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<b>State Bar Court of California</b> <b>Hearing Department</b> <b>Los Angeles</b> <b>ACTUAL SUSPENSION</b>		
<b>Counsel For The State Bar</b>  Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496  Bar # 146643	<b>Case Number(s):</b> 12-O-11428-DFM 12-O-15708 (inv.)	<b>For Court use only</b>  <div style="text-align: center;"> <b>FILED</b>   <b>APR 24 2013</b> <i>Fre</i>  STATE BAR COURT  CLERK'S OFFICE  LOS ANGELES </div>
<b>Counsel For Respondent</b>  Greta S. Curtis 3701 Wilshire Blvd., Suite 1130 Los Angeles, CA 90010 (213) 351-9583  Bar # 175248	<div style="font-size: 2em; font-weight: bold;">PUBLIC MATTER</div>	
<b>In the Matter of:</b> Ollie Pearl Manago  Bar # 140135  A Member of the State Bar of California (Respondent)		
Submitted to: <b>Settlement Judge</b>  STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING  <b>ACTUAL SUSPENSION</b>  <input checked="" type="checkbox"/> PREVIOUS STIPULATION REJECTED		

**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 6, 1989.
- (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 17 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."

(Effective January 1, 2011)



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- (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):
- ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
  - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two billing cycles immediately following the effective date of the Supreme Court's order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
  - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
  - ☐ Costs are 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 : 94-O-14516, 94-O-15200, 95-O-16089 and 95-O-18493.
  - (b) ☒ Date prior discipline effective : March 13, 1997.
  - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: two violations of rule 3-110(A), and one violation each of rules 3-700(A)(2); 3-700(D)(2), and 4-100(A)(2).
  - (d) ☒ Degree of prior discipline : one-year stayed suspension and two-year probation.
  - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.
- (a) State Bar case # of prior case: 98-O-01251.
- (b) Date prior discipline effective: December 24, 1998.
- (c) Rules of Professional Conduct/State Bar Act violations: five violations of section 6068(k).
- (d) Degree of prior discipline: one-year stayed suspension and one-year probation.
- (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.

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- (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 Attachment to Stipulation at p. 13.
- (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 Attachment to Stipulation at p. 13.
- (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.
- (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.
- (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:**

See Attachment at p. 14.

**D. Discipline:**

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of one year.
- 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 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 six months.
- 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 the 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: .
- (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:
  - ☐ Substance Abuse Conditions
  - ☐ Medical Conditions
  - ☐ Law Office Management Conditions
  - ☒ 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 5.162(A) & (E), 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:**

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In the Matter of: Ollie Pearl Manago	Case Number(s): 12-O-11428-DFM and 12-O-15708 (inv.)
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## Financial Conditions

### a. Restitution

- ☒ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From
Estate of Lorraine Jackson	\$3,500	August 31, 2010
Nyree Stanfield	\$1,187	April 12, 2012

- ☒ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than 30 days after the effective date of the discipline order.

### b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

### c. Client Funds Certificate

- ☒ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

**b. Respondent has kept and maintained the following:**

- i. A written ledger for each client on whose behalf funds are held that sets forth:
  1. the name of such client;
  2. the date, amount and source of all funds received on behalf of such client;
  3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
  4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
  1. the name of such account;
  2. the date, amount and client affected by each debit and credit; and,
  3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

**c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:**

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.

3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

**d. Client Trust Accounting School**

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.



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

IN THE MATTER OF:

Ollie Pearl Manago

CASE NUMBER(S):

12-O-11428-DFM and 12-O-15708 (inv.)

**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.

Case No. 12-O-11428 (Complainants: Sharon Melancon and Jean Harris)

