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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**JAMES ARTHUR STURDEVANT,**  
Lawyer (Bar No. 8016).

Proceeding No. 14#00042  
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 Linda B. Eide, Respondent's Counsel William George Knudsen and Respondent lawyer James Arthur Sturdevant.

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 Stipulated Disposition.

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1 outcome more favorable or less favorable to him. Respondent chooses to resolve this  
2 proceeding now by entering into the following stipulation to facts, misconduct and sanction to  
3 avoid the risk, time, and expense attendant to further proceedings.

#### 4 I. ADMISSION TO PRACTICE

5 1. Respondent was admitted to practice law in the State of Washington on January 6,  
6 1978.

#### 7 II. STIPULATED FACTS

8 2. In 2010, Respondent represented a client whose residence had been sold at a  
9 Trustee's Sale following a non-judicial foreclosure. After the residence sale occurred, the  
10 purchaser filed an unlawful detainer action to evict Respondent's client from her residence. In  
11 that unlawful detainer action, Respondent's client initially appeared pro se. After the court  
12 issued a Writ of Restitution evicting Respondent's client from her residence, she paid  
13 Respondent a \$500.00 flat fee to "enter information into the record" in the unlawful detainer  
14 action. Respondent filed a Motion for Reconsideration. His motion sought to raise the issue of  
15 wrongful foreclosure voiding the purchaser's title to the subject property. Respondent also  
16 prepared a Lis Pendens and advised his client to file it with the county auditor against her  
17 former residence. Following Respondent's advice, the client filed the Lis Pendens.

18 3. The purchaser's counsel wrote Respondent a letter to advise that the Motion to  
19 Reconsider was frivolous, and filed a pleading asking the court to deny it. Respondent appeared  
20 before the court and argued the motion. The court struck the declarations supporting the motion  
21 and granted the relief sought by the purchaser.

22 4. Washington law, including RCW 61.24.127(2)(d), prohibits filing a Lis Pendens  
23 after a judicial foreclosure. After the purchaser's counsel wrote a separate letter to Respondent

1 to ask that the Lis Pendens be removed, it was not removed. Following that, the purchaser's  
2 counsel then filed a motion asking the court to remove the Lis Pendens and order Respondent's  
3 client to pay the purchaser's attorney's fees. Two days later, Respondent filed a notice of intent  
4 to withdraw, effective the day before the motion was to be heard. Respondent's client appeared  
5 pro se at the motion hearing. The court granted the purchaser's motion, ordered the Lis Pendens  
6 removed and ordered Respondent's client to pay \$450.00 in attorney's fees.

7 5. A month after the court granted the purchaser's motion and awarded the purchaser's  
8 attorney's fees, Respondent sent his client a bill for \$4,500. She stated she did not authorize  
9 some of his work and refused to pay for much of Respondent's work. Respondent did not have  
10 a written fee agreement or any other record of his fee agreement. Respondent sued his client for  
11 unpaid attorney's fees and later sought CR 11 sanctions against her. Following a trial, the court  
12 found that Respondent's client did not owe any fees other than the \$500.00 she had already  
13 paid. The court denied Respondent's request for CR 11 sanctions. The court also imposed  
14 close to \$6,000.00 in attorney's fees and costs against Respondent.

### 15 III. STIPULATION TO MISCONDUCT

16 6. By advising and assisting his client to file a Lis Pendens following a non-judicial  
17 foreclosure when the Washington Deed of Trust Act (RCW 61.24) prohibits this filing,  
18 Respondent's conduct violated RPC 1.1 (competence) and RPC 4.4 (respect for rights of third  
19 persons).

20 7. By seeking to collect attorney's fees against his former client after he failed to  
21 adequately communicate the basis of his fee and scope of representation and after his client  
22 claimed she did not authorize at least some of his work, Respondent's conduct violated RPC  
23 1.2(a) (scope of representation) and RPC 1.5(b) (fees).

1 IV. PRIOR DISCIPLINE

2 8. Respondent received an Admonition in 2011 for RPC 1.1, 1.3 and 1.4 violations.

