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FILED
APR 23 2015
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

BARRY ALAN KEECH,

Lawyer (Bar No. 8933).

Proceeding No. 14#00065

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 Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Jonathan Burke, Respondent's Counsel Stephen Skinner and Respondent lawyer Barry Alan Keech (Respondent).

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 Stipulation to Discipline

OFFICE OF DISCIPLINARY COUNSEL OF THE
WASHINGTON STATE BAR ASSOCIATION
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(206) 727-8207

ORIGINAL

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1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
2 avoid the risk, time, and expense attendant to further proceedings.

3 I. ADMISSION TO PRACTICE

4 1. Respondent was admitted to practice law in the State of Washington on May 15,
5 1979.

6 II. STIPULATED FACTS

7 2. On June 4, 2012, Respondent was hired to represent Louis Meyer (Louis) and
8 Lynn Meyer (Lynn), collectively referred to as the Meyers, in a Chapter 7 Bankruptcy.
9 Respondent was paid a flat fee to handle the Meyers' bankruptcy.

10 3. On July 16, 2012, Respondent filed the Meyers' Chapter 7 Bankruptcy. The
11 Meyers and Respondent anticipated that the bankruptcy could be complicated because (1) the
12 Meyers owned a series of insurance brokerages and the ownership of the agencies was complex,
13 (2) the Meyers were involved in a federal lawsuit filed by DZ Bank alleging fraud, and (3) the
14 Meyers transferred substantial assets to a family trust that could be subject to a
15 nondischargeability action.

16 4. Respondent could not attend the 341 meeting of creditors in the Meyers'
17 bankruptcy scheduled for August 20, 2012, and made arrangements for another lawyer to attend
18 it. Respondent informed the Meyers of the conflict and spoke to Louis after the 341 meeting.

19 5. DZ Bank filed an application for a 2004 examination (a deposition) of the Meyers.
20 Louis wanted Respondent to file an objection to DZ Bank's application for a 2004 examination
21 and sent Respondent lengthy opposition papers.

22 6. Respondent believed that the objection was not persuasive, legally sound, and
23 futile and did not file an objection to DZ Bank's application for a 2004 examination, which was

1 granted.

2 7. On or about August 24, 2012, Louis directed Respondent to do the following: (1)
3 make a redemption offer of \$950 to the secured creditor with security interests on the Meyers'
4 electronic equipment, (2) make a redemption offer of \$3,405 to the secured creditor with a
5 security interest on the Meyers' refrigerator and oven, and (3) make an offer of \$2,369 to
6 resolve a nondischargeability claim for \$4,946. Louis also directed Respondent to return
7 executed reaffirmation agreements for the Meyers' two automobiles to the secured creditor.
8 Respondent did not promptly follow through with these tasks because it is Respondent's
9 practice to wait until closer to the discharge date to complete these activities, but Respondent
10 and Louis did not have a discussion regarding the timing for completing these tasks.

11 8. On September 4, 2012, Louis directed Respondent to amend his bankruptcy
12 schedules to add a timeshare and other changes to the bankruptcy schedules.

13 9. Respondent did not promptly make the requested changes to the bankruptcy
14 schedules, but prepared the amendments and intended to file them in due course.

15 10. The Meyers lost confidence in Respondent and terminated him on October 10,
16 2012.

17 11. On October 10, 2012, the Meyers filed a motion for an order authorizing them to
18 terminate Respondent as their lawyer and to represent themselves *pro se*. The order was
19 granted.

20 12. After Respondent was terminated, the Meyers pursued an order from the
21 Bankruptcy Court to order Respondent to refund the attorney fees.

22 13. On December 7, 2012, Louis sent an email to Respondent containing an
23 attachment with the Meyers' motion to order Respondent to refund \$1,200 to the Meyers.

1 14. Respondent received the Meyers' December 7, 2012 email and decided to not open
2 the email and/or the attachment.

3 15. On February 5, 2013, the Bankruptcy Court entered an order (Order) requiring
4 Respondent to repay \$1,200 to the Meyers within 15 days from the date of the order.

5 16. On February 13, 2013, Louis sent a copy of the Order to Respondent by certified
6 mail.

7 17. Respondent received the envelope containing the Order, but decided to not open
8 the letter knowing that the address on the envelope reflected that it came from Louis' company.

9 18. The Meyers eventually hired lawyer Marc Stern (Stern) to represent them in their
10 bankruptcy.

11 19. During July 2013, Stern had a discussion with Respondent. There are conflicting
12 accounts regarding statements made by Stern. According to Stern, he informed Respondent that
13 the court had ordered Respondent to refund \$1,200 to the Meyers. According to Respondent,
14 Stern mentioned that the Meyers were seeking relief from Respondent. For purposes of this
15 stipulation, the parties agree that Respondent was not specifically aware from his discussion
16 with Stern that an order had been entered against Respondent to refund \$1,200 to the Meyers.

17 20. On September 11, 2013, Louis sent Respondent an email with a copy of the Order
18 attached. Louis's email demanded that Respondent promptly pay \$1,200.

19 21. Respondent decided to not open the email from the Meyers or the attachment.

20 22. On or about October 1, 2013, Louis filed a grievance against Respondent with
21 ODC complaining, among other things, that Respondent did not comply with the court order to
22 refund \$1,200 to the Meyers. The grievance contained a copy of the Order.