**FACTS:**

1. In 2004, attorney James A. Bohan ("Bohan") prepared a trust (the "2004 trust") for Lorraine Jackson ("Jackson"), naming Jackson as the initial trustee and her sister, Ruth McIntosh ("McIntosh"), the beneficiary. Jackson's aunt, Minnie Melancon ("Minnie"), was named the beneficiary of the 2004 trust if McIntosh did not survive Jackson. Jackson's real property in San Pedro, California (the "San Pedro property") was an asset of the 2004 trust.
2. On August 19, 2009, Gloria Thompson ("Thompson"), Jackson's long-time tenant and informal caregiver, brought Jackson to Bohan's law office. Thompson represented to Bohan that Jackson wanted to change her beneficiary in her 2004 trust to Thompson. After Bohan conferred with Jackson about Thompson's representation, Bohan declined to change the beneficiary to Thompson because he could not confirm that Jackson wanted to change her 2004 trust.
3. In May 2010, Thompson contacted Respondent by telephone about drafting a trust for Jackson. Thompson explained that Jackson was 90 years old and claimed that Jackson was in good health and had a sound mind. Respondent had not met or discussed Jackson's intentions with her at that time. Respondent advised Thompson to obtain something in writing from Jackson's treating physician regarding Jackson's mental state. Thompson did as instructed by Respondent and took Jackson to Jackson's physician in June 2010 to obtain a note regarding Jackson's mental state.
4. In August 2010, Thompson brought Jackson to Respondent's office to change Jackson's trust with a note from Jackson's physician, who practiced in the areas of internal medicine and gastroenterology but not psychiatry. The physician stated in his note, dated June 22, 2010: "Lorraine Jackson has expressed to me twice that she no longer wants her Aunt Minnie and her daughter Sharon to be alt. executrixes. Lorraine is of sound mind to know this." The note was silent as to whether Jackson wanted to disinherit her beneficiary in her 2004 trust.
5. After reviewing the physician's note and after speaking with Jackson, Respondent prepared a trust for Jackson's estate (the "2010 trust") and witnessed the signing of the 2010 trust by Jackson. The 2010 trust listed Jackson as the initial trustee and Thompson as the successor trustee and beneficiary. The 2010 trust expressly revoked the 2004 trust, and disinherited Jackson's next of kin in favor of Thompson. On August 28, 2010, Jackson executed a Durable Power of Attorney for Assets of Lorraine

McIntosh Jackson, a Durable Power of Attorney for Healthcare of Lorraine McIntosh Jackson, and a pour over will related to the 2010 trust and prepared by Respondent. On August 31, 2010, Jackson executed a trust transfer deed prepared by Respondent. The trust transfer deed effected the transfer of the San Pedro property from the 2004 trust to the 2010 trust. On September 8, 2010, the 2010 trust along with the 2010 trust transfer deed were recorded with the County of Los Angeles.

6. Respondent had not requested or reviewed the physician's medical records for Jackson. The physician's records for Jackson dating back to September 2008 reflected that she was suffering from Alzheimer's disease. The records reflected that on June 22, 2010, he also wrote in his chart about Jackson: "Doesn't know date," "Knows Pres," "Know city," and "Can't remember 3-days." The physician also wrote, "Doesn't know what [changes] are needed to her plan," which the physician crossed out, and then wrote, "Now remembers that she doesn't want aunt and her aunt's daughter to be alternate executrixes," and "would like Gloria—a neighbor/informal caregiver/friend/ to be executor." The physician did not state that Jackson wanted Thompson to be her sole beneficiary.

7. At the time Jackson executed the 2010 trust and related documents, Jackson lacked the required testamentary intent or capacity to lawfully formulate her estate plan due to her medical condition. Respondent reasonably should have known that the change in beneficiary to Thompson, which effectively disinherited Jackson's next of kin, would unduly subject the estate plan to claims by Jackson's next of kin that Thompson exercised undue influence over Jackson. Respondent did not conduct a sufficient investigation to determine whether Jackson was competent to change her estate plan or a sufficient investigation of Thompson to determine if Thompson was unduly influencing Jackson to change her estate plan in favor of Thompson before Respondent changed Jackson's estate plan in favor of Thompson. In September 2010, Jackson's physician acknowledged that he was not qualified to render an opinion regarding Jackson's competency.

8. On September 10, 2010, Sharon discovered that the title to the San Pedro property had been changed. In September 2010, Sharon and Minnie hired attorney Margaret Bouchet ("Bouchet") who contacted Respondent and confirmed that Respondent had changed Jackson's estate plan. On October 23, 2010, Respondent, Jackson, Sharon, and Bouchet met to discuss the 2010 trust.