3 V. APPLICATION OF ABA STANDARDS

4 9. American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. &  
5 Feb. 1992 Supp.) 4.5 (as to competence issues) and 7.0 (as to fee issues) apply to this case:

6 4.5 Lack of Competence

7 4.51 Disbarment is generally appropriate when a lawyer's course of  
8 conduct demonstrates that the lawyer does not understand the most fundamental  
9 legal doctrines or procedures, and the lawyer's conduct causes injury or potential  
10 injury to a client.

11 4.52 Suspension is generally appropriate when a lawyer engages in an  
12 area of practice in which the lawyer knows he or she is not competent, and causes  
13 injury or potential injury to a client.

14 4.53 Reprimand is generally appropriate when a lawyer:

15 (a) demonstrates failure to understand relevant legal doctrines or  
16 procedures and causes injury or potential injury to a client; or

17 (b) is negligent in determining whether he or she is competent to  
18 handle a legal matter and causes injury or potential injury to a client.

19 4.54 Admonition is generally appropriate when a lawyer engages in  
20 an isolated instance of negligence in determining whether he or she is  
21 competent to handle a legal matter, and causes little or no actual or potential  
22 injury to a client.

23 7.0 Violations of Duties Owed as a Professional

24 7.1 Disbarment is generally appropriate when a lawyer knowingly  
engages in 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.

~~7.2 Suspension is generally appropriate when a lawyer knowingly  
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.~~

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.

7.4 Admonition is generally appropriate when a lawyer engages in  
an 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.

10. Respondent acted negligently.

11. The stipulated misconduct caused little actual injury.

1 12. The presumptive sanction is Admonition.

2 13. The following aggravating factors apply under ABA Standard 9.22:

3 (a) prior discipline offense (2011 Admonition as noted above) and

4 (i) substantial experience (admitted 1978).

5 14. The following mitigating factor applies under ABA Standard 9.32:

6 (e) cooperation.

7 15. On balance the aggravating and mitigating factors do not require a departure from  
8 the presumptive sanction.

9 **VI. STIPULATED DISPOSITION**

10 16. The parties stipulate that Respondent shall receive an admonition for his conduct, in  
11 the form attached.

12 **VII. RESTITUTION**

13 17. No restitution is appropriate in this case.

14 **VIII. COSTS AND EXPENSES**

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

19 **IX. VOLUNTARY AGREEMENT**

20 19. Respondent states that prior to entering into this Stipulation he consulted  
21 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
22 Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
23 Association, nor by any representative thereof, to induce the Respondent to enter into this

1 Stipulation except as provided herein.

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

4 **X. LIMITATIONS**

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

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

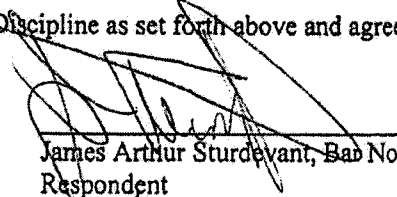
13 23. This Stipulation results from the consideration of various factors by both parties,  
14 including the benefits to both by promptly resolving this matter without the time and expense of  
15 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
16 such,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

20 24. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
21 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
22 Enforcement of Lawyer Conduct will be made.

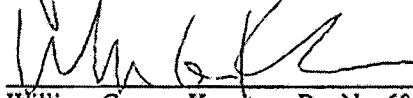
23 25. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have

1 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in  
2 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil  
3 or criminal action.

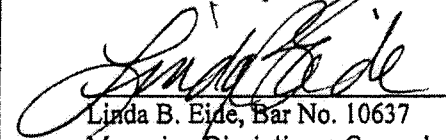
4 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation  
5 to Discipline as set forth above and agrees to the language in the attached Admonition.

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7 \_\_\_\_\_  
8 James Arthur Sturdevant, Bar No. 8016  
9 Respondent

Dated: 1/5/10

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11 \_\_\_\_\_  
12 William George Knudsen, Bar No. 6064  
13 Counsel for Respondent

Dated: Jan 6, 2015

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15 \_\_\_\_\_  
16 Linda B. Eide, Bar No. 10637  
17 Managing Disciplinary Counsel

Dated: January 7, 2015