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DISCIPLINARY BOARD

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**JANYCE L. FINK,**  
Lawyer (Bar No. 24894).

Proceeding No. ~~17~~ <sup>A.S.</sup> #00004  
(WSBA File Nos. 11-01113 and 11-01663)  
AMENDED STIPULATION TO  
DISBARMENT

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Amended Stipulation to Disbarment is entered into by the Washington State Bar Association (Association), through disciplinary counsel Linda B. Eide, Respondent lawyer Janyce L. Fink, and Respondent's counsel Kurt M. Bulmer.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she is entitled under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, the Supreme Court. Respondent further understands that a hearing and appeal could result in an outcome more favorable or less favorable to her. Respondent chooses to resolve this proceeding

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1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the  
2 risk, time, and expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on  
5 June 20, 1995.

6 **II. STIPULATED FACTS**

7 2. On or about April 23, 2010, Respondent received \$50,000 from Nak Soon Kim and  
8 Hyun Taek Kim, which she deposited into her IOLTA account. The Kims understood that this  
9 money would be held by Fink and then transferred to Ramesh Chand in exchange for an  
10 assignment of a deed of trust in the so-called Henderson Street property. The transfer of  
11 money and real estate documents never occurred. When the Kims did not receive the  
12 anticipated documents, they demanded that Fink return their funds. She failed to do so. By the  
13 end of May 2010, the balance in Fink's trust account had dropped below \$33,000.

14 3. Chand also left numerous emails and telephone messages. For example, over a year  
15 later, on October 25, 2011, Chand emailed Fink asking her to send him the \$50,000 so that he  
16 could complete the deal adding: "You can not hold this money if are not doing my request."  
17 The Kims and Chand filed grievances.

18 **III. STIPULATION TO MISCONDUCT**

19 4. By taking funds the Kims intended for Chand from her trust account, Fink  
20 converted client funds in violation of RPC 1.15A(b) ("A lawyer must not use, convert, borrow  
21 or pledge client or third person property for the lawyer's own use").

22 **IV. PRIOR DISCIPLINE**

23 5. Fink has no prior discipline.  
24

1 **V. APPLICATION OF ABA STANDARDS**

2 6. The following American Bar Association Standards for Imposing Lawyer Sanctions  
3 (1991 ed. & Feb. 1992 Supp.) applies to this case: Section 4.11 (failure to preserve client  
4 property) for converting funds.

5 4.0 Violations of Duties Owed to Clients

6 ***4.1 Failure to Preserve the Client's Property***

7 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client  
8 property and causes injury or potential injury to a client.

9 4.12 Suspension is generally appropriate when a lawyer knows or should know that he  
10 is dealing improperly with client property and causes injury or potential injury to a  
11 client.

12 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with  
13 client property and causes injury or potential injury to a client.

14 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with  
15 client property and causes little or no actual or potential injury to a client.

16 7. Fink acted intentionally.

17 8. Fink's client Chand was injured when the real estate transaction did not close as he  
18 had anticipated. The Kims, were injured when they entrusted \$50,000 to Fink for the real  
19 estate deal and did not receive the contemplated interest in property or the return of their  
20 \$50,000.

21 9. The presumptive sanction is disbarment under both ABA Standards Section 4.11.

22 10. The following aggravating factors apply under ABA Standards Section 9.22:

23 (b) dishonest or selfish motive; and

24 (i) substantial experience in the practice of law [admitted 1995].

11. The following mitigating factor applies under ABA Standards Section 9.32:

(a) absence of a prior disciplinary record.



1 **IX. LIMITATIONS**

2 17. This Stipulation is a compromise agreement intended to resolve this matter in  
3 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
4 expenditure of additional resources by the Respondent and the Association. Both the  
5 Respondent lawyer and the Association acknowledge that the result after further proceedings in  
6 this matter might differ from the result agreed to herein.

7 18. This Stipulation is not binding upon the Association or the Respondent as a  
8 statement of all existing facts relating to the professional conduct of the respondent lawyer, and  
9 any additional existing facts may be proven in any subsequent disciplinary proceedings.

10 19. This Stipulation results from the consideration of various factors by both parties,  
11 including the benefits to both by promptly resolving this matter without the time and expense  
12 of hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review.  
13 As such, approval of this Stipulation will not constitute precedent in determining the  
14 appropriate sanction to be imposed in other cases; but, if approved, this Stipulation will be  
15 admissible in subsequent proceedings against Respondent to the same extent as any other  
16 approved Stipulation.

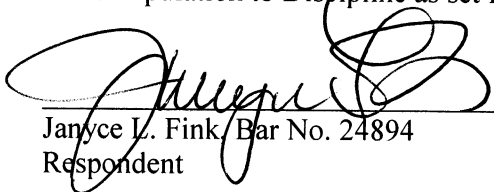
17 20. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary  
18 Board shall have available to it for consideration all documents that the parties agree to submit  
19 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that  
20 form the record before the Board for its review become public information on approval of the  
21 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

22 21. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will  
23 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
24

1 Rules for Enforcement of Lawyer Conduct will be made.

2 22. If this Stipulation is not approved by the Disciplinary Board and Supreme Court,  
3 this Stipulation will have no force or effect, and neither it nor the fact of its execution will be  
4 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary  
5 proceeding, or in any civil or criminal action.

6 WHEREFORE the undersigned being fully advised, adopt and agree to the facts and  
7 terms of this Stipulation to Discipline as set forth above.

8   
9 Janyce L. Fink, Bar No. 24894  
10 Respondent

Dated: 12-12-12 

11 \_\_\_\_\_  
12 Kurt Bulmer, Bar No. 5559  
13 Counsel for Respondent

Dated: \_\_\_\_\_

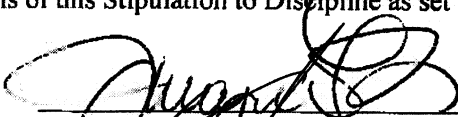
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15 Linda B. Eide, Bar No. 10637  
16 Disciplinary Counsel

Dated: \_\_\_\_\_


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10 Respondent

Dated: 01-10-13 <sup>G</sup>  
~~12-17-12~~

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12 Kurt Bulmer, Bar No. 5559  
13 Counsel for Respondent

Dated: 01-10-13

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16 Disciplinary Counsel

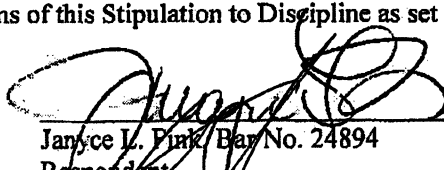
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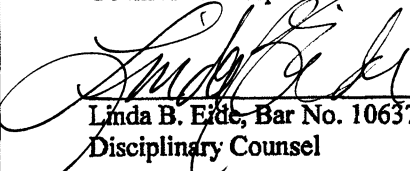
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Respondent

Dated: 01-10-13 <sup>G</sup>  
~~12-17-12~~

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11 Kurt Bulmer, Bar No. 5559  
12 Counsel for Respondent

Dated: 01-10-13

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14 Linda B. Erde, Bar No. 10637  
15 Disciplinary Counsel

Dated: 1-10-13

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