9. In November 2010, Respondent, as the attorney for Jackson, Thompson (acting in pro per), Sharon, Minnie, and Bouchet (collectively "the parties") entered into a written stipulation to revoke the 2010 trust and the related durable powers of attorney for assets and healthcare of Jackson, the deed, and any and all pour over wills. The parties stipulated that Jackson was suffering from Alzheimer's disease and dementia and was not competent to understand the nature of the 2010 trust when she executed the 2010 trust, the durable powers of attorneys for assets and health care, and the pour over will. The parties stipulated to revoke the durable powers of attorney for assets and healthcare, the deed dated August 31, 2010, and any and all pour over wills executed by Jackson on August 28, 2010. The parties stipulated that the court may make a finding that the 2010 trust, the durable powers of attorney for assets and health care, and the pour over will were void due to the undue influence of Jackson, an elder adult. The parties also stipulated that the parties would be responsible for their own fees and costs. The parties did not reach a stipulation as to whether Respondent should return the \$3,500 in fees to Jackson. Respondent agrees that a refund of the fees paid is appropriate as Jackson did not benefit from Respondent's services.

10. On February 16, 2011, Sharon and Jackson's first cousin, Jean Harris ("Harris"), through their attorney, filed a petition for a conservatorship over Jackson in the Los Angeles County Superior Court, case number NP014299. On February 16, 2011, Sharon and Harris also filed a petition for

substituted judgment, seeking to set aside and invalidate the 2010 trust and to confirm the validity of the 2004 trust.

11. On March 24, 2011, the court appointed Sharon and Harris as temporary co-conservators for Jackson and her estate, and granted the petition for substituted judgment.

12. On May 26, 2011, the court found by clear and convincing evidence that a conservatorship of Jackson and her estate was necessary and appropriate and granted the petition for conservatorship. The court appointed Sharon and Harris as co-conservators for Jackson and her estate. The court found that Jackson had dementia and lacked the capacity to make health care decisions and to vote.

13. On December 7, 2011, the court filed its order approving the petition for substituted judgment. The court found that pursuant to the Stipulation, on August 28, 2010, when Jackson executed the 2010 trust and other corresponding estate planning documents, Jackson was medically incompetent, as evidenced by her medical records, and lacked the capacity to execute any estate plan. The court found that the 2010 trust and the transfer trust deed affecting title to the San Pedro property were void and of no legal effect. The court ordered that Jackson's prior estate plan recorded in 2004 be reinstated and ordered that it could not be changed, revoked or altered without further order of the court; and that the *Durable Power of Attorney for Assets of Lorraine McIntosh Jackson* and the *Durable Power of Attorney for Healthcare of Lorraine McIntosh Jackson*, executed by Lorraine M. Jackson on August 28, 2010 were revoked.

14. On December 7, 2011, the State Bar of California ("State Bar") opened an investigation identified as case number 12-O-11428 concerning a complaint submitted by Sharon and Harris against Respondent (the "complaint").

15. On March 14, 2012, a State Bar investigator mailed a letter to Respondent at her membership records address regarding its investigation of the complaint. Respondent received the letter. In the letter, the State Bar requested a written response to the allegations raised by the complaint by March 28, 2012. Respondent did not provide the State Bar's investigator with a written response to the allegations raised by the complaint.

16. On April 10, 2012, a State Bar investigator mailed a letter to Respondent at her membership records address regarding its investigation of the complaint. Respondent received the letter. In the letter, the State Bar requested a written response to the allegations raised by the complaint by April 24, 2012. Respondent did not provide the State Bar's investigator with a written response to the allegations raised by the complaint.

#### CONCLUSIONS OF LAW:

17. By preparing the 2010 trust, the durable powers of attorney for assets and healthcare, the pour over will and the trust transfer deed to disinherit Jackson's next of kin in favor of Thompson, when Respondent reasonably should have known that Jackson was not competent to change her estate plan and that the change of beneficiary to Thompson, which effectively disinherited Jackson's next of kin, would unduly subject the estate plan to claims by Jackson's next of kin that Thompson exercised undue influence over Jackson; and by not conducting a sufficient investigation of Thompson's mental capacity before changing Jackson's estate plan or a sufficient investigation of Thompson to determine if Thompson was unduly influencing Jackson to change her estate plan in favor of Thompson, Respondent

recklessly failed to perform legal services with competence, in wilful violation of rule 3-110(A) of the Rules of Professional Conduct.

18. By not providing the State Bar's investigator with a written response to the allegations raised by the complaint, Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent, in wilful violation of section 6068(i) of the Business and Professions Code.

