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FILED
MAY 22 2013
DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

SERGIO ARMIJO,
Lawyer (Bar No. 8663).

Proceeding No. 12#00128
STIPULATION TO TWO REPRIMANDS

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to two reprimands is entered into by the Washington State Bar Association (Association), through disciplinary counsel Erica Temple, Respondent lawyer Sergio Armijo, and Respondent's counsel Anne I. Seidel.

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

dlc

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent Sergio Armijo was admitted to the practice of law in the State of
4 Washington on October 27, 1978.

5 **II. STIPULATED FACTS**

6 Raphael Sanchez Grievance

7 2. Respondent practices in Immigration Court.

8 3. Raphael Sanchez is the chief prosecutor representing the Department of Homeland
9 Security in civil and criminal immigration and customs matters in the Seattle Office of the Chief
10 Counsel.

11 4. Between September 26, 2011 and March 22, 2012, on seven separate occasions,
12 Respondent failed to appear in Immigration Court for scheduled court appearances on behalf of
13 his clients.

14 5. Respondent had received notice that he should appear for his clients.

15 6. Respondent mistakenly believed that, for some of the hearings, another lawyer was
16 going to be present in immigration court on his behalf. Respondent was unable to attend two of
17 the hearings due to illness. Respondent acted negligently in failing to attend his client's court
18 hearings.

19 7. The actual injury was that Respondent's actions caused delay of immigration
20 proceedings.

21 Delfino Velazquez-Camacho Grievance

22 8. In August 2011, Respondent represented Delfino Velazquez-Camacho at a bond
23 hearing in immigration proceedings.

1 9. Mr. Velazquez-Camacho provided Respondent with paperwork he received from
2 the Immigration Court, including a Notice to Appear (NTA).

3 10. Mr. Velazquez-Camacho was subsequently released from detention. He moved to
4 California.

5 11. His Master Calendar hearing date was set for June 28, 2012 in Seattle,
6 Washington.

7 12. Mr. Velazquez-Camacho contacted a new lawyer, Tamiko Moore, who practices in
8 California.

9 13. She told him that she needed a copy of the NTA in order to file a motion to change
10 venue to California.

11 14. Because Respondent was the attorney of record, the Immigration Court would only
12 provide a copy of the NTA to Respondent, and not to Mr. Velazquez-Camacho.

13 15. Mr. Velazquez-Camacho's wife called Respondent's office repeatedly and asked
14 him to send a copy of Mr. Velazquez-Camacho's client file.

15 16. Respondent did not provide Mr. Velazquez-Camacho with his client file.

16 17. On April 26, 2012, Ms. Moore called Respondent and explained the situation.
17 Respondent asked Ms. Moore to sign a substitution of counsel but she was unwilling to do so
18 without a copy of the client file.

19 18. On May 11, 2012, Respondent filed a Motion to Withdraw.

20 19. Respondent never provided a copy of Mr. Velazquez-Camacho's client file to Ms.
21 Moore.

22 20. Mr. Velazquez-Camacho obtained a copy of the NTA from the Department of
23 Homeland Security. In June 2012, the court granted Mr. Velazquez-Camacho's Motion to
24

1 Change Venue.

2 21. Respondent acted negligently when he failed to protect Mr. Velazquez-Camacho's
3 interests prior to and upon his withdrawal.

4 22. Respondent's conduct caused injury and potential injury to Mr. Velazquez-Camacho
5 because he was initially unable to respond to the NTA, and was stressed by the delays.

6 WSBA Grievance

7 23. Respondent is married to lawyer B.A. Until April 2012, he shared an office with
8 B.A., and B.A. was responsible for the law firm's bookkeeping.

9 24. B.A. was suspended from the practice of law on April 26, 2012. She no longer
10 works for Respondent's firm in any capacity.

11 25. In June 2012, the Association opened a grievance file against Respondent.

12 26. In response to the Association's requests, Respondent provided some documents
13 related to his IOLTA account.

