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

<p>Counsel For The State Bar</p> <p>Kristin L. Ritsema, No 149966 Senior Trial Counsel Elizabeth Gonzalez, No. 256839 Deputy Trial Counsel 1149 South Hill Street Los Angeles, California 90015-2299 (213) 765-1235</p> <p>Bar #</p>	<p>Case Number(s): 11-O-18588-DFM</p>	<p>For Court use only</p> <p>FILED</p> <p>JAN 16 2013 <i>Yre</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p> <p>PUBLIC MATTER</p>
<p>In Pro Per Respondent</p> <p>Sydney C. Kirkland 220 W. Grand Avenue Escondido, California 92025 (760) 746-1855</p> <p>Bar # 213138</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: SYDNEY CLAIRE KIRKLAND</p> <p>Bar # 213138</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 June 4, 2001.
- (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 (24) pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - Costs to be awarded to the State Bar.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.
- (9) **ORDER OF INACTIVE ENROLLMENT:**
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline**
 - (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. See Attachment, page 21.

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- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment, page 21.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Attachment, page 21.

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 Grover Gordon in the amount of \$ 275,642.46 plus 10 percent interest per year from February 3, 2011. If the Client Security Fund has reimbursed Grover Gordon 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 n/a days from the effective date of the Supreme Court order in this case.
- (3) **Other:**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: SYDNEY CLAIRE KIRKLAND

CASE NUMBER(S): 11-O-18588-DFM

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. 11-O-18588 (Complainant: Grover Gordon)

FACTS:

1. At all times pertinent to the stipulated facts herein, Respondent maintained a client trust account at Union Bank of California, account number xxxxx-x2916 (only the last four digits of account numbers are provided herein due to privacy concerns) (hereinafter "Respondent's client trust account").

2. At all times pertinent to the stipulated facts herein, Respondent maintained a general business deposit account at Union Bank of California, account number xxxxxx2908, in the name of Sydney C. Kirkland DBA Law Offices of Sydney C. Kirkland (hereinafter "Respondent's general account 2908"). This was not a client trust account.

3. At all times pertinent to the stipulated facts herein, Respondent maintained a general business deposit account at Union Bank of California, account number xxxxxx4235, in the name of Sydney C. Kirkland DBA Law Offices of Sydney C. Kirkland (hereinafter "Respondent's general account 4235"). This was not a client trust account.

4. At all times pertinent to the stipulated facts herein, Respondent maintained a general business deposit account at Union Bank of California, account number xxxxxx8230, in the name of Sydney C. Kirkland DBA Law Offices of Sydney C. Kirkland (hereinafter "Respondent's general account 8230"). This was not a client trust account.

5. Grover Gordon, Jr. ("Mr. Gordon") and Jeannette Letman ("Ms. Letman") were good friends and close companions. Mr. Gordon resided with Ms. Letman in Ms. Letman's house for many years. Mr. Gordon is presently 80 years old. He has no family.

6. Ms. Letman created and executed the Jeanette Letman Trust on August 8, 1990 (hereinafter the "Letman Trust"). Thereafter, Ms. Letman as Trustor amended the Letman Trust eight times. As early as the second amendment to the Letman Trust executed on May 28, 1998, Ms. Letman as Trustor named Mr. Gordon as a beneficiary of the Letman Trust.

7. Respondent represented Ms. Letman as her estate planning attorney and prepared the seventh and eighth amendments to the Letman Trust on behalf of Ms. Letman. In the eighth amendment to the

Letman Trust, Ms. Letman as Trustor named Mr. Gordon and Respondent as successor co-trustees. Ms. Letman executed the eighth amendment to the Letman Trust on April 14, 2010.

8. As early as 2006, Respondent represented Mr. Gordon in various legal matters. Commencing in 2010, Respondent also represented Mr. Gordon as his estate planning attorney and prepared estate planning documents for him, including a trust. In the trust documents that Respondent prepared for Mr. Gordon, Mr. Gordon as Trustor named Ms. Letman and Respondent as successor co-trustees of Mr. Gordon's trust and named Ms. Letman as a beneficiary of the trust.

9. Ms. Letman died on January 15, 2011. Ms. Letman's will and the Letman Trust left everything to Mr. Gordon as the sole beneficiary.

10. Upon Ms. Letman's death, Mr. Gordon and Respondent became successor co-trustees of the Letman Trust. Upon Ms. Letman's death, Respondent represented Mr. Gordon as co-trustee and beneficiary of the Letman Trust and advised him in that capacity.

11. The assets of the Letman Trust at the time of Ms. Letman's death consisted of the residence in which Mr. Gordon lives, tangible personal property including some valuable jewelry, and two bank accounts held at First California Bank in the name of the Jeanette Letman Trust—account number xxxxx5551 (hereinafter "Letman Trust account 5551") in the amount of \$285,839.42 and account number xxxxx8496 in the amount of \$239,279.17.

12. On February 3, 2011, Respondent caused a cashier's check to be issued by First California Bank in the amount of \$285,839.42 from the Letman Trust account 5551 to Respondent's client trust account. Respondent received the cashier's check and endorsed it.

13. On February 2, 2011, Respondent's client trust account was overdrawn by \$109.49, and had a negative balance in that amount. On February 3, 2011, Respondent deposited the First California Bank cashier's check in the amount of \$285,839.42 into Respondent's client trust account. After the deposit of the First California Bank cashier's check, the balance in Respondent's client trust account rose to \$285,729.93.

14. Respondent was required to maintain the Letman Trust funds in the amount of \$285,839.42 in Respondent's client trust account until appropriately distributed on behalf of Mr. Gordon. However, she failed to do so. As set forth above, because of the existing negative balance in Respondent's client trust account when the Letman Trust funds were deposited, the funds were depleted by \$109.49 immediately upon deposit. In addition, Respondent immediately began using the Letman Trust funds for her own personal use and purposes without Mr. Gordon's knowledge or consent as set forth below.

