

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case No.: **13-O-13899-LMA**  
)  
**DIANNE YOUNG WILLIAMS aka** )  
**DIANNE WILLIAMS-JORDON,** ) **DECISION**  
)  
**Member No. 64954,** )  
)  
A Member of the State Bar. )

**Introduction**<sup>1</sup>

In this original disciplinary proceeding, the State Bar's Office of the Chief Trial Counsel (State Bar) originally charged respondent DIANNE YOUNG WILLIAMS also known as DIANNE WILLIAMS-JORDON with the following three counts of misconduct involving a single client matter: (1) misappropriating client funds (§ 6106); (2) communicating with a party represented by counsel (rule 2-100(A)); and (3) seeking an agreement to withdraw a state bar complaint (§ 6090.5, subd. (a)(2)). However, on January 8, 2015, the State Bar filed a motion to dismiss count two, which charged respondent with communicating with a represented party (rule 2-100(A)), with prejudice. The court granted that motion and dismissed count two with prejudice at the pretrial conference.

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the California Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code unless otherwise indicated.

The court finds, by clear and convincing evidence, that respondent is culpable of the misconduct charged in the remaining two counts (i.e., counts one and three). For the reasons set forth *post*, the court recommends that respondent be placed on four years' stayed suspension and four years' probation on conditions, including that a two-year actual suspension that will continue until respondent establishes her rehabilitation, fitness to practice, and learning in the law in accordance with standard 1.2(c)(1) of the Standards for Attorney Sanctions for Professional Misconduct.<sup>2</sup>

The State Bar was represented by Senior Trial Counsel Sherrie B. McLetchie. Attorney Jonathan I. Arons represented respondent.

### **Significant Procedural History**

The State Bar filed the notice of disciplinary charges (NDC) in this proceeding on September 15, 2014. Respondent, through her attorney, filed a response to the NDC on October 20, 2014.

On January 13, 2015, the parties filed a partial stipulation as to facts and admission of documents. The stipulation clearly provides that evidence to prove or disprove a stipulated fact was inadmissible at trial.

After a three-day trial, which began on January 13, 2015, the parties filed closing briefs. Thereafter, the court took this matter under submission for decision on January 26, 2015.

On January 27, 2015, respondent, through her attorney, filed a motion to strike the State Bar's closing brief or, in the alternative, to strike the attachment to the State Bar's closing brief

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<sup>2</sup> The standards are found in title IV of the Rules of Procedure of the State Bar. All further references to standards are to this source.

and all references to it (respondent's motion to strike).<sup>3</sup> The State Bar opposes respondent's motion to strike.

The State Bar's closing brief and its three-page attachment summarize the State Bar's view of the evidence and sets forth the State Bar's contentions regarding what the evidence does and does not establish. Respondent's contention that closing brief's three-page attachment is in the nature of an exhibit that the State Bar should have produced during discovery and proffered into evidence at trial is frivolous. Accordingly, respondent's motion to strike is DENIED.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on October 14, 1975, and has been a member of the State Bar of California since that time.

#### **Facts**

On July 22, 2008, Jeffrey Chambers (Chambers) hired respondent to determine his interest in the "James Chambers Trust," which was established by his deceased father and which was administered by his sister -- Debra Chambers. On that same day, Chambers paid respondent \$500 on a \$750 bill for fees and costs.

Respondent determined that Chambers was entitled to all or part of two annuities that his deceased father or the James Chambers Trust purchased from Sun Life Financial (Sun Life) and Jackson National Life Insurance Company (Jackson National). In July and August 2008, respondent submitted a claim to Sun Life for Chambers. Thereafter, on September 2, 2008, respondent received a \$30,758.29 check from Sun Life for Chambers share of the Sun Life annuity. On September 3, 2008, respondent deposited that check into her client trust account (CTA). Before respondent deposited that check, the balance in her CTA was \$119.50. And, after she deposited the check, her CTA balance was \$30,877.79 (\$30,758.29 plus \$119.50).

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<sup>3</sup> Respondent's motion to strike inappropriately contains an unfounded claim of prosecutorial misconduct.

Also, on September 3, 2008, Chambers hired respondent to perform estate planning legal services at a rate of \$275 per hour. On that same day, respondent submitted a claim to Jackson National for Chambers.

