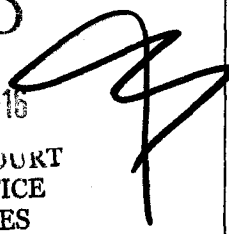


**PUBLIC MATTER**

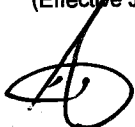
**State Bar Court of California  
Hearing Department  
Los Angeles  
ACTUAL SUSPENSION**

<p>Counsel For The State Bar</p> <p><b>Drew Massey Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 Tel: (213) 765-1204</b></p> <p>Bar # 244350</p>	<p>Case Number(s): <b>15-O-15797</b></p>	<p>For Court use only</p> <p><b>FILED</b></p> <p>DEC 07 2016</p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> 
<p>In Pro Per Respondent</p> <p><b>Karen Yianilos 555 W. Beech Street, Ste. 450 San Diego, CA 92101 Tel: (619) 234-2722</b></p> <p>Bar # 102050</p>	<p>Submitted to: <b>Settlement Judge</b></p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>ACTUAL SUSPENSION</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter of: <b>KAREN KERRY YIANOLOS</b></p> <p>Bar # 102050</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 22, 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 entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **14** 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):
- 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: **three billing cycles following the effective date of discipline.** (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 [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 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)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7)  **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.

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- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10)  **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page, 10.
- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

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- (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. **See page 11.**
- (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:**

**Profiling stipulation, remoteness in time, and absence of prior discipline. See pages 10-11.**

**D. Discipline:**

- (1)  **Stayed Suspension:**
- (a)  Respondent must be suspended from the practice of law for a period of **two (2) years**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii.  and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii.  and until Respondent does the following:
- (b)  The above-referenced suspension is stayed.
- (2)  **Probation:**
- Respondent must be placed on probation for a period of **two (2) years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)
- (3)  **Actual Suspension:**
- (a)  Respondent must be actually suspended from the practice of law in the State of California for a period of **sixty (60) days**.
- i.  and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), 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 present learning and ability in the general law, pursuant to standard 1.2(c)(1), 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

Law Office Management Conditions

Medical 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:**

(Do not write above this line.)

In the Matter of: <b>KAREN KERRY YIANILOS</b>	Case Number(s): <b>15-O-15797</b>
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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

- Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

#### 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:
- a. 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:                      KAREN KERRY YIANILOS

CASE NUMBER:                            15-O-15797

**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. 15-O-15797 (State Bar Investigation)

**FACTS:**

1. Spero and Theresa Yianilos were the trustors of the Spero and Theresa Yianilos Family Trust ("the Trust").
2. After Spero Yianilos died, Teresa Yianilos amended the Trust to appoint her two daughters, Becky Yianilos ("Becky") and Respondent, as successor trustees upon Theresa's death. The beneficiaries of the Trust are Respondent, Becky, Respondent's daughter, and Becky's three children.
3. The Trust directs the trustees to obtain fair market value for the trust assets and then distribute them "as soon as practical."
4. Theresa Yianilos died on March 24, 2008 and Respondent and Becky accepted their appointment as co-trustees. At that time, the Trust held approximately \$90,000 in cash as well as Theresa Yianilos's home in La Jolla which was worth several million dollars (although there was a dispute as to the exact valuation).
5. The home was cluttered with personal property and was in disrepair due to deferred maintenance. There was a delay in getting the house prepared for sale.
6. Becky and Respondent were unable to cooperate as co-trustees due to an extremely acrimonious relationship.
7. In order to clear out the house, Respondent paid her daughter and housekeeper to clean the property.
8. In order to insure the property, it needed to be occupied. Respondent allowed her daughter to live at the La Jolla residence for insurance purposes but also allowed her to live there rent-free.
9. Respondent hired workers to repair the property and paid for their services largely in cash. Respondent did not adequately document these expenditures to the trial court.
10. By late 2009, the Trust's cash assets were largely depleted.