15. As set forth in the chart below, starting on February 4, 2011, only one day after the deposit of the Letman Trust funds in the amount of \$285,839.42 into Respondent's client trust account, Respondent transferred funds out of Respondent's client trust account on numerous occasions to Respondent's general account 2908, to Respondent's general account 4235, and to Respondent's general account 8230, all without Mr. Gordon's knowledge or consent. None of the Letman Trust funds that Respondent transferred out of her client trust account to her general accounts were ever distributed to or for the benefit of Mr. Gordon; rather, all of the Letman Trust funds that Respondent transferred out of her client trust account to her general accounts were used by Respondent for her own personal use and purposes. In addition, as set forth in the chart below, Respondent disbursed Letman

Trust funds from her client trust account to herself; to her husband, Mark Burnside; and to third parties and entities who had nothing to do with Mr. Gordon, all without Mr. Gordon's knowledge or consent, and for Respondent's own personal reasons and purposes.

Date transaction posted	Client trust account check no.	Respondent's general account to which funds were transferred or payee on check	Amount of transfer or amount of check (in dollars)	Balance in Respondent's client trust account after transfer or disbursement (in dollars)
02/03/11				285,729.93
02/04/11		transfer to 2908	1,500.00	284,229.93
02/04/11		transfer to 4235	3,500.00	280,729.93
02/07/11		transfer to 4235	20,000.00	260,839.93
02/14/11	5216	Third party (The names of individual third-party payees are not listed due to privacy concerns. None of the checks issued to third parties were issued for or on behalf of Mr. Gordon.)	300.00	261,139.93 (During the period reflected in this chart, Respondent occasionally deposited into her client trust account funds unrelated to the Letman Trust or to Mr. Gordon. These deposits are not reflected on the chart, but they explain why the balance sometimes rises in the chart despite all of the transfers and disbursements out of the client trust account.)
02/14/11		transfer to 2908	8,000.00	252,839.93
02/14/11		transfer to 4235	20,378.00	232,461.93
02/17/11	5219	Bacalski, Ottoson & Dube, LLP	38,534.72	193,927.21
02/24/11	5217	Carl Misfelt Trust	9,349.40	184,577.81
02/24/11	5218	Carl Misfelt Trust	6,364.16	178,213.65
02/25/11		transfer to 2908	2,500.00	175,713.65
02/28/11	5221	Third party	100.00	175,650.95.
03/04/11	5222	San Diego County Recorder	15.00	175,598.65
03/04/11	5223	Superior Court	395.00	175,203.65

Date transaction posted	Client trust account check no.	Respondent's general account to which funds were transferred or payee on check	Amount of transfer or amount of check (in dollars)	Balance in Respondent's client trust account after transfer or disbursement (in dollars)
03/04/11		transfer to 4235	2,500.00	172,703.65
03/04/11		transfer to 4235	10,000.00	162,703.65
03/08/11	5226	Mark Burnside	1,200.00	161,503.65
03/08/11		transfer to 8230	3,500.00	158,003.65
03/11/11		transfer to 4235	6,500.00	151,503.65
03/14/11	5224	Third party	100.00	151,403.65
03/15/11		transfer to 4235	1,000.00	150,403.65
03/16/11	5220	Third party	100.00	150,303.65
03/21/11	5228	Mark Burnside	4,000.00	146,303.65
03/21/11		transfer to 4235	5,000.00	141,303.65
03/23/11	5229	Third party	4,500.00	136,803.65
03/23/11	5230	Respondent	4,500.00	132,303.65
03/23/11	5231	Respondent	1,000.00	131,303.65
03/24/11	5225	Third party	100.00	131,203.65
03/28/11		transfer to 4235	6,000.00	125,203.65
03/29/11	5227	Superior Court	200.00	125,003.65
03/29/11		transfer to 2908	3,000.00	122,003.65
04/05/11		transfer to 4235	15,000.00	107,003.65
04/07/11		transfer to 4235	25,000.00	82,003.65
04/11/11		transfer to 4235	14,000.00	68,003.65
04/12/11		transfer to 4235	5,500.00	62,503.65
04/22/11	5232	Superior Court	395.00	65,008.65
05/02/11		transfer to 2908	2,000.00	63,008.65
05/02/11		transfer to 4235	3,000.00	60,008.65
05/11/11		transfer to 4235	23,500.00	36,508.65
05/18/11		transfer to 2908	500.00	36,008.65
05/18/11		transfer to 4235	1,500.00	34,508.65
05/24/11		transfer to 4235	1,740.00	38,818.65
05/27/11		transfer to 4235	4,000.00	34,818.65
06/14/11		transfer to 2908	700.00	34,118.65
06/14/11		transfer to 4235	6,000.00	28,118.65
06/28/11		transfer to 2908	1,000.00	29,385.65
06/28/11		transfer to 4235	1,000.00	28,385.65
06/30/11	5234	Third party	4,600.00	23,785.65
07/11/11		transfer to 4235	2,000.00	34,506.70
07/13/11	5233	Third party	100.00	38,371.67
07/13/11	5235	Third party	100.00	38,271.67
07/15/11		transfer to 2908	2,500.00	35,771.67
07/26/11		transfer to 4235	1,000.00	34,771.67
07/26/11		transfer to 4235	2,000.00	32,771.67