Between September 3 and 10, 2008, respondent (1) issued CTA checks totaling \$2,562.50 to herself for fees Chambers owed her; (2) disbursed \$5,000 from her CTA to Chambers; and (3) issued two more CTA checks totaling \$2,650 to herself for fees and reimbursements on a matter unrelated to Chambers. Thereafter, the balance in respondent's CTA was \$20,665.29 (\$30,877.79 less \$2,562.50 less \$5,000 less \$2,650). With respect to the \$2,650 that respondent withdrew from her CTA by writing two checks to herself, respondent misappropriated at least \$2,530.50 (\$2,650 less the \$119.50 beginning balance) of it from Chambers.

On September 15, 2008, respondent received a \$43,051.56 check from Chambers for the proceeds he received on the Jackson National annuity. Respondent deposited that \$43,051.56 check into her CTA that same day. In accordance with Chambers's request, respondent agreed to hold, in her CTA, the proceeds that Chambers received on the Sun Life and Jackson National annuities and to thereafter disburse those funds in accordance with Chambers's directions.

According to respondent, Chambers told her that he did not want to hold any money in his own name because he receives welfare benefits/payments from the county and did not want to risk losing those benefits/payments by having a large sum of money. Respondent further contends that, when Chambers directed her to distribute various amounts of his money directly to him, Chambers demanded that respondent pay him in cash and that, on multiple occasions, Chambers refused to sign a receipt for the money respondent distributed to him. Respondent contends that Chambers's conduct precluded her from keeping accurate records and adequately accounting to Chambers for the money she held for him in her CTA. Of course, if these

contentions are true, respondent should not have agreed to hold Chambers's funds or otherwise aid him in concealing his assets from the county welfare office. (E.g., *Coppock v. State Bar* (1988) 44 Cal.3d 665, 671-672, 678-681.)

Also, in September 2008, respondent issued (1) an \$1,800 CTA check to herself for "fees/Chambers"; (2) a \$13,200 CTA check to herself for "Chambers"; (3) a \$25 CTA check to a county recorder for the benefit of Chambers's mother; (4) a \$750 CTA check to herself; and (5) a \$600 CTA check to her sister. At a minimum, respondent misappropriated from Chambers the \$600 that she paid out to her sister. By the end of September 2008, the balance in respondent's CTA was \$47,341.85 (\$20,665.29 plus \$43,051.56 less \$1,800 less \$13,200 less \$25 less \$750 less \$600).

In October 2008, respondent disbursed \$1,000 from her CTA to Chambers. In that same month, however, respondent also misappropriated an additional \$10,450 from Chambers by issuing CTA checks totaling \$10,450 to herself. Since no other deposits had been made into respondent's CTA, respondent misappropriated the entire \$10,450 from the funds she held in trust for Chambers. By late October 2008, the balance in respondent's CTA was \$35,891.85 (\$47,341.85 less \$10,450 less \$1,000).

Between late October and early December of 2008, respondent disbursed \$5,000 from her CTA to Chambers. However, during that same time period, respondent also misappropriated an additional \$9,015 from Chambers by issuing CTA checks totaling \$9,015 to herself and to CourtCall on a matter unrelated to Chambers. By early December 2008, the balance in respondent's CTA was \$21,876.85 (\$35,891.85 less \$5,000 less \$9,015).

Between December 15, 2008, and March 13, 2009, respondent misappropriated an additional \$3,812 from Chambers by issuing CTA checks totaling \$3,812 to herself and others on

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one or more matters unrelated to Chambers. On March 13, 2009, respondent disbursed \$500 from her CTA to Chambers.

On March 17, 2009, respondent deposited \$1,250 into her CTA from clients other than Chambers. On March 17, 2009, the balance in respondent's CTA was \$18,814.85. There were no further deposits into the CTA until September 3, 2009.

In March or April 2009, Debra Chambers, Chambers's sister, retained respondent to represent her in connection with her administration of the James Chambers Trust. Respondent and Debra entered into a written fee agreement, which incorrectly recited that there was no conflict with respondent's representation of Debra because respondent's representation of Chambers "from this point forward is not related to the JAMES CHAMBERS TRUST."

On March 31, 2009, respondent withdrew \$2,400 from her CTA as "Fees/Chambers." Thereafter, the balance of respondent's CTA was \$16,414.85, of which \$1,250 belonged to clients other than Chambers.

On April 22, 2009, a CTA check to CourtCall in the amount of \$65 reduced the balance of respondent's CTA to \$16,349.85.

