

**FILED**

AUG 05 2013

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**JOSEPH COX FINLEY,**

Lawyer (Bar No. 927).

Proceeding No. 13#00035

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to reprimand is entered into by the Washington State Bar Association (Association), through disciplinary counsel Erica Temple and Respondent lawyer Joseph Cox Finley.

Respondent understands that he is entitled under the ELC to a hearing, to present exhibits and witnesses on his behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that he 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 him. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk, time, and expense attendant to further proceedings.

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1 **I. ADMISSION TO PRACTICE**

2 1. Respondent was admitted to practice law in the State of Washington on May 3,  
3 1974.

4 **II. STIPULATED FACTS**

5 2. Between January 1, 2012 through June 29, 2012, Respondent maintained an  
6 IOLTA account \*\*\*\*\*7820.

7 3. Respondent deposited fees he received from clients into this account.

8 4. Between January 1, 2012 and June 29, 2012, Respondent caused his monthly  
9 Social Security and Veterans Administration benefits to be directly deposited into his IOLTA  
10 account, made regular cash withdrawals from his IOLTA account, and made multiple cash  
11 deposits of small amounts of money into his IOLTA account.

12 5. In April 2012, Respondent obtained a loan of \$1,000 from an internet site that  
13 allows customers to apply online or over the phone for loans. On April 4, 2012, there was a  
14 direct deposit of \$1,000 from the internet site into his IOLTA account.

15 6. On April 18, 2012, the internet site attempted to cause the principal of \$1,000, plus  
16 costs and fees, to be debited automatically from Respondent's IOLTA account

17 7. However, the debit that was presented on Respondent's account was returned for  
18 insufficient funds.

19 8. On May 3, 2012, there was a wire transfer of \$2,500 from R.J. into Respondent's  
20 IOLTA account. This was a personal loan to Respondent and was not a legal fee.

21 9. In May 2012, Respondent obtained a loan from another internet site that allows  
22 customers to apply online or over the phone for loans.

23 10. On May 14, 2012, there was a direct \$300 deposit from the internet site into  
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1 Respondent's IOLTA account.

2 **III. STIPULATION TO MISCONDUCT**

3 11. By depositing funds belonging to himself into his IOLTA account, Respondent  
4 violated RPC 1.15A(h)(1).

5 12. By withdrawing cash from his IOLTA account, Respondent violated RPC  
6 1.15A(h)(5).

7 **IV. PRIOR DISCIPLINE**

8 13. Respondent has no prior discipline.

9 **V. APPLICATION OF ABA STANDARDS**

10 14. The following American Bar Association Standards for Imposing Lawyer Sanctions  
11 (1991 ed. & Feb. 1992 Supp.) apply to this case:

12 15. ABA Standard 7.0 is most applicable to violations relating to violations of duties  
13 owed as a professional:

14 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in  
15 conduct that is a violation of a duty owed as a professional with the intent  
to obtain a benefit for the lawyer or another, and causes serious or  
potentially serious injury to a client, the public, or the legal system.

16 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
17 conduct that is a violation of a duty owed as a professional and causes  
injury or potential injury to a client, the public, or the legal system.

18 7.3 Reprimand is generally appropriate when a lawyer negligently engages in  
conduct that is a violation of a duty owed as a professional and causes  
injury or potential injury to a client, the public, or the legal system.

19 7.4 Admonition is generally appropriate when a lawyer engages in an  
20 isolated instance of negligence that is a violation of a duty owed as a  
professional, and causes little or no actual or potential injury to a client,  
the public, or the legal system.

21 16. Respondent acted knowingly in placing his personal funds in his IOLTA account and  
22 withdrawing cash.

23 17. The potential injury was that client funds could have been placed at risk.  
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1 18. The presumptive sanction is suspension.

2 19. The following aggravating factor applies under ABA Standards Section 9.22:

- 3 (i) substantial experience in the practice of law [Respondent was admitted to  
4 practice in 1974].

5 20. The following mitigating factors apply under ABA Standards Section 9.32:

- 6 (a) absence of a prior disciplinary record;  
7 (c) personal problems.

8 21. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
9 at an early stage of the proceedings.

10 22. The mitigating factors outweigh the aggravating factor.

#### 11 VI. STIPULATED DISCIPLINE

12 23. The parties stipulate that Respondent shall receive a reprimand for his conduct.

13 24. Respondent will be subject to probation for a period of two years commencing upon  
14 August 1, 2013, with periodic reviews under ELC 13.8 of his trust account practices, and shall  
15 comply with the specific probation terms set forth below:

- 16 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC  
17 1.15B, and shall carefully review the current version of the Association's  
18 publication, Managing Client Trust Accounts: Rules, Regulations, and Common  
19 Sense.
- 20 b) For all client matters, Respondent shall have a written fee agreement signed by the  
21 client, which agreements are to be maintained for least seven years (see RPC  
22 1.15B(a)(3)).
- 23 c) On a quarterly basis, Respondent shall provide the Association's audit staff with all  
24 trust-account records for the time period to be reviewed by the Association's audit  
staff and disciplinary counsel for compliance with the RPC:
- i) Months 1 – 3. By no later than the 30<sup>th</sup> day of the fourth month after the  
commencement of probation, Respondent shall provide the trust account  
records from the date of commencement of probation to the end of the third  
full month.