Date transaction posted	Client trust account check no.	Respondent's general account to which funds were transferred or payee on check	Amount of transfer or amount of check (in dollars)	Balance in Respondent's client trust account after transfer or disbursement (in dollars)
08/02/11		transfer to 2908	400.00	32,371.67
08/02/11		transfer to 4235	2,000.00	30,371.67
08/08/11	5236	V.E. Nelson Family 2010 Trust	3,250.00	33,108.10
08/12/11		transfer to 2908	1,000.00	32,108.10
08/12/11		transfer to 4235	2,000.00	30,108.10
08/15/11		transfer to 4235	2,500.00	31,683.10
08/19/11		transfer to 8230	1,000.00	43,708.10
08/19/11		transfer to 2908	1,000.00	42,708.10
08/24/11		transfer to 4235	1,135.00	41,573.10
08/26/11		transfer to 4235	2,000.00	39,573.10
08/29/11		transfer to 4235	1,000.00	42,866.10
08/30/11	5238	Third party	100.00	42,766.10
09/01/11		transfer to 4235	1,000.00	48,961.10
09/08/11		transfer to 2908	1,000.00	47,961.10
09/09/11		transfer to 4235	3,000.00	44,961.10
09/15/11	5239	Superior Court	435.00	44,526.10
09/19/11		transfer to 4235	500.00	44,026.10
09/23/11		transfer to 4235	500.00	43,526.10
09/23/11		transfer to 2908	2,000.00	41,526.10
09/26/11		transfer to 4235	500.00	44,478.87
09/26/11		transfer to 8230	500.00	43,978.87
09/27/11		transfer to 4235	300.00	43,678.87
10/04/11		transfer to 4235	2,600.00	41,078.87
10/07/11		transfer to 2908	1,500.00	44,128.61
10/11/11		transfer to 4235	1,500.00	42,628.61
10/11/11	5240	Third party	100.00	42,528.61
10/20/11		transfer to 4235	500.00	42,028.61
10/20/11		transfer to 8230	500.00	41,528.61
10/24/11		transfer to 4235	1,000.00	40,528.61
10/27/11		transfer to 2908	1,200.00	40,438.61
10/28/11		transfer to 4235	2,000.00	47,493.86
11/04/11		transfer to 4235	1,000.00	60,543.86
11/04/11		transfer to 8230	1,000.00	59,543.86
11/07/11		transfer to 4235	500.00	59,043.86
11/08/11	5241	Third party	100.00	58,943.86
11/08/11	5242	Superior Court	395.00	58,548.86
11/09/11		transfer to 2908	700.00	57,848.86
11/09/11		transfer to 4235	3,000.00	54,848.86
11/15/11		transfer to 4235	1,000.00	53,848.86

Date transaction posted	Client trust account check no.	Respondent's general account to which funds were transferred or payee on check	Amount of transfer or amount of check (in dollars)	Balance in Respondent's client trust account after transfer or disbursement (in dollars)
11/21/11		transfer to 2908	700.00	53,148.86
11/21/11		transfer to 4235	500.00	52,648.86
11/21/11		transfer to 4235	1,000.00	51,648.86
11/22/11	5243	Third party	650.00	50,998.86
11/23/11		transfer to 4235	150.00	50,848.86
11/23/11		transfer to 8230	50.00	50,798.86
11/25/11		transfer to 2908	800.00	52,998.86
11/25/11		transfer to 4235	2,000.00	50,998.86
11/25/11		transfer to 8230	750.00	50,248.86
11/28/11		transfer to 2908	1,500.00	48,758.86
11/28/11		transfer to 4235	1,500.00	47,248.86
11/29/11	5244	Estate of Duffy	36,950.00	10,596.86
12/02/11		transfer to 4235	400.00	10,196.86
12/06/11	5245	Third party	100.00	10,096.86

16. As set forth in the chart above, by December 6, 2011, the balance in Respondent's client trust account had dropped to \$10,096.86. At no time had Respondent disbursed any of the Letman Trust funds to Mr. Gordon or to anyone on his behalf.

17. By using for her own personal use and purposes \$275,742.56 (\$285,839.42 less \$10,096.86) of the \$285,839.42 that she was to have maintained in her client trust account on behalf of Mr. Gordon, Respondent misappropriated funds belonging to Mr. Gordon.

18. In June 2011, Mr. Gordon requested Respondent to provide an accounting of the Letman Trust funds. However, Respondent failed to provide an accounting to Mr. Gordon.

19. Eventually, Adult Protective Services of San Diego County ("APS") became involved due to perceived possible elder abuse by Respondent. On June 27, 2011, a meeting was held between Gayle Powers, APS Supervisor for San Diego County, Mr. Gordon, and Respondent. At the meeting, Respondent provided Mr. Gordon with a written, informal accounting of the Letman Trust's affairs beginning on February 3, 2011 and ending on May 31, 2011 (the "Informal Accounting"). In the Informal Accounting, Respondent represented that the \$285,839.42 from the Letman Trust account 5551 had been invested as follows:

- \$215,839.42 in an investment account as of March 8, 2011;
- \$50,000.00 in a 12-month certificate of deposit as of March 15, 2011; and
- \$20,000 in a 3-month certificate of deposit as of March 17, 2011.

In the Informal Accounting, Respondent also represented that as of May 31, 2011, the investment account balance was \$217,084.61. Respondent did not provide any financial statements or other documents to support the representations made in the Informal Accounting.

20. At the meeting on June 27, 2011, Ms. Powers of APS noted that the Informal Accounting did not specify at which institution the "investment account" was being managed and questioned Respondent about that matter. Respondent informed Ms. Powers that the funds were held in an E*Trade account being managed by Respondent at her home on her home computer.

21. The representations that Respondent made to Mr. Gordon in the Informal Accounting were false and Respondent knew that they were false when she made them in that Respondent never invested any of the Letman Trust funds on behalf of Mr. Gordon in an investment account, in certificates of deposit, or in any other investment. In addition, the representations that Respondent made to Ms. Powers regarding the E*Trade account were false and Respondent knew that they were false at the time that she made them in that Respondent never invested any of the Letman Trust funds in an E*Trade account.

22. At no time did Respondent provide Mr. Gordon with an appropriate and accurate accounting of the Letman Trust funds.

23. On July 1, 2011, Respondent wrote a letter to Mr. Gordon terminating their attorney-client relationship and notifying him that he should find a new attorney. In the letter, Respondent again represented to Mr. Gordon that she had invested the \$285,839.42 from the Letman Trust account 5551 in an investment account and two certificates of deposit. These representations were false and Respondent knew that they were false when she made them.

24. In July 2011, Mr. Gordon hired attorney Robin L. Cahill to represent him in his estate planning and other matters. On July 8, 2011, Ms. Cahill wrote a letter to Respondent notifying Respondent that Mr. Gordon had retained her, requesting Respondent to turn over all of Mr. Gordon's files, and requesting Respondent to provide, among other things, an inventory of the Letman Trust assets and an accounting of the Letman Trust activities since Ms. Letman's death. Respondent received the letter but failed to respond, failed to turn over Mr. Gordon's files, and failed to provide an accounting as requested.