On April 29, 2009, respondent disbursed on behalf of Chambers \$1,000 to Christina Chambers reducing the amount she should have held in her CTA for Chambers to \$38,792.35.

Between May 4 and 14, 2009, respondent misappropriated an additional \$3,136 from Chambers by issuing four CTA checks totaling \$3,136 to herself and the Alameda County Recorder for one or more matters unrelated to Chambers.

On May 15, 2009, respondent wrote a \$21 CTA check to the Alameda County Recorder on behalf of Debra Chambers, although no funds from Debra Chambers had been deposited into respondent's CTA. On about May 22, 2009, respondent disbursed \$1,000 to Chambers.

Between June 2 and 23, 2009, respondent misappropriated \$1,609.31 from Chambers by issuing five CTA checks totaling \$1,609.31 on one or more matters unrelated to Chambers.

On June 29, 2009, respondent disbursed \$2,000 from her CTA to Chambers.

Between July 7 and 29, 2009, respondent misappropriated \$2,565 by issuing two CTA checks and making a cash withdrawal from her CTA totaling \$2,565 on one or more matters unrelated to Chambers.

On August 14, 2009, respondent disbursed \$1,000 from her CTA to Chambers.

On August 18, 2009, a \$355 CTA check made payable to the Alameda County Superior Court for an estate unrelated to Chambers was debited from respondent's CTA.

On August 21, 2009, a \$33 CTA check made payable to the Alameda County Recorder for Debra Chambers and the James Chambers Trust was debited from respondent's CTA even though no funds of Debra or the trust were on deposit in respondent's CTA.

On August 26, 2009, a CTA check in the amount of \$65 payable to CourtCall for Estate of Winrow was debited from respondent's CTA leaving a balance of \$3,565.54.

On August 27, 2009, respondent received \$600 from Chambers toward fees.

On August 28, 2009, respondent disbursed \$1,000 from her CTA to Chambers. The balance of the CTA was \$2,565.54.

On September 3, 2009, a \$26,235.97 Allstate Bank check was deposited into respondent's CTA. The payee was Pam Patterson. The balance immediately before the deposit was \$2,565.54. There were no further deposits to the CTA until November 13, 2009.

Thereafter, between September 3 and 9, 2009, respondent issued three CTA checks and made a cash withdrawal totaling \$5,800 on one or more matters unrelated to Chambers.

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On September 11, 2009, respondent disbursed \$2,000 from her CTA to Chambers. According to the parties' stipulation, after this \$2,000 payment, respondent should have held \$31,792.35 in her CTA for Chambers.

Between September 11, 2009, and November 13, 2009, from her CTA, respondent issued 15 checks and made cash withdrawals and transfers totaling \$10,406.95 for one or more matters unrelated to Chambers.

On October 13, 2009, respondent and her husband filed a chapter 13 bankruptcy petition. Respondent did not list Chambers as a person for whom money was being held in trust. Nor did respondent list Chambers as a creditor. Respondent's bankruptcy case was dismissed on June 25, 2013, because respondent failed to make the payments required under her plan.

On November 13, 2009, respondent's CTA was credited \$65 from CourtCall. Also, on November 13, 2009, respondent issued a \$690 CTA check to herself for attorney's fees and disbursed \$1,000 from her CTA to Chambers. Following this \$1,000 payment to Chambers, respondent should have held \$30,792.35 (\$31,792.35 less \$1,000) in her CTA for Chambers.

Between November 16, 2009, and December 18, 2009, 17 CTA checks and cash withdrawals totaling \$8,466.57 were debited to respondent's CTA for one or more matters unrelated to Chambers. By December 18, 2009, the balance in respondent's CTA was \$502.99. Moreover, even though respondent should have held \$30,792.35 in her CTA for Chambers, as of December 18, 2009, none of Chambers's funds were in respondent's CTA. Thus, the record clearly establishes that respondent misappropriated at least \$30,792.35 from Chambers.

(*Giovanazzi v. State Bar* (1980) 28 Cal.3d 465, 474 [“The mere fact that the balance in an attorney's trust account has fallen below the total of amounts deposited in and purportedly held in trust, supports a conclusion of misappropriation.”].)

In 2010, Respondent told Chambers that she had taken his money to pay her taxes and promised to pay him back. In December 2010, respondent offered Chambers a promissory note dated October 14, 2010, in the amount of \$33,110.15 even though she only owned him \$30,792.35 at the time.