14 27. On September 4, 2012, the Association sent Respondent a letter informing him that
15 the records he had provided and the statements that he had made indicated that his IOLTA
16 account records were not in compliance with the RPC, and that he should take steps to ensure
17 that his handling of client funds was in compliance with the RPC.

18 28. As of September 2012, Respondent acted knowingly in failing to maintain IOLTA
19 account records as required by the RPC.

20 29. The Association's Auditor conducted an audit of Respondent's IOLTA accounts
21 covering September 1, 2012 through November 30, 2012.

22 30. The Auditor was not able to complete the reconstruction of Respondent's IOLTA
23 account because of inadequate records.

1 31. Respondent failed to keep complete trust account records as required by Rule
2 1.15B in violation of RPC 1.15A(h)(2).

3 32. Specifically, Respondent failed to maintain a checkbook register and client ledgers.

4 33. Respondent failed to reconcile his trust account with his IOLTA account bank
5 statements.

6 34. Respondent disbursed funds for clients prior to funds being deposited into trust for
7 those clients. Before September 2012, Respondent deposited earned fees into his IOLTA
8 account.

9 35. In total, because of inadequate records provided by Respondent, the auditor could
10 not identify by client \$24,470.82 in deposits and \$35,148 in disbursements. Since then,
11 Respondent's bookkeeper and staff have been able reduce these amounts significantly and
12 pursuant to this stipulation, will continue to such efforts.

13 36. In February 2013, Respondent employed a bookkeeper. The bookkeeper has made
14 substantial progress in reconstructing Respondent's IOLTA account records. The bookkeeper
15 has trained Respondent's assistant to keep all required records in Quickbooks and all the
16 required trust account information since January 1, 2013 has been entered. The bookkeeper has
17 assisted with reconciliation of the account and assists to ensure that the trust account is handled
18 in accordance with the RPC.

19 37. Respondent represents that, as of February 2013, he keeps his IOLTA account
20 records in strict compliance with the RPC.

21 III. STIPULATION TO MISCONDUCT

22 38. By failing to appear for scheduled court appearances, causing inconvenience to the
23 court, his clients, and the government, Respondent violated RPC 8.4(d) and RPC 1.3.

1 39. By failing to take steps to protect Mr. Velazquez-Camacho's interests prior to and
2 upon his withdrawal, Respondent violated RPC 1.3 and RPC 1.16(d).

3 40. By failing to maintain:

- 4 • a checkbook register or equivalent for each trust account, including entries for all
5 receipts, disbursements, and transfers;
6 • individual client ledger records;
7 • copies of invoices, bills or other documents supporting all disbursements or transfers
8 from the trust account;
9 • bank statements, copies of deposit slips, and cancelled checks or their equivalent; and
10 • copies of all trust account client ledger reconciliations.

8 Respondent violated RPC 1.15A(c)(3) and 1.15B.

9 41. By disbursing funds from his IOLTA account prior to funds being deposited into
10 trust for those clients, Respondent violated RPC 1.15A(h)(8).

11 **IV. PRIOR DISCIPLINE**

12 42. Respondent has no prior discipline.

13 **V. APPLICATION OF ABA STANDARDS**

14 43. The following American Bar Association Standards for Imposing Lawyer Sanctions
15 (1991 ed. & Feb. 1992 Supp.) apply to this case:

16 44. ABA Standard 4.4 is most applicable to failure to act with diligence in representing a
17 client (RPC 1.3):

18 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act
19 with reasonable diligence in representing a client, and causes injury or potential injury to
20 a client.

21 45. ABA Standard 7.0 is most applicable to conduct that is prejudicial to the
22 administration of justice and cases involving improper withdrawal (RPC 8.4(d) and RPC
23 1.16(d)):

1 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
2 conduct that is a violation of a duty owed as a professional and causes injury or potential
3 injury to a client, the public, or the legal system.

4 46. Respondent acted negligently in failing to attend his client's court hearings.

5 47. Respondent acted negligently when he failed to protect Mr. Velazquez-Camacho's
6 interests prior to and upon his withdrawal.