25. On July 28, 2011, Ms. Cahill wrote another letter to Respondent again requesting Respondent to turn over Mr. Gordon's files and provide an accounting of the Letman Trust assets, including copies of supporting bank and financial statements. In the letter, Ms. Cahill stated that she preferred not to seek judicial intervention but would have no choice unless Respondent complied. Respondent received the letter but again failed to provide an accounting of the Letman Trust assets.

26. On August 3, 2011, Respondent sent a letter to Ms. Cahill and provided copies of records relating to financial accounts held by Ms. Letman at the time of her death. However, Respondent failed to provide an accounting and failed to provide any bank statements or other documentation of the disposition of the Letman Trust funds following Ms. Letman's death. In the August 3, 2011 letter, Respondent represented to Ms. Cahill that Respondent had invested the \$285,839.42 from the Letman Trust account 5551 in an investment account and two certificates of deposit. These representations were false and Respondent knew that they were false when she made them.

27. On August 3, 2011, Respondent turned over to Ms. Cahill Mr. Gordon's personal papers and file. However, she did not turn over any documents showing what happened to the Letman Trust funds after Ms. Letman's death.

28. On August 5, 2011, Ms. Cahill wrote another letter to Respondent. In the letter, Ms. Cahill noted that although Ms. Cahill had requested bank statements, Respondent had failed to provide any statements showing what happened to the Letman Trust account 5551. With the letter, Ms. Cahill provided Respondent with a copy of the March 31, 2011 statement for the account (which Mr. Gordon had obtained from First California Bank), which showed that \$285,839.42 had been withdrawn from the account. Ms. Cahill also provided a copy of the cashier's check in the amount of \$285,839.42 made payable to Respondent's client trust account. In the letter, Ms. Cahill requested Respondent to provide no later than August 8, 2011 copies of all statements for the investment account and the certificate of deposit accounts that Respondent claimed were funded with the \$285,839.42. Respondent received the letter but failed to provide bank statements or an accounting of the Letman Trust funds.

29. On August 8, 2011, Respondent sent a letter to Ms. Cahill in which Respondent acknowledged that the \$285,839.42 from the Letman Trust account 5551 was deposited into Respondent's client trust account on February 4, 2011. Respondent then represented that in the following few weeks, Respondent had transferred the funds to an investment account and two certificates of deposit. These representations were false and Respondent knew that they were false when she made them. In the August 8, 2011 letter, Respondent stated that the appraisal of the jewelry in the Letman Trust would be completed shortly and that at that time, Respondent would be able to provide a full accounting to Ms. Cahill and Mr. Gordon. Respondent noted that the terms of the Letman Trust require an accounting at least annually and stated that assuming she had access to all of the financial information regarding the Letman Trust, a full accounting would be provided to Ms. Cahill's office well before the first anniversary of Ms. Letman's death.

30. To date, Respondent has failed to provide an accounting to Ms. Cahill and Mr. Gordon.

31. On August 16, 2011, on behalf of Mr. Gordon, Ms. Cahill served on Respondent a notice of removal of Respondent as co-trustee pursuant to the terms of the Letman Trust. Ms. Cahill requested that Respondent make immediate arrangements to transfer all Letman Trust assets, documents, papers and other trust items to Ms. Cahill's office. Ms. Cahill notified Respondent that if she failed to transfer the assets, Ms. Cahill would file a petition with the probate court to compel Respondent to do so. Respondent received the notice of removal but refused to acknowledge it and failed to transfer the Letman Trust assets to Ms. Cahill.

32. Accordingly, on August 30, 2011, on behalf of Mr. Gordon, Ms. Cahill initiated a probate action in the matter entitled "In Re the Matter of: The Jeanette Letman Trust U/A dated 8/8/90, as amended and restated in its entirety on 11/11/92," San Diego County Superior Court case number 37-2011-00150457-PR-TR-NC (the "probate case") seeking to remove Respondent as co-trustee of the Letman Trust, to transfer all assets of the Letman trust to Mr. Gordon, and to require Respondent to provide an accounting and produce financial statements.

33. On August 31, 2011, Respondent filed a petition for instructions in which she asked the court in the probate case to determine whether Mr. Gordon had the authority to remove her as successor co-trustee, among other things.

34. A case management conference was held in the probate case on October 17, 2011. Respondent was present at the hearing and received notice of all that occurred at the hearing. At the hearing, the court suspended Respondent's powers as successor co-trustee of the Letman Trust to remove, dispose of, transfer, invest, re-invest, and reallocate Letman Trust property. On October 21,

2011, the court issued a written "Order After October 17, 2011 Case Management Conference" in which the court suspended Respondent's powers as successor co-trustee of the Letman Trust to remove, dispose of, transfer, invest, re-invest, and reallocate Letman Trust property. The order was properly served on Respondent, who received it. On October 21, 2011, the court also appointed Patricia Ann Fister, a private, licensed professional fiduciary ("LPF"), to research the Letman Trust assets and report to the court by the next hearing date.

35. Despite Respondent's knowledge as of October 17, 2011 of the probate court's order suspending her powers as successor co-trustee of the Letman Trust, as set forth in the chart above in paragraph 15, even after October 17, 2011, Respondent continued to transfer and disburse Letman Trust funds out of her client trust account until the balance in the account was reduced to \$10,096.86 by December 6, 2011.

36. On October 27, 2011, LPF Fister spoke with Respondent, who admitted that she had provided false information to Mr. Gordon and Ms. Powers of APS at the June 27, 2011 meeting because there was never an E*Trade account which held Letman Trust funds. At all relevant times, attorney Gregory J. Borawski represented LPF Fister. On November 7, 2011, Mr. Borawski spoke with Respondent, who again admitted that she had provided false information to Ms. Powers of APS at the June 27, 2011 meeting in that there was never an E*Trade account which held Letman Trust fund. Respondent claimed that she had provided Ms. Powers with false information at Mr. Gordon's request, because he didn't want APS to know anything about the Letman Trust investments and didn't want APS meddling in his affairs. These representations were false and Respondent knew that they were false when she made them in that Mr. Gordon had never requested Respondent to be dishonest with APS or to withhold information regarding the Letman Trust affairs from Ms. Powers or APS.

