, CA 91030 (213)626-7300</p> <p>Bar # 77688</p>	<p>Submitted to: Assigned Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</p> <p>DISBARMENT</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: Sandra Smith 2704 Vernon Rd. Santa Barbara, CA 93105 (866)568-8042</p> <p>Bar # 211060</p> <p>A Member of the State Bar of California (Respondent)</p>		

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 6, 2000.
- (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 (8) 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.
- (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.
- (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.
- (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:

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 Estate of Evelyn Fifer in the amount of \$ 379,440.02 plus 10 percent interest per year from March 1, 2007. If the Client Security Fund has reimbursed Estate of Evelyn Fifer 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 see page 7 days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

Attachment language (if any):

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that she is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

FACTS:

1. In January 2006, Latasha Jones ("Jones"), hired Respondent to assist in probating the estate of Evelyn Fifer in San Bernadino Superior Court case number SPRSS06993. Respondent filed a Petition for Letters of Administration ("Petition") March 30, 2006. On June 23, 2006, the Petition was granted and Jones was appointed personal representative. In keeping with her duties as personal representative, Jones opened an Estate Account ("Estate Account") into which she deposited estate funds.

2. In February 2007 Respondent represented to Jones that the Probate Court wanted the estate funds being held in the Estate Account to be held in Respondent's client trust account. So, on February 9, 2007, Jones transferred \$410,822.49 from the Estate Account to Respondent's client trust account at Bank of America. On February 20, 2007, Respondent transferred \$31,341.93 back into the Estate Account. As of that date, Respondent should have maintained \$379,480.56 in her client trust account for the benefit of the estate. However, the balance dropped as follows:

March 1, 2007	\$144,000.80
April 30, 2007	\$4,540.00
May 31, 2007	\$40.54

3. On December 3, 2007, Respondent filed, or caused to be filed, an Amended First Account and Report of Administrator in the Fifer estate matter ("Amended First Account"). The Amended First Account represented that, among other things, \$373,993.11 was on hand on behalf of the Estate in a Bank of America CD account ending in 3050. At the time, there were no funds on behalf of the Estate in a Bank of America CD account ending in 3050. The Amended First Account was false, and Respondent knew it was false at the time she filed or caused it to be filed.

CONCLUSIONS OF LAW:

By wilfully misappropriating \$379,440.02 of estate funds, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption in wilful violation of B&PC § 6106.

By filing, or causing to be filed, an Amended First Account and Report of Administrator knowing that it contained false information regarding the estate funds, Respondent committed an act, or acts, involving moral turpitude, dishonesty or corruption in wilful violation of B&PC § 6106.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 1.3 of the Standards for Attorney Sanctions for Professional Misconduct ("Std.") provides that the primary purposes of attorney discipline are, "the protection of the public, the courts and the legal profession;

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the maintenance of high legal professional standards by attorneys and the preservation of public confidence in the legal profession.”

Std. 2.2(a) applies. It requires disbarment for wilful misappropriation of entrusted funds or property.

MITIGATION

Respondent cooperated in resolving this matter early in the proceedings, prior to disciplinary charges being filed. (Std. 1.2 (e)(v).)

The mitigating circumstances do not call for deviation from Std. 2.2(a). (Std. 1.6(b)(ii).)

AGGRAVATION

Because of Respondent's misconduct the closing of the estate has been delayed and the estate has incurred numerous additional fees including an annual bond premium of \$1,800 and attorney's fees, thus depriving the beneficiaries of the full amount of the estate to which they would have been entitled. (Std. 1.2(b)(iv).)

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of June 2, 2011, the prosecution costs in this matter are \$2,842.61. 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.

FINANCIAL CONDITIONS, RESTITUTION

Respondent must pay restitution to the Estate of Evelyn Fifer in the amount of \$379,440.02 plus interest of 10 percent per annum calculated from March 1, 2007. If the Client Security Fund (“CSF”) has reimbursed the Estate of Evelyn Fifer for all or any portion of the amounts listed above, Respondent must reimburse CSF in the amounts paid, plus applicable interest and costs.

PENDING PROCEEDINGS.

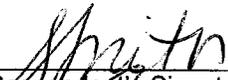
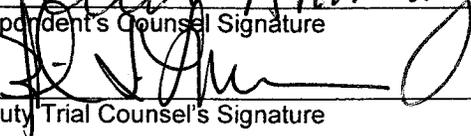
The disclosure date referred to, on page 2, paragraph A(7), was June 2, 2011.

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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>June 3, 2011</u> Date	 Respondent's Signature	<u>Sandra J. Smith</u> Print Name
<u>June 6, 2011</u> Date	 Respondent's Counsel Signature	<u>Ellen A. Pansky</u> Print Name
<u>June 7, 2011</u> Date	 Deputy Trial Counsel's Signature	<u>Melanie J. Lawrence</u> Print Name

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DISBARMENT ORDER

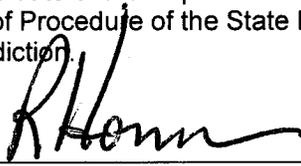
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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.

6-15-11
Date



Judge of the State Bar Court
RICHARD A. HONN

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 Los Angeles, on June 20, 2011, 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:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Melanie J. Lawrence, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 20, 2011.


Cristina Potter
Case Administrator
State Bar Court