Case No. 12-O-15708 (Complainant: Nyree Stanfield)

FACTS:

1. Valorie Dunn ("Valorie"), the mother of Nyree Stanfield ("Stanfield"), was a successor trustee in the trust of Stanfield's grandmother, Mable Dunn ("Mable"), and was the primary beneficiary in Mable's will. Stanfield was also a beneficiary in the will and was named successor trustee of the trust if Valorie was unwilling or unable to serve as executor. Valorie predeceased Mable. In or about September 2011, Stanfield went to Respondent for legal representation. Between September 9 and October 3, 2011, Respondent had consultations with Stanfield regarding Mable's estate, reviewed Mable's trust and estate plan and did an investigation regarding real property belonging to Mable's estate. Respondent also advised Stanfield to file a probate of Valorie's estate.

2. On or about October 3, 2011, Stanfield advanced \$2,000 to Respondent for costs related to the probate of Valorie's estate. Respondent did not provide Stanfield with a written fee agreement for Respondent's legal services related to Mable's estate or Valorie's estate. On or before October 7, 2011, Respondent deposited the \$2,000 in her client trust account at Wells Fargo Bank (the "CTA").

3. On October 12, 2011, Respondent filed a petition for the probate of Valorie's estate on behalf of Stanfield. On or about October 12, 2011, Respondent withdrew \$50 from the \$2,000 in the CTA as reimbursement for messenger fees related to the probate matter. On October 13, 2011, check number 7953 to the Los Angeles Superior Court for \$395 was paid from the CTA as filing fees for the probate petition, leaving a balance of \$1,555 from the \$2,000 received from Stanfield. However, the ending balance in the CTA fell to \$702.27 on October 19, 2011, or \$852.73 below the \$1,555 that should have remained in the CTA from the \$2,000 received from Stanfield although no other costs were incurred by Respondent for Valorie's probate. The balance in the CTA fell below the \$1,555 that should have remained in the CTA from the \$2,000 received from Stanfield for costs related to Valorie's probate because Respondent unilaterally applied a portion of the \$2,000 in advanced costs to pay Respondent's fees for her work related to Mable's estate, without informing Stanfield or obtaining Stanfield's consent. Respondent applied the funds toward her fees due to her belief that Stanfield would not object, but not due to dishonesty on Respondent's part.

4. On January 30, 2012, check number 8037 to the Metropolitan News Enterprise for \$368 was paid from the CTA as publication fees for the probate petition, bringing the total costs incurred to \$813 and the balance of the unused costs to \$1,187. After January 30, 2012, Respondent advanced no other costs for Stanfield related to Valorie's probate.

5. In or about March 2012, Respondent gave Stanfield an accounting for the probate matter, dated March 8, 2012. The accounting reflected that \$813 was expended as costs and further reflected that Respondent's fees for Valorie's probate totaled \$1,300. The accounting did not inform Stanfield that Respondent had disbursed the remaining advanced costs to pay her fees for her work on Mable's

estate. Respondent did not disburse the unused portion of the costs of \$1,187 to Stanfield, although Stanfield did not make a request for these funds.

#### **CONCLUSION OF LAW:**

6. By not maintaining in the CTA the unused portion of the \$2,000 in advanced costs received from Stanfield for Valorie's probate, or \$1,555 on October 19, 2011, and unilaterally applying \$852.73 towards her claimed fees for her work on Mable's estate, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in wilful violation of Rules of Professional Conduct, rule 4-100(A).

#### **ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.**

##### **Prior Record of Discipline**

- (a) State Bar Court case # of prior case: 94-O-14516, 94-O-15200, 95-O-16089 and 95-O-18493.
- (b) Date prior discipline effective: March 13, 1997.
- (c) Rules of Professional Conduct/State Bar Act violations: two violations of rule 3-110(A), and one violation each of rules 3-700(A)(2); 3-700(D)(2), and 4-100(A)(2).
- (d) Degree of prior discipline: one-year stayed suspension and two-year probation.
- (a) State Bar Court case # of prior case: 98-O-01251.
- (b) Date prior discipline effective: December 24, 1998.
- (c) Rules of Professional Conduct/State Bar Act violations: five violations of section 6068(k).
- (d) Degree of prior discipline: one-year stayed suspension and one-year probation.

##### **Harm**

Respondent changing Jackson's estate plan when Jackson lacked the capacity to change her estate plan caused significant harm to the beneficiaries of Jackson who were disinherited by the change of the estate plan.

##### **Multiple Acts**

Respondent's misconduct includes failing to perform competently in one client matter, failing to cooperate during a State Bar investigation, and failing to maintain client funds in trust in a second client matter.