37. On October 27, 2011, Respondent told LPF Fister that of the \$285,839.42 deposited into her client trust account, approximately \$36,000 remained in the client trust account, and the remaining \$250,000 had been invested in a small company which builds clean coal energy plants in China (the "Company"). Respondent refused to divulge the name of the Company to LPF Fister claiming some unexplained conflict. On November 7, 2011, Respondent also told Mr. Borawski that she had invested \$250,000 of the Letman Trust funds in the Company, but again Respondent refused to provide the name of the Company. Respondent's representations to LPF Fister and to Mr. Borawski were false and Respondent knew that they were false when she made them in that Respondent had never invested any portion of the Letman Trust funds in the Company.

38. On November 7, 2011, Respondent also told Mr. Borawski that she had opened only one certificate of deposit account with the Letman Trust funds held in her client trust account. When Mr. Borawski asked Respondent for the name of the institution at which the certificate of deposit account was opened, Respondent refused to provide the information. Respondent's representations to Mr. Borawski were false and Respondent knew that they were false when she made them in that Respondent had never invested any portion of the Letman Trust funds in a certificate of deposit account.

39. On November 4, 2011, on behalf of LPF Fister, Mr. Borawski wrote to Respondent demanding that she produce by November 10, 2011, among other things, all of her client trust account statements from February 2011 through October 2011, all certificate of deposit statements, all E*Trade statements, all statements relating to the Company, and any other documents relating to the investment

of the Letman Trust assets from the client trust account. Respondent received the demand for production of documents.

40. On November 8, 2011, Respondent sent an email to Mr. Borawski in which she alleged that the balance of the Letman Trust funds in her client trust account included \$9,764.42 plus \$25,000 plus interest from funds deposited into the client trust account from the matured certificate of deposit. Respondent's representations to Mr. Borawski were false and Respondent knew that they were false when she made them in that she had never invested any of the Letman Trust funds in a certificate of deposit.

41. On November 9, 2011, Respondent sent an email to Mr. Borawski in which she alleged that the \$250,000 of the Letman Trust funds invested in the Company were no longer invested, but rather were in a "holding pattern" to be returned. Respondent's representations to Mr. Borawski were false and Respondent knew that they were false when she made them in that she had never invested any of the Letman Trust funds in the Company.

42. On November 14, 2011, Respondent delivered documents to Mr. Borawski in response to his demand for production. Included in the documents were heavily redacted copies of what Respondent represented were her client trust account statements for the period from February 1, 2011 through October 31, 2011. The purported client trust account statements were false and Respondent knew that they were false when she sent them to Mr. Borawski in that Respondent had caused the client trust account statements to be altered to include false information. The chart below shows the monthly ending balance information provided by Respondent to Mr. Borawski and LPF Fister in the falsified client trust account statements versus the true monthly ending balance information as reflected in the actual monthly statements produced by Union Bank for Respondent's client trust account.

Client trust account statement dates	Monthly ending balance according to falsified client trust account statements provided by Respondent (in dollars)	Monthly ending balance pursuant to actual client trust account statements provided by Union Bank (in dollars)
02/01/11 – 02/28/11	302,613.65	175,613.65
03/01/11 – 03/31/11	286,286.72	122,003.65
04/01/11 – 04/29/11	286,286.72	65,008.65
04/30/11 – 05/31/11	286,286.72	34,818.65
06/01/11 – 06/30/11	286,286.72	23,785.65
07/01/11 – 07/29/11	286,286.72	32,771.67
07/30/11 – 08/31/11	286,286.72	49,961.10
09/01/11 – 09/30/11	286,678.87	43,678.87
10/01/11 – 10/31/11	286,678.87	47,493.86

43. On November 16, 2011, LPF Fister filed with the court in the probate case her first "Report of Court-Appointed Licensed Professional Fiduciary Regarding Research of Trust Assets" (the "LPF's first report"). In the LPF's first report, she detailed what she had learned thus far concerning the Letman Trust assets and recommended: that Respondent be removed as co-trustee of the Letman Trust,

leaving Mr. Gordon as sole trustee; and that the court order Respondent to immediately transfer all Letman Trust funds in her possession to Mr. Gordon and consider whether Respondent should also pay interest to Mr. Gordon. The LPF's first report was properly served on Respondent, who received it.

44. On November 18, 2011, a review hearing was held in the probate case. Respondent appeared at the hearing telephonically and received notice of all that occurred at the hearing. At the hearing, the court appointed LPF Fister to serve as temporary co-trustee of the Letman Trust with Mr. Gordon, having previously suspended Respondent's powers as co-trustee on October 17, 2011. At the hearing, the court also ordered Respondent to transfer all Letman Trust assets in her possession or under her control, including but not limited to all Letman Trust funds held in her client trust account, to LPF Fister as temporary co-trustee of the Letman Trust no later than 5:00 p.m. on November 28, 2011. On November 28, 2011, the court in the probate case issued a written "Order Requiring Sydney Kirkland, Esq., as Co-Trustee of the Trust, to Transfer all Trust Assets in Her Possession to Co-Trustee Patricia Ann Fister" in which the court memorialized the orders made at the hearing on November 18, 2011. The order was properly served on Respondent, who received it.

45. Immediately following the hearing on November 18, 2011, LPF Fister's attorneys began conferring with Respondent to make arrangements to travel to Respondent's office on November 28, 2011 to collect the Letman Trust assets from her as ordered by the court in the probate case. Although LPF Fister's attorneys confirmed the appointment with Respondent, Respondent failed to appear for the November 28, 2011 meeting with LPF Fister and her attorneys, despite the fact that they waited at Respondent's office for approximately an hour. Respondent did not meet with LPF Fister or her attorneys and did not turn over the Letman Trust assets on November 28, 2011 as the court had ordered.

46. On November 30, 2011, LPF Fister's attorneys were contacted by attorney Thomas J. Warwick, Jr., who informed them that he would be representing Respondent in the probate case. He notified LPF Fister's attorneys that he was in the process of collecting the Letman Trust assets from Respondent and that he expected there to be a shortage in the assets delivered.

