


FILED
JAN 23 2018
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

Notice of Reprimand

Lawyer Walter O. Peale III, WSBA No. 7889, has been ordered Reprimanded by the following attached documents: Order on Stipulation to Reprimand and Probation and Stipulation to Reprimand and Probation.

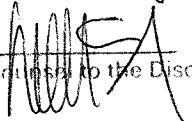
WASHINGTON STATE BAR ASSOCIATION



Kevin Bank
Counsel to the Disciplinary Board

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Notice of Reprimand
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Walter Peale by Independent's Counsel
1305 2nd Ave NE Shoreline, WA 98155 by Certified first class mail
postage prepaid on the 23rd day of Jan, 2018



Clerk/Counsel to the Disciplinary Board

FILED

DEC 12 2017

DISCIPLINARY
BOARD

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

Walter O. Peale III,
Lawyer (Bar No. 7889).

Proceeding No. 17#00026

ORDER ON STIPULATION TO
REPRIMAND AND PROBATION

On review of the December 11, 2017 Stipulation to Reprimand and Probation and the documents on file in this matter,

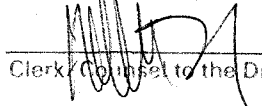
IT IS ORDERED that the December 11, 2017 Stipulation to Reprimand and Probation is approved.

Dated this 11th day of December, 2017.


Lisa Jill Dickinson
Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Order on Stip to Reprimand and Probation
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Walter Peale / Respondent's Counsel
at 5402 9th Ave NE Shoreline, WA 98155
by Certified / first class mail
postage prepaid on the 12th day of Dec, 2017.


Clerk/Counsel to the Disciplinary Board

FILED
DEC 12 2017
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

WALTER O. PEALE III,

Lawyer (Bar No. 7889).

Proceeding No. 17#00026

ODC File No. 15-01697

STIPULATION TO REPRIMAND AND
PROBATION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand 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 Walter O. Peale III.

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
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ORIGINAL

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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 November
4 18, 1977.

5 **II. STIPULATED FACTS**

6 2. Respondent maintained an IOLTA trust account at Chase Bank with an account
7 number ending in 8849 (Account 8849) for the deposit of client funds.

8 3. Between April 15, 2014 and December 31, 2016, Respondent failed to maintain a
9 complete and accurate trust account checkbook register for Account 8849.

10 4. Between April 15, 2014 and December 31, 2016, Respondent failed to maintain
11 accurate and complete client ledgers for Account 8849.

12 5. Between April 15, 2014 and December 31, 2016, Respondent did not reconcile his
13 check register to his monthly bank statements for Account 8849.

14 6. Between April 15, 2014 and December 31, 2016, Respondent did not reconcile his
15 check register on a monthly basis to a combined total of client ledgers for Account 8849.

16 7. Respondent's failure to maintain trust account records resulted in clients having
17 negative balances in their account ledgers, including LLH¹ and ST.

18 8. Respondent made a number of disbursements to himself and others from Account
19 8849 for services provided to LLH and ST that exceeded the amount of funds that LLH and ST
20 had in Account 8849 at the time of the disbursement.

21 9. During the period from August 3, 2015 through February 8, 2016, Respondent
22

23 ¹ To avoid disclosing client information, the clients' initials are used.

1 negligently used or attempted to use funds from Account 8849 to make a number of payments
2 that were not charges to clients with funds in Account 8849, including a payment to Angie's
3 List.

4 10. On or about September 9, 2015, Chase Bank issued an insufficient funds notice
5 (NSF notice) to Respondent regarding a transaction from Account 8849.

6 11. Respondent received the NSF Notice.

7 12. The NSF Notice issued by Chase Bank accurately reflected that Account 8849
8 contained insufficient funds to cover the payment of \$17.53 to PayPal on September 9, 2015.

9 13. At the time Respondent attempted to pay \$17.53 to PayPal from Account 8849 on
10 September 9, 2015, the balance in Account 8849 was \$13.82.

11 14. On September 9, 2015, Respondent's records reflect that Account 8849 should have
12 contained \$784.37 belonging to WP.

13 15. Respondent took steps to ensure that no clients ultimately lost any money due to his
14 mishandling of funds in Account 8849.

15 16. After receiving the NSF Notice from Chase Bank, Respondent did not timely take
16 appropriate remedial and corrective steps to reconstruct records for Account 8849, and did not
17 properly maintain records for Account 8849.

18 17. In or about September 2017, Respondent hired a bookkeeper to reconstruct Account
19 8849. The bookkeeper completed reconstructing the account in or about December 7, 2017.

