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8 **BEFORE THE**
PROFESSIONAL FIDUCIARIES BUREAU
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

Case No. PF-2011-77

13 **LORETTA DARLENE STEWART-**
14 **CABRERA**
15 **P.O. Box 221849**
Sacramento, CA 95822

A C C U S A T I O N

16 **Professional Fiduciary License No. PF 222**

17 **Respondent.**

18
19 Complainant alleges:

20 **PARTIES**

21 1. Julia Ansel (Complainant) brings this Accusation solely in her official capacity as the
22 Bureau Chief of the Professional Fiduciaries Bureau, Department of Consumer Affairs.

23 2. On or about October 17, 2008, the Professional Fiduciaries Bureau issued
24 Professional Fiduciary License Number PF 222 to Loretta Darlene Stewart-Cabrera (Respondent).
25 The Professional Fiduciary License expired on May 31, 2012, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Professional Fiduciaries Bureau (Bureau), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 6580 of the code provides in pertinent part

(a) The bureau may upon its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any professional fiduciary. The bureau shall review a professional fiduciary's alleged violation of statute, regulation, or the Professional Fiduciaries Code of Ethics and any other complaint referred to it by the public, a public agency, or the department, and may impose sanctions upon a finding of a violation or a breach of fiduciary duty.

(b) Sanctions shall include any of the following:

(1) Administrative citations and fines as provided in Section 125.9 for a violation of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(2) License suspension, probation, or revocation.

....

6. Section 6582 of the code provides:

All proceedings against a licensee for any violation of this chapter or any regulations adopted by the bureau shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall be prosecuted by the Attorney General's office, and the bureau shall have all the powers granted therein.

STATUTORY PROVISIONS

7. Section 6584 of the code provides in pertinent part

A license issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

...

(d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in, or related to, the practice of a professional fiduciary. For purposes of this section, unprofessional conduct includes,

1 but is not limited to, acts contrary to professional standards concerning any provision
2 of law substantially related to the duties of a professional fiduciary.

3 ...

4 (h) Violation of this chapter or of the applicable provisions of Division 4
5 (commencing with Section 1400), Division 4.5 (commencing with Section 4000),
6 Division 4.7 (commencing with Section 4600), or Division 5 (commencing with
7 Section 5000) of the Probate Code or of any of the statutes, rules, or regulations
8 pertaining to duties or functions of a professional fiduciary.

9 8. Section 6531 of the code provides:

10 No professional fiduciary shall operate with an expired, suspended, or revoked
11 license.

12 COST RECOVERY

13 9. Code section 125.3 provides, in pertinent part, that the Bureau may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE** 18 **(Dishonesty/Fraud)**

19 **COOPER TRUST**

20 10. The [REDACTED] trust was created in March of 1996 for [REDACTED] daughter D.T.¹
21 The trust provided for the payment of \$6,000 a year in \$500 monthly payments. In July of 2009,
22 Respondent was appointed as the successor trustee. The [REDACTED] trust had \$20,672.66 in available
23 funds for the period of 2010 and 2011.

24 11. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
25 that for the two year period of 2010 and 2011, Respondent took excess fees in the amount of
26 \$2,917.86, without explanation.

27 12. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
28 that she caused the following unexplained transactions to the [REDACTED] trust:

¹ Initials are used to maintain privacy. The full names will be disclosed in a Request for
Discovery.

1 a. On or about August 2, 2010, Respondent comingled funds by writing a check from the
2 [REDACTED] trust to the JJ Special Needs Trust in the amount of \$900.

3 b. On or about August 27, 2010, Respondent electronically transferred \$550 from the
4 [REDACTED] Trust to the JJ Special Needs Trust.

5 c. On or about June 21, 2011, Respondent caused an automatic debit providing K. E., an
6 office assistant for Respondent, funds in the amount of \$462.

7 d. On or about June 30, 2011, Respondent caused an automatic debit in the amount of
8 \$1,100 to be paid to the beneficiary of the [REDACTED] Trust.

9 **SECOND CAUSE FOR DISCIPLINE**
10 **(Fraud/Dishonesty)**

11 **JJ SPECIAL NEEDS TRUST**

12 13. In 1991 the JJ Special Needs Trust was created and in February of 2007, Respondent
13 was appointed as trustee. When the JJ Special Needs Trust was created the trust had a total cash
14 and assets value of \$248,776.41.

15 14. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
16 that for the year 2010, Respondent took excess fees from the trust in the amount of \$4,052 and
17 \$18,438 in 2011, without explanation.

18 15. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
19 that the following unexplained transactions occurred:

20 a. On or about November 24, 2010, and December 31, 2010, Respondent made two
21 unauthorized transfers from the JJ Special Needs Trust to the beneficiary of the [REDACTED] Trust for
22 a total of \$2,200.

23 b. On or about February 11, 2011, Respondent made an unauthorized transfer of funds
24 from the JJ Special Needs Trust to the beneficiary of the [REDACTED] Trust.

25 c. Respondent made four unauthorized payments from the JJ Special Needs Trust to her
26 employee K.E. in the total amount of \$6,613.41. Respondent did not report these payments in her
27 accounting for the trust for the years 2010 or 2011.

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1 **THIRD CAUSE FOR DISCIPLINE**
2 **(Unlicensed Practice)**

3 16. Respondent is subject to discipline pursuant to 6531 for practicing without a valid
4 license in that her license expired May 31, 2012, and she continued to act as a fiduciary in the JJ
5 Special Needs Trust. Respondent failed to do a final accounting for said trust.

6 **PRAYER**


7 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Professional Fiduciaries Bureau issue a decision:

9 1. Revoking or suspending Professional Fiduciary License Number PF 222, issued to
10 Loretta Darlene Stewart-Cabrera.;

11 2. Ordering Loretta Darlene Stewart-Cabrera to pay the Professional Fiduciaries Bureau
12 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.
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17
18 DATED: 12/5/14

19 
20 JULIA ANSEL
21 Bureau Chief
22 Professional Fiduciaries Bureau
23 Department of Consumer Affairs
24 State of California
25 Complainant
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