## **ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.**

### **Additional Mitigating Circumstances:**

#### **Recognition of Wrongdoing**

Respondent demonstrated recognition of wrongdoing by entering into the stipulation to revoke the 2010 trust. (Standard 1.2(e)(vii).) While Respondent did not cooperate with the State Bar during its investigation of this matter, Respondent participated in pre-filing settlement discussions and during the formal proceedings. Respondent has stipulated to misconduct, and thereby demonstrated her recognition of wrongdoing and cooperation with the State Bar, and saved the State Bar's resources. (Standard 1.2(e)(v); *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

#### **Good Character**

Before and during her misconduct, Respondent performed community service with various charitable organizations including AmASSI Center, Mesereau Free Legal Clinic, Help Me Help You, and Tercore Foundation, and continues to be active in these organizations. (*In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 359 [civic service can deserve recognition as a mitigating circumstance under standard 1.2(e)(vi)].)

#### **Physical Difficulties**

At the time of the misconduct, Respondent was dealing with her husband's serious and chronic illnesses and her own serious and chronic illnesses for which she was seeking treatment since March 2010 for chronic pain. One of her illnesses led to a surgical procedure in November 2011. One of her husband's illnesses required surgery in May 2012. These factors impacted Respondent's ability to practice law and contributed to her not responding during the State Bar's investigation of Respondent's conduct relating to Jackson, and her mishandling trust funds belonging to her client, Stanfield. (*In re Arnoff* (1978) 22 Cal.3d 740, 747 [domestic and health difficulties may be considered in mitigation of discipline for misconduct].)

## **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4<sup>th</sup> 184, 205; std 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4<sup>th</sup> 81, 92, quoting *In re Brown* (1995) 12 Cal.4<sup>th</sup> 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation

different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Here, Respondent has been disciplined on two prior occasions, and the standards provide that the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate. (Standard 1.7(b).) Nevertheless, standard 1.7(b) must be applied with due regard for the purposes of imposing professional discipline, and the Supreme Court has declined to apply this standard in the appropriate circumstances. (*Conroy v. State Bar* (1991) 53 Cal.3d 495.) Under the circumstances present here, the purposes of discipline would not be served by disbarment, and disbarment would be unjust. In *Conroy*, the Supreme Court imposed a one-year actual suspension despite the existence of two prior impositions of discipline which included a 60 day actual suspension for failure to comply with a condition of a private reproof. Rather than disbarring in *Conroy*, the court instead followed an analysis under standard 1.7(a), which provides that if an attorney has one prior offense, the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior discipline matter. As in *Conroy*, Respondent's second discipline matter was for a failure to comply with disciplinary conditions and did not involve a new client matter. In the prior misconduct, Respondent complied late with the disciplinary conditions, and that discipline, imposed approximately 12 years before the misconduct in this matter, is remote in time to the new misconduct. Applying standard 1.7(a), as the Supreme Court did in *Conroy*, is appropriate in this case, and the purposes of discipline will be served by imposing an actual suspension since it is greater than Respondent's last discipline of stayed suspension.

Respondent admits to committing three acts of professional misconduct. Standard 1.6 (a) requires that where a respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards. The most severe sanction applicable to Respondent's misconduct is found in standard 2.2(b), which applies to Respondent's violation of Rules of Professional Conduct, rules 4-100(A). Standard 2.2(b) provides that culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

In case number 12-O-12428, while Respondent failed to perform competently on behalf of her client, Jackson, her misconduct involved reckless rather than intentional acts. The gravity of Respondent's misconduct is mitigated by Respondent's subsequent efforts to address the harm caused to Jackson's estate by her misconduct. Respondent corrected the harm caused by her misconduct by entering into the stipulation to revoke the 2010 trust so that the 2004 trust could be reinstated. Respondent also failed to cooperate in a State Bar investigation, despite Respondent's prior involvement with the State Bar which led to discipline against her. However, no significant harm was caused to the State Bar by her failure to cooperate. Respondent participated in pre-filing settlement discussions and in the formal proceedings with the State Bar and stipulated to the misconduct here.

In case number 12-O-15708, Respondent's failure to maintain the unused portion of the costs of \$1,555 in trust as of October 19, 2011 was due to Respondent's belief that she was entitled to apply a portion of the advanced costs to pay for services she performed related to Mable's estate, but not due to dishonesty on Respondent's part. Her belief was reinforced by subsequent events. Particularly, Respondent's client, Stanfield, did not make any request for a refund of the unused costs and did not ask

her to return any of the \$2,000 after Respondent provided an accounting of the \$2,000 received from Stanfield.