20 III. STIPULATION TO MISCONDUCT

21 18. By using funds belonging to clients in Account 8849, Respondent violated RPC
22 1.15A(c).

23 19. By failing to maintain a current checkbook register and client ledgers for Account

1 8849, and by failing to reconcile trust account records, Respondent violated RPC 1.15A(h) and
2 RPC 1.15B(a).

3 **IV. PRIOR DISCIPLINE**

4 20. Respondent has no disciplinary history.

5 **V. APPLICATION OF ABA STANDARDS**

6 21. The following American Bar Association Standards for Imposing Lawyer Sanctions
7 (1991 ed. & Feb. 1992 Supp.) apply to this case.

8 22. ABA Standards 4.1 is most applicable to Respondent's violations of RPC 1.15A(c)
9 (the duty to preserve a client's property):

10 **4.1 Failure to Preserve the Client's Property**

11 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client
12 property and causes injury or potential injury to a client.

13 4.12 Suspension is generally appropriate when a lawyer knows or should know that he
14 is dealing improperly with client property and causes injury or potential injury to
15 a client.

16 4.13 **Reprimand is generally appropriate when a lawyer is negligent in dealing
17 with client property and causes injury or potential injury to a client.**

18 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with
19 client property and causes little or no actual or potential injury to a client.

20 23. Respondent negligently disbursed funds to himself from his trust account for
21 services provided to ST and LLH that exceeded the amount of funds that ST and LLH had on
22 deposit at the time of the disbursement causing potential harm to other clients who had funds in
23 Respondent's trust account. Respondent also negligently used funds from his trust account to
24 pay for services that were not directly chargeable to clients with funds in Respondent's trust
account.

25 24. The presumptive sanction is reprimand under ABA Standard 4.13.

26 25. ABA Standard 7.0 is most applicable to the violations of RPC 1.15A(h) and RPC

1 1.15B (duties owed as a professional):

2 **7.0 Violations of Duties Owed as a Professional**

3 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
4 conduct that is a violation of a duty owed as a professional with the intent to
5 obtain a benefit for the lawyer or another, and causes serious or potentially
6 serious injury to a client, the public, or the legal system.

7 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
8 conduct that is a violation of a duty owed as a professional and causes injury or
9 potential injury to a client, the public, or the legal system.

10 7.3 **Reprimand is generally appropriate when a lawyer negligently engages in
11 conduct that is a violation of a duty owed as a professional and causes injury
12 or potential injury to a client, the public, or the legal system.**

13 7.4 Admonition is generally appropriate when a lawyer engages in an isolated
14 instance of negligence that is a violation of a duty owed as a professional, and
15 causes little or no actual or potential injury to a client, the public, or the legal
16 system.

17 26. Respondent negligently failed to properly maintain trust account records resulting in
18 potential harm to clients.

19 27. The presumptive sanction is reprimand under ABA Standard 7.3.

20 28. The following aggravating factors apply under ABA Standard 9.22:

21 (d) multiple offenses; and

22 (i) substantial experience in the practice of law [Respondent was admitted in
23 Washington State in 1977].

24 29. The following mitigating factor applies under ABA Standard 9.32:

(a) absence of a prior disciplinary record.

30. The aggravating factors and mitigating factor do not change the presumptive
sanction of reprimand.

VI. STIPULATED DISCIPLINE

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

32. Respondent will be subject to probation for a period of two years commencing upon

1 final approval of this stipulation with periodic reviews under ELC 13.8 of his trust account
2 practices, and must comply with the specific probation terms set forth below:

- 3 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
4 1.15B, and shall carefully review the current version of the publication, Managing
5 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 6 b) For all client matters, Respondent shall have a written fee agreement signed by the
7 client, which agreements are to be maintained for least seven years (see RPC
8 1.15B(a)(3)).
- 9 c) On a monthly basis, using ODC's form report entitled "Monthly Reconciliation and
10 Review Report," Respondent shall review the trust-account records detailed on the
11 form report, review the completed report, and sign and date the completed report.
- 12 d) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-
13 account records for the time period to be reviewed by ODC's audit staff and
14 disciplinary counsel for compliance with the RPC:
- 15 i) Months 1 – 3. By no later than the 30th day of the fourth month after the
16 commencement of probation, Respondent shall provide the trust account
17 records from the date of commencement of probation to the end of the third
18 full month.
 - 19 ii) Months 4 – 6. By no later than the 30th day of the seventh month after the
20 commencement of probation, Respondent shall provide the trust account
21 records from the end of the previously provided quarter through the end of
22 month six.
 - 23 iii) Months 7 – 9. By no later than the 30th day of the tenth month after the
24 commencement of probation, Respondent shall provide the trust account
records from the end of the previously provided quarter through the end of
month nine.
 - iv) Months 10 – 12. By no later than the 30th day of the thirteenth month after
the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month twelve.
 - v) Months 13– 15. By no later than the 30th day of the sixteenth month after
the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month fifteen.
 - vi) Months 16 – 18. By no later than the 30th day of the nineteenth month after
the commencement of probation, Respondent shall provide the trust