- 1                   ii) Months 4 – 6. By no later than the 30<sup>th</sup> day of the seventh month after the  
2                   commencement of probation, Respondent shall provide the trust account  
3                   records from the end of the previously provided quarter through the end of  
4                   month six.
- 5                   iii) Months 7 – 9. By no later than the 30<sup>th</sup> day of the tenth month after the  
6                   commencement of probation, Respondent shall provide the trust account  
7                   records from the end of the previously provided quarter through the end of  
8                   month nine.
- 9                   iv) Months 10 – 12. By no later than the 30<sup>th</sup> day of the thirteenth month after  
10                  the commencement of probation, Respondent shall provide the trust  
11                  account records from the end of the previously provided quarter through  
12                  the end of month twelve.
- 13                 v) Months 13– 15. By no later than the 30<sup>th</sup> day of the sixteenth month after  
14                  the commencement of probation, Respondent shall provide the trust  
15                  account records from the end of the previously provided quarter through  
16                  the end of month fifteen.
- 17                 vi) Months 16 – 18. By no later than the 30<sup>th</sup> day of the nineteenth month after  
18                  the commencement of probation, Respondent shall provide the trust  
19                  account records from the end of the previously provided quarter through  
20                  the end of month eighteen.
- 21                 vii) Months 19 – 21. By no later than the 30<sup>th</sup> day of the twenty-second month  
22                  after the commencement of probation, Respondent shall provide the trust  
23                  account records from the end of the previously provided quarter through  
24                  the end of month twenty-one.

The trust account records Respondent provides to the Association for each quarterly review of his trust account will include: (a) a complete checkbook register for his/her trust account covering the period being reviewed, (b) complete individual client ledger records for any client with funds in Respondent's trust account during all or part of the period being reviewed, as well as for Respondent's own funds in the account (if any), (c) copies of all trust-account bank statements, deposit slips, and cancelled checks covering the period being reviewed, (d) copies of all trust account client ledger reconciliations for the period being reviewed, and (e) copies of reconciliations of Respondent's trust account check register covering the period being reviewed. The Association's Audit Manager or designee will review Respondent's trust account records for each period.

- d) On the same quarterly time schedule set forth in the preceding paragraph, Respondent will provide the Association's Audit Manager or designee with copies of any and all fee agreements entered into within the time period at issue.
- e) The Association's Audit Manager or designee may request additional financial or client records if needed to verify Respondent's compliance with RPC 1.15A and/or

1 1.15B. Within twenty days of a request from the Association's Audit Manager or  
2 designee for additional records needed to verify Respondent's compliance with RPC  
3 1.15A and/or RPC 1.15B, Respondent will provide the Association's Audit  
4 Manager or designee the additional records requested.

- 5 f) Respondent will reimburse the Washington State Bar Association for time spent by  
6 the Association's Audit Manager or designee in reviewing and reporting on  
7 Respondent's records to determine his/her compliance with RPC 1.15A and RPC  
8 1.15B, at the rate of \$85 per hour. Respondent will make payment within thirty  
9 days of each written invoice setting forth the auditor's time and payment due.

#### 7 **VII. RESTITUTION**

8 25. An order of restitution is not appropriate in this case.

#### 9 **VIII. COSTS AND EXPENSES**

10 26. In light of Respondent's willingness to resolve this matter by stipulation at an early  
11 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$500 in  
12 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)  
13 if these costs are not paid within 30 days of approval of this stipulation.

#### 14 **IX. VOLUNTARY AGREEMENT**

15 27. Respondent states that prior to entering into this Stipulation he had an opportunity to  
16 consult independent legal counsel regarding this Stipulation, that Respondent is entering into  
17 this Stipulation voluntarily, and that no promises or threats have been made by the Association,  
18 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except  
19 as provided herein.

#### 20 **X. LIMITATIONS**

21 28. This Stipulation is a compromise agreement intended to resolve this matter in  
22 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
23 expenditure of additional resources by the Respondent and the Association. Both the  
24 Respondent lawyer and the Association acknowledge that the result after further proceedings in

1 this matter might differ from the result agreed to herein.

2 29. This Stipulation is not binding upon the Association or the respondent as a statement  
3 of all existing facts relating to the professional conduct of the respondent lawyer, and any  
4 additional existing facts may be proven in any subsequent disciplinary proceedings.

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

12 31. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for  
13 his or her review become public information on approval of the Stipulation by the Hearing  
14 Officer, unless disclosure is restricted by order or rule of law.

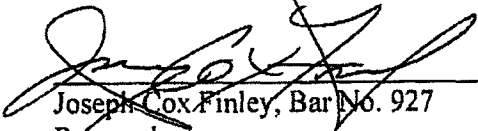
15 32. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
16 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
17 Enforcement of Lawyer Conduct will be made.

18 33. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have  
19 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in  
20 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil  
21 or criminal action.


22  
23 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation  
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to Discipline as set forth above.

  
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Joseph Cox Finley, Bar No. 927  
Respondent

Dated: 7/19/13

  
\_\_\_\_\_  
Anne I. Seidel, Bar No. 22742  
Counsel for Respondent

Dated: 7/24/13

  
\_\_\_\_\_  
Erica Temple, Bar No. 28458  
Disciplinary Counsel

Dated: 7/24/13