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ORIGINAL

**State Bar Court of California
Hearing Department
Los Angeles
DISBARMENT**

<p>Counsel For The State Bar</p> <p>Erin McKeown Joyce Senior Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1356</p> <p>Bar # 149946</p>	<p>Case Number(s): 13-O-17230-DFM</p>	<p>For Court use only</p> <p>FILED</p> <p>SEP 24 2014 <i>He</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>Counsel For Respondent</p> <p>Lawrence P. Adamsky 9701 Wilshire Blvd 1000 Beverly Hills, CA 90212 (310) 974-6739</p> <p>Bar # 188680</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: MARILEE JONES-COFIELD</p> <p>Bar # 100963</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 1, 1981**.
- (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 **(10)** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."

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- (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. 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 intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct. **See page 7 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this aggravating circumstance.**
- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property. **See page 8 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this aggravating circumstance.**
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. **See page 8 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this aggravating circumstance.**
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

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- (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) **Restitution:** Respondent failed to make restitution. **See page 8 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this aggravating circumstance.**
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. 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, the public, or the administration of justice.
- (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 with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental 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 the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (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 extraordinarily 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 subsequent rehabilitation.

(13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

Pre-Trial Stipulation - See page 8 of the Attachment to Stipulation Re Facts, Conclusions of Law and Disposition for a further explanation of this mitigating circumstance.

D. Discipline: Disbarment.

E. Additional Requirements:

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) **Restitution:** Respondent must make restitution to _____ in the amount of \$ _____ plus 10 percent interest per year from _____. If the Client Security Fund has reimbursed _____ for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than _____ days from the effective date of the Supreme Court order in this case.
- (3) **Other: Further Restitution:**

Respondent must make restitution to the following claimants in the amounts listed below plus 10 percent interest per year from the dates listed below. If the Client Security Fund has reimbursed any of the claimants 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.

Payee	Principal Amount	Interest Accrues From
Evelyn Scott	\$83,204.33	May 14, 2013
Theodis Scott, Jr.	\$25,000.00	May 14, 2013
Virginia Scott	\$25,000.00	May 14, 2013
Joseph Scott	\$25,000.00	May 14, 2013
TOTAL	\$158,204.33	

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: MARILEE JONES-COFIELD

CASE NUMBER: 13-O-17230-DFM

FACTS AND CONCLUSIONS OF LAW

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

Case No. 13-O-17230 – Complainant Theodis Scott, Jr.

FACTS:

1. Rev. Theodis Scott, Sr. died on October 14, 2006. He had three children with his first wife Lurelean Scott: complainant Theodis Scott, Jr., Virginia Ann Scott and Joseph Scott. After Lurelean Scott died, Rev. Scott married Evelyn Scott (Evelyn), who was married to Rev. Scott at the time of his death.

2. Evelyn was appointed the administrator of the estate of Rev. Scott in 2007, in Probate Case No. NP01219 filed in Los Angeles Superior Court. Evelyn hired Respondent in 2007 as the probate attorney to administer the estate of Rev. Scott. Evelyn is elderly.

3. The main asset of the estate was the family home shared by Rev. Scott and Evelyn.

4. As part of the administration of the estate, the family home was sold in September 2010.

5. At the close of the escrow on the family home, the proceeds of the sale of the home were deposited into the client trust account of Respondent, because Evelyn had moved out of California to Oklahoma to live with relatives before the sale of the house.

6. On March 14, 2013, the Probate Court issued an order regarding distribution of the sale proceeds.

7. As of the date of the March 14, 2013 distribution order, Respondent was required to maintain \$322,015 in her client trust account for the benefit of the estate of Rev. Scott.

8. Pursuant to the March 14, 2013 distribution order, Evelyn was authorized to collect \$13,236.33 as reimbursement for funds advanced for the benefit of the estate and \$9,160 as the statutory administrator's commission. Shortly after the March 14, 2013 distribution order issued, Respondent paid these amounts to Evelyn in the amount of \$22,396.33.

9. Pursuant to the March 14, 2013 distribution order, Respondent was entitled to statutory attorney fees in the amount of \$9,106 and extraordinary attorney fees of \$9,400, for a total of \$18,506.

10. Between May 14, 2013 and May 21, 2013, Respondent was required to maintain \$281,112.67 in her client trust account for the benefit of the estate of Rev. Scott after payment of the attorney fees and after payment of \$22,396.33 to Evelyn.

11. Pursuant to the May 14, 2013 distribution order, Respondent was required to make the following distributions from her trust account on behalf of the estate of Rev. Scott, to Evelyn and the beneficiaries:

Evelyn Scott	\$ 93,704.33
Theodis Scott, Jr.	\$ 62,469.56
Virginia Scott	\$ 62,469.56
Joseph Scott	\$ 62,469.56
Total	\$281,113.01

12. To date, Respondent has only made the following distributions from her client trust account for the benefit of the estate of Rev. Scott:

Evelyn Scott	\$ 10,500.00
Theodis Scott, Jr.	\$ 37,469.56
Virginia Scott	\$ 37,469.56
Joseph Scott	\$ 37,469.56
Total	\$122,908.68

13. Evelyn and the beneficiaries of the Estate of Rev. Scott repeatedly requested Respondent to distribute the remaining funds from the estate after the March 14, 2013 distribution order issued.

14. Between December 27, 2013, the date of Respondent's last distribution of funds belonging to the estate of Rev. Scott, and present, Respondent was required to maintain \$158,203.99 in her client trust account for the benefit of the estate of Rev. Scott. Instead, Respondent has converted the entirety of those funds for her own use, misappropriating the entrusted funds she was holding for the benefit of the estate of Rev. Scott.