11. Respondent used Trust funds for personal expenses. Respondent used \$6,000 to purchase her daughter a new car after the previous vehicle had been wrecked in an accident. The insurance funds were delayed and Respondent used Trust funds to buy the car and then reimbursed the Trust from the insurance funds within 30 days.

12. In May 2011, Respondent secured a loan to help pay for taxes (including \$100,000 of unpaid estate taxes) and other expenses related to the Trust. However, rather than place the loan proceeds into the Trust's bank accounts, she placed the funds in her Client Trust Account ("CTA"). Respondent did so in order to keep those funds out of the control of her co-trustee.

13. Respondent thereafter used her CTA to pay Trust expenses - including reimbursement to herself for personal funds she used to pay Trust expenses.

14. On August 9, 2011, one of the beneficiaries of the Trust filed a petition to have Respondent and Becky removed as trustees. That action was filed in the Superior Court of the State of California, County of San Diego and titled *In re Spero James Yianilos and Theresa Karas Yianilos Trust*. It was given case number P174593.

15. At the conclusion of that action, the Court found that Respondent had breached her fiduciary duties and surcharged her \$388,177.11. That decision was then affirmed on appeal.

16. That surcharge was levied against Respondent's final distribution as a beneficiary under the trust. Because of that surcharge, and the value of the trust, no other beneficiaries were denied their distribution under the trust due to Respondent's conduct.

#### CONCLUSIONS OF LAW:

17. By failing to promptly administer the Trust, failing to maintain Trust funds in the Trust accounts, and failing to properly account, Respondent breached her fiduciary duties and thereby willfully violated Business and Professions Code section 6068(a).

18. By placing Trust assets in her CTA, and thereafter paying Trust expenses with her CTA funds, Respondent commingled funds in her CTA and thereby willfully violated Rules of Professional Conduct, rule 4-100(A).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent has breached her fiduciary duties as trustee and further commingled and misused her Client Trust Account. These represent distinct acts of misconduct. Multiple acts of wrongdoing are an aggravating factor. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

#### MITIGATING CIRCUMSTANCES.

**Absence of Prior Misconduct:** Respondent has been admitted to practice law since December 1981 and has been active at all times since. Respondent has been discipline free for 28 years of practice from admission to the earliest misconduct herein (2009) and is therefore entitled to significant mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596.)

**Extraordinary Good Character (Std. 1.6(f)):** Respondent has provided evidence of 14 individuals willing to attest to her good character. The individuals represent a wide range of references from the general and legal communities, including nine attorneys and a Congressman, and each is aware of the misconduct. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912.)

**Remoteness in Time.** Respondent's misconduct concluded by January 23, 2012. Since then, there have been no complaints alleging misconduct after that date. Subsequent discipline-free practice has been found to warrant credit in mitigation. (*In the Matter of Riordan* (2007) 5 Cal. State Bar Ct. Rptr. 41.)

**Prefiling Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative 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 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

#### **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.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

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).)

Standard 2.12(a) states that disbarment or actual suspension is the presumed sanction for violating section 6068(a) of the business and professions code. Standard 2.2(a) states that actual suspension of three months is the presumed sanction for commingling.

Standard 1.7(a) states that where two or more Standards apply to misconduct, the most severe should be used. Here, that presents a range of disbarment to actual suspension of three months.

Respondent was entrusted with the administration of a trust, yet violated her fiduciary duties to the beneficiaries. Further, rather than maintain the Trust funds in a separate Trust account she commingled the funds in her CTA. Thereafter, Respondent used funds in the CTA to pay for her Trust expenses. When paying for Trust expenses, she failed to adequately account for the disbursements.