Chambers retained Attorney Alexander Chase to recover the money respondent misappropriated from him. On February 17, 2011, Attorney Chase sent respondent a letter stating that she owed Chambers “\$27,696.96 plus a percent annual interest rate.” In May 2012, Attorney Chase filed a complaint against respondent with the State Bar for Chambers.

In its closing brief, the State Bar admits that respondent made payments totaling \$28,794.75 to Chambers or on Chambers's behalf at Chambers's direction between July 10, 2010, and July 2013.

On August 1, 2013, respondent paid Chambers an additional \$8,303 in cash, explaining to him that this was the full balance of what she owed him and requesting that he sign a statement indicating full and final payment. Chambers refused to sign for the payment and demanded that respondent pay him more money. Thereafter, respondent retained Attorney Theodore Johnson to settle the matter with Chambers and his attorney (i.e., Attorney Chase).

On August 18, 2014, Attorney Johnson sought an agreement for respondent from Chambers to withdraw the complaint that Chambers filed against respondent with the State Bar. On August 20, 2014, respondent paid Chambers an additional \$12,500.<sup>4</sup>

In sum, between July 10, 2010, and August 20, 2014, respondent paid restitution with interest to Chambers totaling \$49,597.75 (\$28,794.75 plus \$8,303 plus \$12,500) even though the outstanding balance of respondent’s misappropriation was only \$31,792.35 as of September 11, 2009, and was only \$30,792.35 as of November 13, 2009.

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<sup>4</sup> Specifically, respondent sent a \$12,500 cashiers check to Attorney Chase.

## **Conclusions of Law**

### ***Count One -- § 6106 [Moral Turpitude]***

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment. In count one, the State Bar charges that “Between ... about September 29, 2008, and April 2010, respondent dishonestly or grossly negligently misappropriated for respondent’s own purposes at least \$33,110.15 that Chambers was entitled to receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of ... section 6106.” The record clearly establishes that respondent willfully violated section 6106 by misappropriating at least \$30,792.35 from the Chambers to pay her taxes and to pay various fees and expenses for some of her other clients. The fact that respondent did not intend to permanently deprive Chambers of the \$30,792.35 is not a defense to the charge violation of section 6106.

The court rejects the contention in the State Bar's closing brief that respondent admitted at trial that she misappropriated all but \$4,562.50 of Chambers’s funds by the end of September 2009. The court also rejects the contention in the State Bar's closing brief that respondent misappropriated \$51,711.81 from Chambers. As noted above, respondent was charged with misappropriating at least \$33,110.15 from Chambers. That charge fails to provide respondent with adequate notice of a \$51,711.81 misappropriation charge. (See *In the Matter of Glasser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163 [NDC must allege sufficient factual detail to provide the respondent with a reasonable opportunity to prepare and present a defense and to prevent the respondent from being taken by surprise by the evidence offered at trial].)

### ***Count Three – § 6090.5, subd. (a)(2) [Seeking Agreement to Withdraw Bar Complaint]***

Section 6090.5, subdivision (a)(2), prohibits an attorney, whether as a party or as an attorney for a party, from agreeing or seeking agreement, in a civil matter, that the plaintiff will

withdraw a disciplinary complaint or will not cooperate with the investigation or prosecution conducted by the State Bar.

In count three, the State Bar charges that on “about August 18, 2014, respondent, while acting as a party, sought agreement from Jeffery Chambers that he withdraw his disciplinary complaint to the State Bar in willful violation of ... section 6090.5(a)(2).” The record clearly establishes the charged violation of section 6090.5, subdivision (a)(2). Neither the fact that respondent did not draft the agreement that contained the proscribed provision nor the fact that both Attorneys Johnson and Chase, respondent’s attorney and Chambers's attorney, respectively, are a defense to charged violation. Respondent never repudiated the agreement even though she knew it contained the proscribed provision.

### **Aggravation<sup>5</sup>**

#### **Significant Harm (Std. 1.2(b)(iv))**

Respondent’s misconduct resulted in significant financial harm to Chambers. Although respondent ultimately returned Chambers’s money in full, Chambers had to hire and pay for the services of another attorney to help him recover his monies. Therefore, while Chambers received his money, he had to pay Attorney Chase at least \$3,200 in fees.

