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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
CLIFFORD F. CORDES,
Lawyer (Bar No. 5582).

Proceeding No. 17#00050
ODC File No. 17-00068
STIPULATION TO ADMONITION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to admonition is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Jonathan Burke and Respondent lawyer Clifford F. Cordes.

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

Stipulation to Discipline
Page 1

OFFICE OF DISCIPLINARY COUNSEL
OF THE WASHINGTON STATE BAR ASSOCIATION
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8207

810

1 avoid the risk, time, and expense attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on October 25,
4 1974.

5 **II. STIPULATED FACTS**

6 2. In September 2011, Edward Toft (Toft) hired Respondent to represent him in Toft v.
7 State of Washington Military Department, Thurston County Superior Court Case No. 13-2-
8 02153-3.

9 3. During the litigation, Toft provided Respondent with original documents, including
10 college diplomas, military documents (e.g. DD214 military discharge), and original tax return
11 documents.

12 4. In April 2016, the case was settled through mediation.

13 5. Starting in April 2016, Toft asked Respondent to return the original documents to
14 him.

15 6. Respondent negligently failed to maintain Toft's documents and return them to Toft.

16 7. During the period from April 2016 through March 2017, Toft made repeated efforts
17 to obtain his belongings from Respondent, including stopping by Respondent's office on
18 multiple occasions and leaving telephone messages.

19 8. Respondent could not locate Toft's documents in the client file and did not promptly
20 respond to Toft's messages and contacts.

21 9. Respondent has not completed searching all of the files that were in his office during
22 the time that he represented Toft.

23 10. Respondent is in the process of retiring and closing his practice.

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III. STIPULATION TO MISCONDUCT

11. By failing to appropriately safeguard Toft's original documents, Respondent violated RPC 1.15A(c)(3).

12. By failing to promptly deliver Toft's original documents to him, and/or by failing to surrender those documents upon termination of representation, Respondent violated RPC 1.15A(f) and RPC 1.16(d).

IV. PRIOR DISCIPLINE

13. Respondent has no disciplinary history.

V. APPLICATION OF ABA STANDARDS

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

ABA Standards std. 4.1 is most applicable to the duty to preserve a client's property:

4.1 Failure to Preserve the Client's Property

- 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.
- 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.
- 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.
- 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

15. Respondent negligently failed to preserve and return Toft's personal belongings.

16. Some of Toft's personal belongings would be difficult, time consuming, and/or expensive to replace.

17. The presumptive sanction is reprimand.

18. The following aggravating factor applies under ABA Standards std. 9.22:

1 (i) Substantial experience in the practice of law [Respondent was admitted to
2 practice law in 1974].

3 19. The following mitigating factors apply under ABA Standards std. 9.32:

- 4 (a) Absence of a prior disciplinary record;
- 5 (b) Absence of a dishonest or selfish motive; and
- 6 (c) Personal health problems [During material times, Respondent has been suffering
7 from personal health problems that will not be discussed in detail herein to
8 maintain confidentiality].

9 20. Based on the factors set forth above, the presumptive sanction is mitigated to an
10 admonition.

11 **VL STIPULATED DISPOSITION**

12 21. The parties stipulate that Respondent shall receive an admonition for his conduct.

13 22. Respondent agrees to the admonition language in the attached Admonition.

14 23. Respondent will be subject to probation for a period of 60 days beginning the date
15 that this stipulation receives final approval and shall comply with the specific probation terms
16 set forth below:

- 17 a) Respondent must search for Toft's personal property in all files that were located in
18 Respondent's office during the period that he had possession of Toft's property. To
19 the extent that Respondent is unable to search files, Respondent will use an assistant
20 and/or employee to assist in the search.
- 21 b) If and/or when Respondent finds Toft's personal property, Respondent shall
22 promptly return the property to Toft at 18623 26th Ave. E., Tacoma, WA 98445 by
23 no later than seven (7) days after the documents are found.
- 24 c) Respondent shall submit to Thea Jennings, Probation Monitor, by no later than the
40th day after the final approval of this stipulation, a detailed declaration describing
the search for Toft's personal property, the results of the search, and the identity of
any individual involved in the search. Respondent's declaration will be sent to Thea
Jennings, Probation Administrator, Washington State Bar Association, 1325 4th

1 Avenue, Suite 600, Seattle, WA 98101-2539. Ms. Jennings' telephone number
2 (206) 733-5985.

3 **VII. RESTITUTION**

4 24. Restitution does not apply.