Nevertheless, when determining the degree of discipline, it is important to look to both aggravating and mitigating factors. Respondent has a significant period of prior discipline-free practice as well as more than four years of discipline-free practice subsequent to the misconduct. Additionally, Respondent has produced significant evidence of good character. While not specifically mitigating, it is also worth noting that the misconduct arose in the context of a family dispute and not within the attorney/client relationship. It also did not result in substantial harm to the beneficiaries since Respondent's surcharge came from her own distribution under the Trust. Still, it is well settled that private conduct can result in professional discipline. (See, e.g., *In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 166. Further, there is aggravation in the form of multiple acts of misconduct.

On balance, mitigation outweighs aggravation. Although the Standard calls for a ninety-day minimum of actual suspension, a lesser discipline would be sufficient in this instance. Therefore, Respondent should receive a two-year period of stayed suspension, and a two-year period of probation with conditions including an actual suspension for sixty days and attendance at Client Trust Accounting School. Doing so is sufficient to protect the courts, the public, and the legal profession; maintain the highest professional standards; and ensure public confidence in the profession.

Case law is in accord. In *Schneider v. State Bar* (1987) 43 Cal.3d 784, the attorney acted as trustee for two trusts that he had drafted. In each matter, the attorney took a loan from the trust which was either unsecured or without perfected security. The terms of the trust allowed for loans under specified conditions, but the attorney did not follow those conditions. The loans were used for the investments to which the attorney was connected. Although he eventually declared bankruptcy, the attorney returned the funds to the trusts.

In mitigation, the attorney had an approximately 14 year period of prior discipline-free practice, had further discipline-free practice after the misconduct, was dealing with personal problems during the relevant time, entered into a full factual stipulation which avoided the need for a trial, and demonstrated remorse. On that record, the Supreme Court imposed a three-year period of stayed suspension and a three-year period of probation with conditions including an actual suspension of 30 days.

The *Schneider* attorney's misconduct is similar, although it was analyzed as a breach of current rule 3-300. The *Schneider* attorney was also found to have breached his fiduciary duties. Nevertheless, that misconduct did not include misuse of the client trust account. Therefore, the misconduct at issue here is more severe and the possible impact on the public more concerning. The instant matter involves somewhat greater misconduct and therefore greater discipline is warranted.

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

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of October 18, 2016, the prosecution costs in this matter are \$3,995.30. 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 MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT**

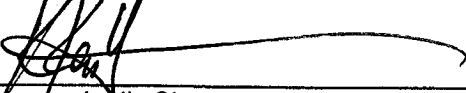
Respondent may not receive MCLE credit for completion of **State Bar Ethics School**. (Rules Proc. of State Bar, rule 3201.)


(Do not write above this line.)

In the Matter of: <b>KAREN KERRY YIANOLOS</b>	Case number(s): <b>15-O-15797</b>
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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.

11/03/16                                            Karen Yianilos  
Date                                      Respondent's Signature                      Print Name

11-7-16                                            Drew Massey  
Date                                      Deputy Trial Counsel's Signature                      Print Name

(Do not write above this line.)

In the Matter of:  
KAREN KERRY YIANILOS

Case Number(s):  
15-O-15797

### 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.

Add "X" to page 5, E (10) to denote Financial Conditions are attached.

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.)**

December 6, 2016  
Date

  
YVETTE D. ROLAND  
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 December 7, 2016, I deposited a true copy of the following document(s):

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

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

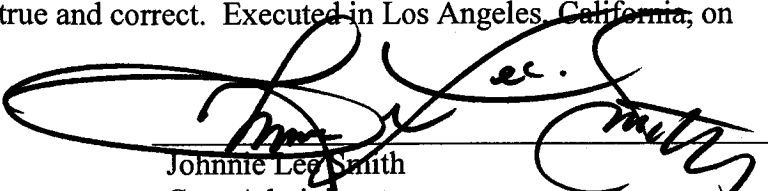
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**KAREN KERRY YIANILOS  
LAW OFFICE OF K. KERRY YIANILOS  
555 W BEECH ST STE 450  
SAN DIEGO, CA 92101**

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

**DREW MASSEY, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 7, 2016.

  
Johnnie Lee Smith  
Case Administrator  
State Bar Court