While there are some similarities between Respondent's present and prior misconduct, which involved failures to perform and maintain disputed funds in trust, the circumstances surrounding Respondent's present misconduct, coupled with Respondent's history of community service and emotional and physical difficulties warrant a lower level of actual suspension than the minimum one year of actual suspension provided in standard 2.2(a). An actual suspension of six months will protect the public, courts and the legal profession; the maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession. (Standard 1.3.) This disposition is consistent with Supreme Court case law involving an attorney's failure to maintain funds in trust not involving dishonest conduct. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317 [30-day actual suspension for failing to maintain client funds in trust resulting from attorney's unreasonable belief that her client authorized the attorney's use of entrusted funds to pay the attorney's fees].)

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page 2, paragraph A(7), was February 27, 2013.

#### **DISMISSALS.**

The parties respectfully request the Court to dismiss the following alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
12-O-11428	One	Business and Professions Code section 6068(a)
12-O-11428	Three	Rules of Professional Conduct, rule 4-200(A)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of February 25, 2013, the prosecution costs in this matter are \$7,858. 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.

#### **EXCLUSION FROM MCLE CREDIT**

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, Client Trust Accounting School, and/or any other educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

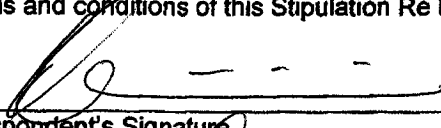
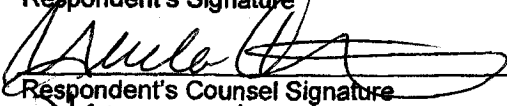



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In the Matter of: Ollie Pearl Manago	Case number(s): 12-O-11428-DFM and 12-O-15708 (inv.)
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### SIGNATURE OF THE PARTIES

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.

3-25-13		Ollie P. Manago
Date	Respondent's Signature	Print Name
3-25-13		Greta S. Curtis
Date	Respondent's Counsel Signature	Print Name
3-26-13		Diane J. Meyers
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of:  
Ollie Pearl Manago

Case Number(s):  
12-O-11428-DFM and 12-O-15708 (inv.)

### ACTUAL SUSPENSION 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.

See attached Modifications to Stipulation.

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.)**

Date

4/23/13

  
RICHARD A. HONN  
Judge of the State Bar Court

OLLIE PEARL MANAGO

Case Nos. 12-O-11428-DFM and Inv. #12-O-15708

### MODIFICATIONS TO STIPULATION

1. On page 3 of the stipulation, in section B(4), the "X" in box B(4) (Harm) and the following sentence, which was added by the parties, are DELETED: "See Attachment to stipulation at page 13."

Likewise, on page 13 of the stipulation, the subdivision entitled "Harm" is DELETED in its entirety.

The stipulation does not factually support the stipulated conclusion that respondent's misconduct caused *significant* harm to the beneficiaries of Jackson particularly in light of the fact that, on page 15 of the stipulation, in the third full paragraph, the parties stipulate that "Respondent corrected the harm caused by her misconduct by entering into the stipulation to revoke the 2010 trust so that the 2004 trust could be reinstated."

2. On page 9 of the stipulation, in paragraph 4, in the last line, the word "beneficiary" is charged to "beneficiaries."

3. On page 16 of the stipulation, in the first full paragraph, which begins "While there are," in the fourth and fifth lines, the following text is DELETED: "a lower level of actual suspension than the minimum one year of actual suspension provided in standard 2.2(a)"; and the following text is INSERTED in its place: "less discipline than otherwise necessary."

Also on page 16 of the stipulation, in the first full paragraph, which begins "While there are," in the seventh line, after the word "profession," the following text is INSERTED: "and is consistent with both standards 1.7(a) and 2.2(b)."

-X-X-X-

## 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 April 24, 2013, I deposited a true copy of the following document(s):

### STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION

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

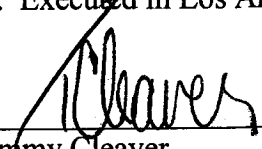
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**GRETA S. CURTIS  
3701 WILSHIRE BLVD STE 1130  
LOS ANGELES, CA 90010**

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

**DIANE MEYERS, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 24, 2013.

  
\_\_\_\_\_  
Tammy Cleaver  
Case Administrator  
State Bar Court