47. On December 8, 2011, LPF Fister's attorneys met with Mr. Warwick who turned over Letman Trust assets including jewelry valued at approximately \$65,000, miscellaneous coins and costume jewelry of an unknown value, and a Union Bank cashier's check dated December 7, 2011 in the amount of \$10,096.86 and made payable to Patricia Fister, Trustee of the Jeanette Letman Trust. Mr. Warwick informed LPF Fister's attorneys that the \$10,096.86 check represented the remaining balance of the \$285,839.42 in Letman Trust funds that Respondent had transferred to her client trust account. Mr. Warwick further informed LPF Fister's attorneys that the missing Letman Trust funds in the amount of \$275,742.56 (\$285,839.42 less \$10,096.86) had been spent by Respondent for non-trust purposes and that she lacked the ability to repay the funds that she had misappropriated. Mr. Warwick also provided to LPF Fister's attorneys an accounting which purported to reflect the Letman Trust transactions beginning February 3, 2011 and ending November 1, 2011, but it did not reflect disbursements from the Letman Trust funds. The purported accounting showed a balance on hand of \$10,196.86 as of November 1, 2011; however, only \$10,096.86 was actually turned over to LPF Fister's attorneys. LPF Fister later shared the purported accounting with Mr. Gordon's attorney, Ms. Cahill.

48. On January 5, 2012, LPF Fister filed with the court in the probate case her "Second Report of Court-Appointed Temporary Co-Trustee Re Status of Trust Assets" (the "LPF's second report") In the LPF's second report, she detailed the events following the November 18, 2011 hearing, including

the events set forth in paragraphs 45 through 47 above. In the LPF's second report, she concluded: that Respondent wrongfully took and disposed of \$275,742.56 in Letman Trust property and was unable or unwilling to return the property; that Respondent's previous representations to LPF Fister and her attorneys, Mr. Gordon and his attorneys and to the court had been false and misleading; that Respondent intended to and did defraud Mr. Gordon, the Letman Trust's elder (as defined by Welfare & Institutions Code section 15610.27) beneficiary and must be held liable for twice the value of the property taken pursuant to Probate Code section 859; and that it appeared that Respondent may be liable to Mr. Gordon under a number of sections of the Elder Abuse & Dependent Adult Civil Protection Act. The LPF's second report was properly served on Respondent through her attorney.

49. On January 6, 2012, Respondent's attorney, Mr. Warwick, sent a check to LPF Fister's attorneys in the amount of \$100. Accordingly, by January 6, 2012, Respondent had turned over a total of \$10,196.96 of the \$285,839.42 in Letman Trust funds that she had transferred to her client trust account. At no time since then has Respondent turned over any additional funds to Mr. Gordon or anyone on his behalf.

50. On January 20, 2012, LPF Fister filed with the court in the probate case her "Third Report of Court-Appointed Temporary Co-Trustee Re Status of Trust Assets" (the "LPF's third report"). In the LPF's third report, she notified the court about the additional payment of \$100 by Respondent on January 6, 2012. She also notified the court that although Respondent had informally produced to LPF Fister's attorneys Respondent's purported client trust account bank statements for the period of February 2011 through October 31, 2011, the statements produced by Union Bank reflected that the purported client trust account statements that Respondent provided to LPF Fister's attorneys were tampered with, falsified, and the values reflected therein were absolutely false. The LPF's third report was properly served on Respondent through her attorney.

51. On January 27, 2012, Respondent failed to appear for a properly-noticed review hearing in the probate case. At the hearing, the court removed Respondent as co-trustee of the Letman Trust and continued the issue of damages to a hearing to be held on April 27, 2012. At the January 27, 2012 hearing, the court also discharged LPF Fister as Temporary Co-Trustee of the Letman Trust and ordered the transfer of real property held in the name of the Letman Trust to Mr. Gordon.

52. On March 14, 2012, the court in the probate case issued an order indicating that it had reviewed the LPF's first, second and third reports and that it was reasonably likely that a material breach of the Letman Trust had occurred. Accordingly, the court ordered pursuant to Probate Code section 16064 that Respondent as former co-trustee provide a formal accounting encompassing the period from the date of her appointment to the date of her removal. The court ordered Respondent to file the accounting with the court and serve it on all parties no later than April 20, 2012. The court also scheduled a review hearing to be held on April 27, 2012. On March 15, 2012, the March 14, 2012 order was properly served on Respondent and her attorney.

53. Respondent failed to file with the court and serve on all parties a formal accounting of the Letman Trust assets by April 20, 2012 as ordered by the court in the probate case on March 14, 2012. Accordingly, at the hearing on April 27, 2012, the court ordered Respondent to file and serve the accounting as well as any objections to Mr. Gordon's second amended petition for removal by May 15, 2012 and scheduled a further review hearing for May 25, 2012. The court's April 27, 2012 order was properly served on Respondent and her attorney.

54. Respondent failed to file with the court and serve on all parties a formal accounting of the Letman Trust assets by May 15, 2012 as ordered by the court in the probate case on April 27, 2012.

55. Respondent failed to appear for the May 25, 2012 hearing in the probate case, but an associate in Mr. Warwick's firm appeared and notified the court that Respondent was asserting her Fifth and Sixth Amendment privileges and that they considered the court-ordered accounting to be a "statement" and something that could potentially incriminate Respondent. The court ruled that Respondent was in default as to her failure to file the accounting and to object in any way to the second amended Petition for Removal. The court scheduled a default prove-up hearing on the issue of damages for July 9, 2012 and indicated that Respondent would not be permitted to attend the hearing without prior court order as she was in default.