#### **Uncharged Misconduct (Std. 1.5(d).)**

The State Bar contends that the record clearly establishes that respondent willfully violated rule 3-310 by failing to obtain “a signed conflicts waiver from Chambers” before she agreed to represent Debra Chambers and that respondent willfully violated section 6068, subdivision (a) (support constitution and laws) by failing to disclose Chambers as creditor in her bankruptcy proceedings. Moreover, the State Bar contends that it is appropriate to consider

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<sup>5</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

those to purported violations as uncharged-but-proved-misconduct aggravation. The court cannot agree.

Without question, in appropriate circumstances uncharged, but proved misconduct may be properly considered as aggravation. (See, e.g., *Edwards v. State Bar* (1990) 52 Cal.3d 28, 35-36.) The State Bar, however, has failed to identify or explain why it is appropriate to consider the uncharged violation of rule 3-310 as an aggravating circumstance in this proceeding. In addition, the State Bar has failed to explain why it did not properly charge the rule 3-310 violation in the NDC. Moreover, the State Bar has failed to establish that respondent violated the law by failing to list Chambers as a creditor in her bankruptcy petition. The court is unaware of any law mandating that debtors list all of their debts and creditors in their bankruptcy petitions.<sup>6</sup> Thus, no violation of section 6068, subdivision (a) has been shown.

### **Mitigation**

#### **No Prior Record (Std. 1.2(e)(i))**

Respondent has no prior record of discipline over many years of practice. Respondent had been admitted to practice law in California for almost 33 years before the first act of misconduct in this matter. (*Friedman v. State Bar* (1990) 50 Cal.3d 235, 245 [attorney's practice for more than 20 years with an unblemished record is highly significant mitigation]; *In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn. 13, citing *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 317; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [even in cases involving serious misconduct, the Supreme Court routinely gives significant mitigation for the lack of a prior record of discipline].)

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<sup>6</sup> Of course, a bankruptcy court discharge order discharges only the debts that are set forth in the debtor's bankruptcy petition. Thus, if respondent's bankruptcy proceeding had not been dismissed, respondent's debt to Chambers would not have been discharged because respondent did not list it in her bankruptcy petition.

**Extreme emotional difficulties/financial difficulties (Std. 1.6(d))**

Respondent is entitled to mitigation because she suffered from extreme emotional and financial difficulties at the time of the misconduct and because respondent has established that those difficulties no longer pose a risk that she will not commit further misconduct. Respondent suffered a financial collapse in 2008; endured serious stress because her husband was addicted to crack cocaine; she cared for her elderly mother for 10 years from 1998 to 2007; lost her two sons (one was murdered and the other died after a serious illness); and raised her grandson who had severe emotional difficulties as a teenager.

**Good Character (Std. 1.6(f))**

Respondent presented good character evidence through the live testimony of seven very credible witnesses and the declaration testimony of four very creditable witnesses. Collectively, these witnesses clearly established respondent's good character and honesty.

**Remorse/Recognition of Wrongdoing (Std. 1.2(e)(vii))**

Respondent has shown remorse and a willingness to accept responsibility for her acts of misconduct. Respondent was contrite and repaid all of the misappropriated funds to Chambers. In addition, she admitted to Chambers that she used his funds to pay her taxes and assured him that she would repay him before the State Bar got involved.

**Pro Bono Work and Community Service**

Service to the community is a mitigating factor. (*Schneider v. State Bar* (1987) 43 Cal.3d 784, 799.) Respondent testified regarding her pro bono and volunteer services in the community. She has judged high school debates and spoken at career days. Respondent has in the past been active with the Alameda County Bar Association and the Charles Houston Bar Association. Such evidence is entitled to some weight in mitigation, although the weight of the evidence is limited because respondent's testimony was the only evidence on the subject, and therefore the

extent of respondent's service is unclear. (See *In the Matter of Bach*, (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647-648; *In the Matter of Crane and DePew* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139, 158 & fn. 22.)

### **Discussion**

Standard 1.1 provides that the primary purposes of discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Standard 1.7 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.7(a).)

The most severe sanction is found at standard 2.1(a) which recommends disbarment for willful misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or unless the most compelling mitigating circumstances clearly predominate, in which case the minimum discipline recommended is a one-year suspension.

The State Bar urges the court to disbar respondent from the legal profession. Respondent, on the other hand, argues that her mitigation warrants a lower level of discipline. The court finds *In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364 instructive on the issue of discipline.