5 **VIII. COSTS AND EXPENSES**

6 25. Respondent shall pay attorney fees and administrative costs of \$500 in accordance
7 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these
8 costs are not paid within 30 days of approval of this stipulation.

9 **IX. VOLUNTARY AGREEMENT**

10 26. Respondent states that prior to entering into this Stipulation he had an opportunity to
11 consult independent legal counsel regarding this Stipulation, that Respondent is entering into
12 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the
13 Association, nor by any representative thereof, to induce the Respondent to enter into this
14 Stipulation except as provided herein.

15 27. Once fully executed, this stipulation is a contract governed by the legal principles
16 applicable to contracts, and may not be unilaterally revoked or modified by either party.

17 **X. LIMITATIONS**

18 28. This Stipulation is a compromise agreement intended to resolve this matter in
19 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
20 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer
21 and ODC acknowledge that the result after further proceedings in this matter might differ from
22 the result agreed to herein.

23 29. This Stipulation is not binding upon ODC or the respondent as a statement of all
24 existing facts relating to the professional conduct of the respondent lawyer, and any additional

1 existing facts may be proven in any subsequent disciplinary proceedings.

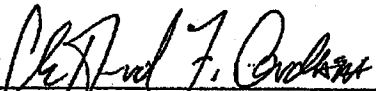
2 30. This Stipulation results from the consideration of various factors by both parties,
3 including the benefits to both by promptly resolving this matter without the time and expense of
4 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
5 such, approval of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

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

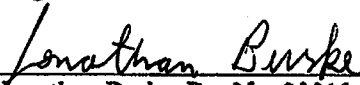
12 32. If this Stipulation is approved by the Hearing Officer, it will be followed by the
13 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
14 Enforcement of Lawyer Conduct will be made.

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

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

3 
4 _____
5 Clifford F. Cordes, Bar No. 5582
6 Respondent

Dated: 11/20/17

7 
8 _____
9 Jonathan Burke, Bar No. 20910
10 Senior Disciplinary Counsel

Dated: 11/20/2017

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
CLIFFORD F. CORDES,
Lawyer (Bar No. 5582).

Proceeding No. 17#00050
ADMONITION

Pursuant to Rule 13.5 of the Rules for Enforcement of Lawyer Conduct, the following Admonition was issued by the Disciplinary Board Chair.

I. ADMISSION TO PRACTICE

At all times material to the complaint, you were licensed to practice in the state of Washington.

II. FACTS

1. In 2011, Edward Toft (Toft) hired Respondent to represent him in Toft v. State of Washington Military Department, Thurston County Superior Court Case No. 13-2-02153-3.
2. During the litigation, Toft provided Respondent with original documents, including college diplomas, military documents (e.g. DD214 military discharge), and original tax return documents.
3. In April 2016, the case was settled through mediation.

1 4. Starting in April 2016, Toft asked Respondent to return the original documents to
2 him.

3 5. Respondent negligently failed to maintain Toft's documents and return them to Toft.

4 6. During the period from April 2016 through March 2017, Toft made repeated efforts
5 to obtain his belongings from Respondent, including stopping by Respondent's office on
6 multiple occasions and leaving telephone messages.

7 7. Respondent could not locate Toft's documents in the client file and did not promptly
8 respond to Toft's messages and contacts.

9 8. Respondent has not completed searching all of the files that were in his office during
10 the time that he represented Toft.

11 9. Respondent is in the process of retiring and closing his practice.

12 III. MISCONDUCT

13 10. By failing to appropriately safeguard Toft's original documents, Respondent violated
14 RPC 1.15A(c)(3).

15 11. By failing to promptly deliver Toft's original documents to him, and by failing to
16 surrender those documents upon termination of representation, Respondent violated RPC
17 1.15A(f) and/or 1.16(d).

18 IV. ADMONITION

19
20 YOU ARE HEREBY ADMONISHED FOR THIS MISCONDUCT. This admonition is
21 not a disciplinary sanction, but is a disciplinary action, and shall be admissible in evidence in
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1 subsequent discipline or disability proceedings involving you.

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Dated this ____ day of _____, 2017.

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Marc L. Silverman
Chair of the Disciplinary Board

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