7 48. The actual injury was that Respondent's actions caused delay of removal
8 proceedings.

9 49. Respondent's conduct caused injury and potential injury to Mr. Velazquez-Camacho.

10 50. The presumptive sanction is reprimand.

11 51. ABA Standard 4.1 is most applicable to cases involving the mishandling of client
12 property (RPC 1.15A and RPC 1.15B):

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 a
15 client.

16 52. As of September 2012, Respondent acted knowingly in failing to maintain records as
17 required by the RPC.

18 53. The actual injury was that substantial disbursements and deposits could not be
19 identified as belonging to either Respondent or one of his clients.

20 54. The presumptive sanction is suspension.

21 55. The following aggravating factors apply under ABA Standards Section 9.22:

- 22 (i) substantial experience in the practice of law [Respondent was admitted to
23 practice in 1978].

24 56. The following mitigating factors apply under ABA Standards Section 9.32:

- 1 (a) absence of a prior disciplinary record;
2 (b) absence of a dishonest or selfish motive;
3 (d) timely good faith effort to make restitution or to rectify consequences of
misconduct; and,
4 (l) remorse.

5 57. It is an additional mitigating factor that Respondent has agreed to resolve this matter
6 at an early stage of the proceedings.

7 58. Based on the factors set forth above, the mitigating factors outweigh the aggravating
8 factor, and the presumptive sanction of suspension for the IOLTA account violations should be
9 mitigated to a sanction of reprimand; and Respondent shall receive one reprimand for the
IOLTA account violations and one reprimand for the immigration client matters.

10 VI. STIPULATED DISCIPLINE

11 59. The parties stipulate that Respondent shall receive two reprimands for his conduct.

12 60. In addition, the parties stipulate that Respondent will be subject to probation for a
13 period of two years, with periodic reviews under ELC 13.8 of his trust account practices, and
14 shall comply with the specific probation terms set forth below:

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

- 1 ii) Months 4 – 6. By no later than the 30th day of the seventh month after
2 approval of the stipulation, 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 30th day of the tenth month after
6 approval of the stipulation, 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 30th day of the thirteenth month after
10 approval of the stipulation, Respondent shall provide the trust account
11 records from the end of the previously provided quarter through the end of
12 month twelve.
- 13 v) Months 13– 15. By no later than the 30th day of the sixteenth month after
14 approval of the stipulation, Respondent shall provide the trust account
15 records from the end of the previously provided quarter through the end of
16 month fifteen.
- 17 vi) Months 16 – 18. By no later than the 30th day of the nineteenth month after
18 approval of the stipulation, Respondent shall provide the trust account
19 records from the end of the previously provided quarter through the end of
20 month eighteen.
- 21 vii) Months 19 – 21. By no later than the 30th day of the twenty-second month
22 after approval of the stipulation, Respondent shall provide the trust account
23 records from the end of the previously provided quarter through the end of
24 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 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. Respondent may provide the records detailed above to the Association via electronic Quickbooks file or any other method approved by the Association's audit manager. 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.

1 e) The Association's Audit Manager or designee may request additional financial or
2 client records if needed to verify Respondent's compliance with RPC 1.15A and/or
3 1.15B. Within twenty days of a request from the Association's Audit Manager or
4 designee for additional records needed to verify Respondent's compliance with RPC
5 1.15A and/or RPC 1.15B, Respondent will provide the Association's Audit
6 Manager or designee the additional records requested.

7
8 f) Respondent will reimburse the Washington State Bar Association for time spent by
9 the Association's Audit Manager or designee in reviewing and reporting on
10 Respondent's records to determine his/her compliance with RPC 1.15A and RPC
11 1.15B, at the rate of \$85 per hour. Respondent will make payment within thirty
12 days of each written invoice setting forth the auditor's time and payment due.