56. On July 9, 2012, a default prove-up hearing was held in the probate case. At the conclusion of the hearing, the court issued a minute order dated July 9, 2012, followed by a written "Judgment After Default Prove-Up Hearing" filed on July 11, 2012 and amended by nunc pro tunc order filed on July 19, 2012. The court in the probate case found the following:

1. Mr. Gordon is a senior or older, disabled Veteran and not sophisticated in financial matters.
2. Sydney Kirkland undertook the responsibility to act as a fiduciary, attorney for Mr. Grover Gordon, and as Trustee of the Jeanette Letman Trust. Mr. Gordon was the sole beneficiary of that Trust.
3. Mr. Gordon relied on Ms. Kirkland to manage the financial affairs. Mr. Gordon was vulnerable to undue influence.
4. Ms. Kirkland made numerous and fraudulent statements and concealed material information from Grover Gordon and others in order to take money from Mr. Gordon.
5. Ms. Kirkland violated numerous fiduciary duties. Ms. Kirkland exercised undue influence. Ms. Kirkland forged a bank statement. Ms. Kirkland forged the signature of Mr. Gordon. Ms. Kirkland prepared a false accounting. Ms. Kirkland misappropriated substantial money and also jewelry and personal property without knowledge or consent of Mr. Gordon.
6. Ms. Kirkland stole documentation from Mr. Gordon to cover her activities and to delay and hinder investigations and ultimate accounting.
7. Mr. Kirkland's actions were in bad faith and without merit.
8. Ms. Kirkland is guilty of fraud and oppression.
9. Ms. Kirkland is also guilty of fiduciary elder abuse."

57. The court in the probate case found in favor of Mr. Gordon and against Respondent as follows:

1. Damages for breach in the amount of \$275,642.56.
2. Pre-judgment interest at 7%; 2/4/11 – 12/7/11 (307) days: \$16,829.74.
3. Pre-judgment interest at 7%; 12/8/11 – 7/9/12 (222) days: \$11,734.92.
4. Interest at the legal rate of 10% post-Judgment to accrue.
5. Attorneys' Fees: \$64,156.00.
6. Fiduciary Fees: \$2,138.00.
7. Costs: \$1,512.70.
Total: \$372,013.92
8. The Court awards punitive damages against Sydney C. Kirkland

in the amount of \$472, 013.92. The Court also awards double damages against Sydney C. Kirkland pursuant to Probate Code Section 859 in the sum of \$372,013.92. The above damages are not cumulative. Therefore, the net amount of damages awarded pursuant to this paragraph 8 is the sum of \$472,013.92.”

58. In July 2012, the judgment in favor of Mr. Gordon in the probate case was properly served on Respondent, who received it. At no time has Respondent paid any portion of the judgment.

CONCLUSIONS OF LAW:

59. By failing to maintain the Letman Trust funds in the amount of \$285,839.42 in Respondent’s client trust account on behalf of Mr. Gordon, Respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import in willful violation of rule 4-100(A) of the Rules of Professional Conduct.

60. By misappropriating \$275,742.56 belonging to Mr. Gordon, Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106.

61. By failing to provide a truthful and complete accounting of the Letman Trust funds to Mr. Gordon or to Ms. Cahill as requested, Respondent failed to render appropriate accounts to a client regarding all funds coming into Respondent’s possession in willful violation of rule 4-100(B)(3) of the Rules of Professional Conduct.

62. Respondent disobeyed or violated orders of the court requiring her to do or forbear acts connected with or in the course of Respondent's profession which she ought in good faith to do or forbear in willful violation of Business and Professions Code section 6103 by doing all of the following:

a. Continuing to make transfers and disbursements of the Letman Trust funds out of Respondent’s client trust account after October 17, 2011 when the court in the probate case suspended Respondent’s powers as successor co-trustee of the Letman Trust to remove, dispose of, transfer, invest, re-invest, and reallocate Letman Trust property;

b. Failing to transfer all Letman Trust assets in her possession or under her control to LPF Fister as temporary co-trustee of the Letman Trust no later than 5:00 p.m. on November 28, 2011 as ordered by the court in the probate case on November 18, 2011;

c. Failing to file with the court and serve on all parties by April 20, 2012 a formal accounting of the Letman Trust assets from the date of her appointment to the date of her removal as ordered by the court in the probate case on March 14, 2012; and

d. Failing to file with the court and serve on all parties by May 15, 2012 a formal accounting of the Letman Trust assets from the date of her appointment to the date of her removal as ordered by the court in the probate case on April 27, 2012.

63. Respondent committed acts involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code section 6106 by doing all of the following:

a. At the meeting on June 27, 2011, knowingly misrepresenting to Mr. Gordon and Ms. Powers of APS in the Informal Accounting that \$215,839.42 of the \$285,939.42 from the Letman Trust funds had been invested in an investment account as of March 8, 2011, that \$50,000 of the funds had been invested in a 12-month certificate of deposit as of March 15, 2011, and that \$20,000 of the funds had been invested in a 3-month certificate of deposit as of March 17, 2011, when in fact Respondent had not invested any of the Letman Trust funds on behalf of Mr. Gordon;

b. At the meeting on June 27, 2011, knowingly misrepresenting to Mr. Gordon and Ms. Powers that the \$215,839.42 of the Letman Trust funds that had been invested in an investment account were held in an E*Trade account being managed by Respondent, when in fact Respondent had never invested any of the Letman Trust funds in an E*Trade account;

c. In Respondent's letter to Mr. Gordon on July 1, 2011, knowingly misrepresenting to Mr. Gordon that she had invested the Letman Trust funds in the amount of \$285,839.42 in an investment account and two certificates of deposit, when in fact Respondent had never invested any of the Letman Trust funds;

d. In Respondent's letter to Ms. Cahill on August 3, 2011, knowingly misrepresenting to Ms. Cahill that she had invested the Letman Trust funds in the amount of \$285,839.42 in an investment account and two certificates of deposit, when in fact Respondent had never invested any of the Letman Trust funds;

e. In Respondent's letter to Ms. Cahill on August 8, 2011, again knowingly misrepresenting to Ms. Cahill that she had invested the Letman Trust funds in the amount of \$285,839.42 in an investment account and two certificates of deposit, when in fact Respondent had never invested any of the Letman Trust funds;

f. On October 27, 2011, knowingly misrepresenting to LPF Fister that \$250,000 of the Letman Trust funds had been invested in the Company, when in fact Respondent had never invested any portion of the Letman Trust funds in the Company;

g. On November 7, 2011, knowingly misrepresenting to LPF Fister's attorney, Mr. Borawski, that she had provided false information to Ms. Powers of APS at the June 27, 2011 meeting at Mr. Gordon's request, because Mr. Gordon didn't want APS to know anything about the Letman Trust investments and didn't want APS meddling in his affairs, when in fact, Mr. Gordon never requested Respondent to be dishonest with APS or withhold information regarding the Letman Trust affairs from Ms. Powers or APS;

h. On November 7, 2011, knowingly misrepresenting to Mr. Borawski that she had opened one certificate of deposit with the Letman Trust funds, when in fact Respondent had never invested any portion of the Letman Trust funds in a certificate of deposit;

i. In her email to Mr. Borawski on November 8, 2011, knowingly misrepresenting to Mr. Borawski that the balance of the Letman Trust funds in her client trust account included