1 account records from the end of the previously provided quarter through
2 the end of month eighteen.

3 vii) Months 19 -- 21. By no later than the 30th day of the twenty-second month
4 after the commencement of probation. Respondent shall provide the trust
5 account records from the end of the previously provided quarter through
6 the end of month twenty-one.

7 The trust account records Respondent provides to ODC for each quarterly review of
8 his trust account will include: (a) copies of each completed "Monthly
9 Reconciliation and Review Report" referenced in sub-paragraph(c) above, (b) a
10 complete checkbook register for his/her trust account covering the period being
11 reviewed, (c) complete individual client ledger records for any client with funds in
12 Respondent's trust account during all or part of the period being reviewed, as well
13 as for Respondent's own funds in the account (if any), and (d) copies of all trust-
14 account bank statements, deposit slips, and cancelled checks covering the period
15 being reviewed. The ODC's Audit Manager or designee will review Respondent's
16 trust account records for each period.

17 e) On the same quarterly time schedule set forth in the preceding paragraph,
18 Respondent will provide ODC's Audit Manager or designee with copies of any and
19 all fee agreements entered into within the time period at issue.

20 f) The ODC's Audit Manager or designee may request additional financial or client
21 records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.
22 Within twenty days of a request from ODC's Audit Manager or designee for
23 additional records needed to verify Respondent's compliance with RPC 1.15A
24 and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the
additional records requested.

g) Respondent will reimburse the Association for time spent by ODC's Audit Manager
or designee in reviewing and reporting on Respondent's records to determine his
compliance with RPC 1.15A and RPC 1.15B. at the rate of \$85 per hour.
Respondent will make payment within thirty days of each written invoice setting
forth the auditor's time and payment due.

19 VII. RESTITUTION

20 33. Restitution does not apply.

21 VIII. COSTS AND EXPENSES

22 34. In light of Respondent's willingness to resolve this matter by stipulation, Respondent
23 shall pay attorney fees and administrative costs of \$1,000 in accordance with ELC 13.9(i). The

1 Association will seek a money judgment under ELC 13.9(l) if these costs are not paid within 30
2 days of approval of this stipulation.

3 **IX. VOLUNTARY AGREEMENT**

4 35. Respondent states that prior to entering into this Stipulation he had an opportunity to
5 consult independent legal counsel regarding this Stipulation, that Respondent is entering into
6 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the
7 Association, nor by any representative thereof, to induce the Respondent to enter into this
8 Stipulation except as provided herein.

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

11 **X. LIMITATIONS**

12 37. This Stipulation is a compromise agreement intended to resolve this matter in
13 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
14 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer
15 and ODC acknowledge that the result after further proceedings in this matter might differ from
16 the result agreed to herein.

17 38. This Stipulation is not binding upon ODC or the respondent as a statement of all
18 existing facts relating to the professional conduct of the respondent lawyer, and any additional
19 existing facts may be proven in any subsequent disciplinary proceedings.

20 39. This Stipulation results from the consideration of various factors by both parties,
21 including the benefits to both by promptly resolving this matter without the time and expense of
22 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
23 such, approval of this Stipulation will not constitute precedent in determining the appropriate


1 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
2 subsequent proceedings against Respondent to the same extent as any other approved
3 Stipulation.

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

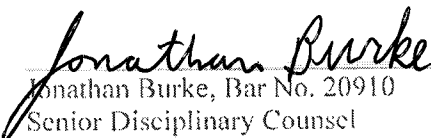
7 41. If this Stipulation is approved by the Hearing Officer, it will be followed by the
8 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
9 Enforcement of Lawyer Conduct will be made.

10 42. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
11 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
12 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
13 or criminal action.

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

16 
17 Walter O. Peale III, Bar No. 7889
18 Respondent

Dated: 12/11/2017

19
20 
21 Jonathan Burke, Bar No. 20910
22 Senior Disciplinary Counsel

Dated: 12/11/2017