13
14 61. Respondent shall have a qualified bookkeeper or certified public accountant
15 reconstruct^[1] his trust account records for the time period of May 1, 2012 to March 31, 2013 in
16 compliance with the requirements of RPC 1.15A and RPC 1.15B, using all available client
17 records and financial records to assist in the identification of funds received and disbursed.
18 Respondent shall do so at his own expense. Respondent is not in compliance with the specific
19 conditions of probation under ELC 13.8(b) unless Respondent provides the complete
20 reconstructed trust-account records to the Association within 120 days of approval of this
21 stipulation. Respondent shall promptly provide additional records and information to the
22 Association if requested to facilitate the Association's assessment of the completeness and
23 accuracy of the reconstruction.^[2]

24 62. The reconstruction may, or may not, reveal that one or more clients have not

[1] "Reconstruction" involves the preparation, for all funds put into and removed from the trust account, of complete and accurate client ledgers, check register, reconciliations between the check register balances and the balances of the bank statements, and reconciliations between the check register balances and the combined total of all the client ledger balances.

[2] Respondent acknowledges and agrees that if information in reconstructed trust account records or in other information or records provided to the Association under paragraph 61 reveals any acts of misconduct not specifically identified in this Stipulation, or Auditor's report, the Association may investigate and/or prosecute such additional misconduct to the extent otherwise authorized by the ELC.

1 received all funds to which they are entitled. If the reconstructed trust-account records for the
2 time period of May 1, 2012 to March 31, 2013 indicate that any client is owed funds, then
3 Respondent shall provide each client, in writing, with a complete updated accounting of his
4 receipt and disbursement of all funds. The accounting shall identify the source, date and
5 amount of all funds received, and the recipient, purpose, date and amount of all funds
6 disbursed. Respondent is not in compliance with probation under ELC 13.8(b) unless
7 Respondent provides the Association with proof that he has done so, and with copies of the
8 accountings, within six months of approval of this stipulation.

9 63. As a condition of probation, within six months of approval of the stipulation,
10 Respondent must send any remaining unearned and unidentified fees to the state of Washington
11 as unclaimed funds.

12 64. As a condition of probation, Respondent must consult with Pete Roberts, at
13 Respondent's expense, for at least two hours, about practices related to billing, calendaring, and
14 general law office organization. This must be completed within 90 days of approval of this
15 stipulation.

16 VII. RESTITUTION

17 65. Respondent shall pay any restitution as set forth in ¶62-63, above, in accordance
18 with ELC 13.7(b).

19 VIII. COSTS AND EXPENSES

20 66. In light of Respondent's willingness to resolve this matter by stipulation at an early
21 stage of the proceedings, within 90 days of approval of this stipulation, Respondent shall pay
22 attorney fees and administrative costs of \$500 and costs in the amount of \$1,861.50
23 (representing 21.9 hours of auditor work at \$85/per hour) for a total of \$2,361.50, in accordance
24

1 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these
2 costs are not paid within 90 days of approval of this stipulation.

3 IX. VOLUNTARY AGREEMENT

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

9 X. LIMITATIONS

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

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

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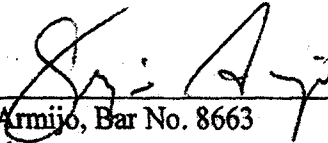
1 Stipulation.

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

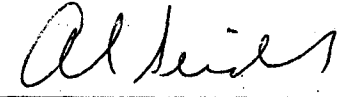
5 72. If this Stipulation is approved by the Hearing Officer, it will be followed by the
6 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
7 Enforcement of Lawyer Conduct will be made.

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

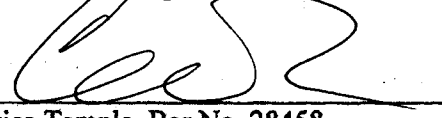
12 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
13 to Discipline as set forth above.

14 
15 _____
16 Sergio Armijo, Bar No. 8663
17 Respondent

Dated: 4.26.13

18 
19 _____
20 Anne I. Seidel, Bar No. 22742
21 Counsel for Respondent

Dated: 5/6/13

22 
23 _____
24 Erica Temple, Bar No. 28458
Disciplinary Counsel

Dated: 5/6/13