15. To date, Respondent has not paid any additional monies to Evelyn or the beneficiaries of the estate of Rev. Scott.

CONCLUSIONS OF LAW

16. By misappropriating \$158,203.99 from the estate of Theodis Scott that the administrator and the three beneficiaries were entitled to receive, Respondent committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

17. By failing to pay promptly, as requested by Respondent's client and the beneficiaries to whom she owes a fiduciary duty, any portion of the \$158,203.99, Respondent's willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct.

18. By failing to comply with the March 14, 2013 final distribution order of the Probate Court in Los Angeles Superior Court Case No. NP012137, matter of the estate of Theodis Scott, where Respondent was the attorney for Evelyn Scott, the administrator of the Probate estate, Respondent willfully violated Business and Professions Code section 6103.

AGGRAVATING CIRCUMSTANCES

Dishonesty (Std. 1.5(d)): Respondent violated the trust of the administrator of the estate of Rev. Scott, and dishonestly misappropriated \$158,203.99 of the assets of the estate.

Trust Violations (Std. 1.5(e)): Respondent failed to comply with Rule 4-100(B)(4) in failing to promptly pay out to the administrator and the beneficiaries of the estate of Rev. Scott the monies due under terms of the March 14, 2013 distribution order of the Probate Court.

Harm (Std. 1.5(f)): The elderly administrator of the estate of Rev. Scott and the three beneficiaries have all be seriously harmed, since they have not received the benefit of their distribution of the estate's assets. Instead, Respondent misappropriated their funds from the estate. (*Kelly v. State Bar* (1991) 53 Cal.3d 509, 519–520 [in absence of additional facts, attorney's failure to promptly pay client funds constitutes genuine monetary injury].)

Failure to Make Restitution (Std. 1.5(i)): To date, Respondent continues to owe \$158,203.99 in restitution to the administrator of the estate of Rev. Scott, and his three beneficiaries, back to the date of the March 14, 2013 distribution order.

MITIGATING CIRCUMSTANCES

Pre-trial Stipulation: Respondent met with the State Bar trial counsel, admitted her misconduct, and entered this Stipulation fully resolving these matters. Respondent's cooperation has saved the State Bar significant resources and time. Respondent's stipulation to the facts, culpability, and discipline is a mitigating circumstance. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigating credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521). However, this non-compelling mitigation is insufficient to warrant deviation from disbarment, based on the severity of Respondent's misconduct and the substantial aggravating circumstances.

AUTHORITIES SUPPORTING DISCIPLINE

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

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.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 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.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, Respondent committed three acts of professional misconduct, violation of Business and Professions Code section 6106 [moral turpitude – misappropriation], Rule of Professional Conduct 4-100(B)(4) [failure to promptly pay out], and Business and Professions Code section 6103 [failure to comply with court order]. Standard 1.7(a) requires that where a Respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to Respondent’s misconduct is found in Standard 2.1, for Respondent’s misappropriation of over \$150,000. Pursuant to Standard 2.1(a): “Disbarment is appropriate for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case actual suspension of one year is appropriate.” Here, Respondent converted entrusted funds from the estate of Rev. Scott totaling over \$150,000. Disbarment is the only appropriate resolution.

The case law also supports the recommended discipline. The California Supreme Court has written that “[m]isappropriation generally warrants disbarment unless ‘clearly extenuating circumstances’ are present.” (*McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1035.) The California Supreme Court has also stated that, “[i]n all but the most exceptional cases, we must impose the harshest discipline for such a breach in order to safeguard the citizenry from unethical practitioners.” (*Chang v. State Bar* (1989) 49 Cal.3d 114, 128; *In Re Naney* (1990) 51 Cal.3d 186; *In Re Kaplan* (1991) 52 Cal.3d 1067; and *Kelly v. State Bar* (1988) 45 Cal.3d 649 [misappropriation warrants disbarment in absence of clearly mitigating circumstances].) Here, there are no such extenuating or mitigating circumstances.

In this matter, Respondent’s misappropriation of over \$150,000 warrants disbarment, especially when the substantial aggravating factors are considered, which include Respondent’s dishonesty, Respondent’s trust account violation, the significant harm to Respondent’s client and the beneficiaries of the estate, and Respondent’s failure to make restitution.

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In the Matter of: MARILEE JONES-COFIELD	Case number(s): 13-O-17230
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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>Sept 10, 2014</u> Date	<u><i>Marilee Jones-Cofield</i></u> Respondent's Signature	<u>Marilee Jones-Cofield</u> Print Name
<u>9.16.2014</u> Date	<u><i>[Signature]</i></u> Respondent's Counsel Signature	<u>Lawrence P. Adamsky</u> Print Name
<u>September 17, 2014</u> Date	<u><i>[Signature]</i></u> Deputy Trial Counsel's Signature	<u>Erin McKeown Joyce</u> Print Name

(Do not write above this line.)

In the Matter of: MARILEE JONES-COFIELD	Case Number(s): 13-O-17230
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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.

9/23/2014
Date


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 24, 2014, I deposited a true copy of the following document(s):

STIPULATION RE FATS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT; DISBARMENT

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:

**LAWRENCE P. ADAMSKY
LAWRENCE P. ADAMSKY, ESQ.
9701 WILSHIRE BLVD 1000
BEVERLY HILLS, CA 90212**

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

**ERIN M. JOYCE, Enforcement, Los Angeles
TERRIE GOLDADE, Probation Dept.,**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 24, 2014.



Tammy Cleaver
Case Administrator
State Bar Court