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In *McCarthy*, the attorney mishandled entrusted funds belonging to a limited partner in a real estate investment. The attorney, who was the general partner and owed a fiduciary duty to each of the limited partners, was found culpable of (1) misappropriating \$20,946 in entrusted funds from one of the limited partners and (2) conditioning a proposed civil settlement on the withdrawal of a State Bar complaint. In mitigation, the review department found the attorney's unblemished career, spanning more than 40 years, to be a strong mitigating factor even though the attorney's misconduct was very serious. (*In the Matter of McCarthy, supra*, 4 Cal. State Bar Ct. Rptr. at p. 383.) The attorney also given mitigation for his good character evidence and his community service activities. In aggravation, the review department noted multiple factors including that the attorney's misconduct was surrounded by concealment; that his conduct resulted in significant harm to the limited partner; and his "lack of recognition of wrongdoing, lack of remorse, and failure to make any restitution, particularly after [the limited partner] obtained a municipal court judgment with respect to the \$20,946 and a bankruptcy court finding of nondischargeability of the judgment." (*Id.* at p. 385.) Despite this aggravation, the review department found that disbarment was not necessary because, considering the attorney's lack of a prior record of discipline in over 40 years of practice, the misconduct appeared to be aberrational. Therefore, the review department recommended that the attorney be placed on four years' stayed suspension and three years' probation on conditions, including a two-year actual suspension.

Like *McCarthy*, the present matter involves a significant misappropriation by an attorney with a lengthy prior career without discipline. While the present matter involves more extensive misconduct and a larger misappropriation, respondent, unlike the attorney in *McCarthy*, has demonstrated remorse and recognition of wrong doing. Respondent has also made restitution in

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contrast to the attorney in *McCarthy*, who refused to make restitution, even after a court order and bankruptcy court finding of nondischargeability.

Ultimately, the court views the present case much in the same vein as the review department viewed *McCarthy*. Respondent practiced for over 30 years without discipline, prior to the commencement of the present misconduct. Respondent's misconduct involved only a single-client matter. While the court certainly considers the present misconduct to be serious, it was limited to a single client and aberrational to respondent's 30 years of discipline-free practice. Consequently, the court concludes that a level of discipline short of disbarment will provide adequate protection for the public, the courts, and the legal profession.

Therefore, the court recommends, among other things, that respondent be suspended from the practice of law for four years, that execution of that period of suspension be stayed, and that she be placed on probation for four years on conditions, including a minimum period of actual suspension of two years and until respondent provides proof to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law.

### **Recommendations**

#### **Discipline**

It is recommended that respondent DIANNE YOUNG WILLIAMS, State Bar number 64954, be suspended from the practice of law in California for four years, that execution of that period of suspension be stayed, and that respondent be placed on probation<sup>7</sup> for a period of four years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first two years of probation, and she will remain suspended until she provides proof to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

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<sup>7</sup> The probation period will commence on the effective date of the Supreme Court order in this matter. (See Cal. Rules of Court, rule 9.18.)

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 30 days after the effective date of discipline, respondent must contact the State Bar's Office of Probation in Los Angeles 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. Respondent must thereafter promptly meet with the probation deputy as directed and upon request.
4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
6. Respondent must comply with the following reporting requirements:
  - a. If respondent possesses client funds at any time during the period covered by a required report, respondent must file with each required report a certificate from a California certified public accountant certifying whether:
    - i. 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"; and
    - ii. Respondent has complied with the "Trust Account Record Keeping Standards" as adopted by the Board of Governors pursuant to rule 4-100(C) of the Rules of Professional Conduct.
  - b. 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 certificate described above.

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

7. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
8. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of her completion of both the State Bar's Ethics School and the State Bar's Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)
9. At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

### **Multistate Professional Responsibility Examination**

It is further recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination given by the National Conference of Bar Examiners and to provide proof of passage to the State Bar's Office of Probation in Los Angeles during the period of her actual suspension. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

### **California Rules of Court, Rule 9.20**

It is further recommended that respondent be ordered to comply with the California Rules of Court, rule 9.20 and to 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 order in this matter.<sup>8</sup>

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<sup>8</sup> Respondent is required to file a rule 9.20 affidavit even if she has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1998) 44 Cal.3d 337, 341.)

## **Costs**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with respondent's membership fees for each of the years 2016, 2017, and 2018. 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.

Dated: April \_\_\_\_, 2015

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LUCY ARMENDARIZ  
Judge of the State Bar Court