\$9,764.42 plus \$25,000 plus interest from funds deposited into the client trust account from the matured certificate of deposit, when in fact Respondent had never invested any portion of the Letman Trust funds in a certificate of deposit;

j. In her email to Mr. Borawski on November 9, 2011, knowingly misrepresenting to Mr. Borawski that the \$250,000 of the Letman Trust funds invested in the Company were no longer invested, but were in a "holding pattern" to be returned, when in fact Respondent had never invested any portion of the Letman Trust funds in the Company; and

k. Falsifying, redacting, and altering the client trust account statements for the period from February 1, 2011 through October 31, 2011 that Respondent produced to Mr. Borawski on November 14, 2011 so that the monthly ending balances reflected in the statements vastly overstated the amounts actually remaining in Respondent's client trust account at the end of each month.

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Harm: Respondent's misconduct has caused significant harm to Mr. Gordon, who is 80 years old. Because of Respondent's misappropriation of his funds, Mr. Gordon has been without the use of \$275,642.46 that Ms. Letman left to him since February 3, 2011. The fact that Respondent's misconduct has caused significant harm to her client is a factor in aggravation pursuant to standard 1.2(b)(iv).

Multiple Acts of Misconduct: As set forth above, Respondent committed 18 separate violations of the Rules of Professional Conduct and the Business and Professions Code, including multiple acts of very serious misconduct involving moral turpitude and dishonesty. Further, as set forth in the chart in paragraph 15 above, on 106 separate occasions, Respondent transferred funds belonging to Mr. Gordon out of her client trust account to her general accounts and disbursed funds belonging to Mr. Gordon to herself, to her husband, and to third parties and entities that had nothing to do with Mr. Gordon, all without Mr. Gordon's knowledge or consent, and all for Respondent's own personal use and purposes. The fact that Respondent's misconduct evidences multiple acts of wrongdoing is a factor in aggravation pursuant to standard 1.2(b)(ii).

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent was admitted to practice law in California in June 2001 and had been practicing law for more than nine years without discipline prior to the commencement of the misconduct herein in February 2011. Although Respondent's misconduct is serious, the fact that she has no prior record of discipline is entitled to some weight in mitigation. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

Cooperation - Pre-trial Stipulation: Respondent has cooperated with the State Bar by entering into this comprehensive stipulation as to facts, conclusions of law and disposition, thereby eliminating the necessity of a trial and preserving State Bar and State Bar Court time and resources. This cooperation is a factor in mitigation. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156.)

AUTHORITIES SUPPORTING DISCIPLINE.

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

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (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.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing 18 acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent’s misconduct is found in standard 2.2(a), which applies to Respondent’s misappropriation of Mr. Gordon’s funds in violation of Business and Professions Code section 6106. Standard 2.2(a) provides that a willful misappropriation of entrusted funds shall result in disbarment unless the amount of funds misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate, in which case discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances.

In this case, Respondent misappropriated \$275,742.46 of funds belonging to Mr. Gordon—clearly a very significant sum. Further, although some mitigation exists in that Respondent had no prior record of discipline prior to the commencement of the misconduct and has cooperated in entering into this comprehensive stipulation, it cannot be said that this mitigation is “compelling” or that it “clearly predominates” given the significant aggravation present including significant harm to Mr. Gordon and multiple acts of misconduct including numerous acts involving moral turpitude. Accordingly, pursuant to standard 2.2(a), disbarment is warranted.

Moreover, the Supreme Court has repeatedly found that disbarment is the appropriate discipline for willful misappropriation of client funds, even where a respondent has no prior record of discipline. (See, *Chang v. State Bar* (1989) 49 Cal.3d 114 [\$5,000 misappropriated, no prior discipline]; *Baca v. State Bar* (1990) 52 Cal.3d 294, 304 [\$2,300 misappropriated, no prior discipline]; *Read v. State Bar* (1991) 53 Cal.3d 394, 426 [\$4,100 misappropriated, no prior discipline]; *Kennedy v. State Bar* (1989) 48 Cal.3d 610, 617 [\$10,000 misappropriated, no prior discipline]; and *In re Naney* (1990) 51 Cal.3d 186, 190 [\$18,000 misappropriated, no prior discipline].

In light of the very serious nature of Respondent's misconduct, and pursuant to standard 2.2(a) and Supreme Court precedent, disbarment is the only appropriate sanction and is necessary to protect the public, the courts and the legal profession, to maintain high professional standards by attorneys, and to preserve public confidence in the legal profession.

PENDING PROCEEDINGS.

The disclosure date referred to, on page 2, paragraph A(7), was December 28, 2012.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of December 28, 2012, the prosecution costs in this matter are \$3,597.25. 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.

(Do not write above this line.)

In the Matter of:
SYDNEY CLAIRE KIRKLAND,
Bar No. 213138

Case number(s):
11-O-18588-DFM

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.

Date Respondent's Signature Sydney C. Kirkland
Print Name

Date Respondent's Counsel Signature Print Name
Jan. 2, 2013 *Justin Ritsema* Kristin L. Ritsema
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of:
SYDNEY CLAIRE KIRKLAND,
Bar No. 213138

Case Number(s):
11-O-18588-DFM

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 Sydney Claire Kirkland 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.

1/15/13

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 January 16, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, 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:

**SYDNEY C. KIRKLAND
LAW OFFICE OF SYDNEY C. KIRKLAND
220 W GRAND AVE
ESCONDIDO, CA 92025**

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

KRISTIN RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 16, 2013.



Tammy Cleaver
Case Administrator
State Bar Court