23 23. On or about October 8, 2013, ODC sent Respondent a letter along with a copy of

1 Louis's grievance and the Order. ODC's letter requested Respondent to provide a written
2 response to Louis's grievance within 30 days.

3 24. By no later than October 14, 2013, Respondent received and viewed ODC's letter
4 and the enclosed grievance and copy of the Order.

5 25. After receiving the Order, Respondent negligently did not promptly pay the refund
6 to the Meyers.

7 26. Respondent did not file a written response to Louis's grievance within the 30-day
8 period.

9 27. On November 13, 2013, ODC sent Respondent a "10-day letter" requiring him to
10 provide a written response to the grievance by November 26, 2013.

11 28. By November 16, 2013, Respondent received ODC's "10-day letter."

12 29. Respondent did not respond to ODC's "10-day letter."

13 30. On November 26, 2013, disciplinary counsel left a voice mail message for
14 Respondent.

15 31. Respondent did not respond to the voice mail from disciplinary counsel.

16 32. On December 2, 2013, Respondent was personally served with a subpoena for
17 deposition and subpoena duces tecum requiring him to appear at a deposition scheduled for
18 December 23, 2013.

19 33. Respondent did not appear for the deposition on December 23, 2013 and did not
20 inform ODC/disciplinary counsel that he was not going to appear at the deposition.

21 34. On January 3, 2014, ODC filed a petition for interim suspension for
22 noncooperation under ELIC 7.2(a)(3) with the Washington State Supreme Court (Supreme
23 Court).

1 35. On or about January 7, 2014, the Supreme Court issued an order to show cause
2 requiring Respondent to appear at a hearing on February 11, 2014.

3 36. On January 8, 2014, Respondent issued a check for \$1,200 to the Meyers.

4 37. Respondent was personally served with the Order to Show Cause on January 20,
5 2014.

6 38. On or about January 24, 2014, lawyer Stephen Skinner (Skinner) appeared for
7 Respondent in connection with the grievance. ODC and Skinner made arrangements for
8 Respondent to appear at a deposition on February 20, 2014.

9 III. STIPULATION TO MISCONDUCT

10 39. By failing to promptly pay \$1,200 after receiving a copy of the Order in October
11 2013, Respondent violated RPC 8.4(d) (engaging in conduct that is prejudicial to the
12 administration of justice).

13 40. By failing to cooperate with ODC's investigation, Respondent violated RPC 8.4(f).

14 IV. PRIOR DISCIPLINE

15 41. Respondent has no prior discipline.

16 V. APPLICATION OF ABA STANDARDS

17 42. The following American Bar Association Standards for Imposing Lawyer Sanctions
18 (1991 ed. & Feb. 1992 Supp.) apply to this case.

19 43. ABA Standard 7.0 is most applicable to Respondent's duty to violations of RPC
20 8.4(d) and RPC 8.4(l):

21 *7.0 Violations of Duties Owed as a Professional*

22 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
23 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.

1
2 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
3 conduct that is a violation of a duty owed as a professional and causes injury
4 or potential injury to a client, the public, or the legal system.

5 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
6 conduct that is a violation of a duty owed as a professional and causes injury
7 or potential injury to a client, the public, or the legal system.

8 7.4 Admonition is generally appropriate when a lawyer engages in an isolated
9 instance of negligence that is a violation of a duty owed as a professional, and
10 causes little or no actual or potential injury to a client, the public, or the legal
11 system.

12 44. Respondent negligently failed to promptly comply with the court order to pay \$1,200
13 the Meyers when he received the order in October 2013.

14 45. Respondent's conduct caused actual and/or potential injury to the Meyers and the
15 legal system.

16 46. Reprimand is the presumptive sanction under ABA Standard 7.3 for Respondent's
17 violation of RPC 8.4(d).

18 47. Respondent knowingly failed to cooperate with ODC's investigation.

19 48. Respondent's conduct caused potential injury to the lawyer disciplinary system.

20 49. Suspension is the presumptive sanction under ABA Standard 7.2 for Respondent's
21 violation of RPC 8.4(1).

22 50. The following aggravating factor applies under ABA Standard 9.22:

23 (i) Substantial experience in the practice of law.

24 51. The following mitigating factors apply under ABA Standard 9.32:

(a) Absence of a prior disciplinary record.

(b) Absence of dishonest or selfish motive;

(c) Personal or emotional problems [During November and December 2013]

1 Respondent was experiencing personal problems that impacted his ability to
2 respond to the grievance].

3 52. The mitigating factors outweigh the aggravating factor. The sanction should be
4 mitigated from a presumptive sanction of suspension to a reprimand.

5 **VI. STIPULATED DISCIPLINE**

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

7 **VII. RESTITUTION**

8 54. Restitution has already been paid by Respondent. He paid \$1,200 to the Meyers and
9 paid ODC for the costs related to his noncooperation.

10 **VIII. COSTS AND EXPENSES**

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

14 **IX. VOLUNTARY AGREEMENT**

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

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

22 **X. LIMITATIONS**

23 58. This Stipulation is a compromise agreement intended to resolve this matter in

1 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
2 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer
3 and ODC acknowledge that the result after further proceedings in this matter might differ from
4 the result agreed to herein.

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

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


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

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


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

1 or criminal action.

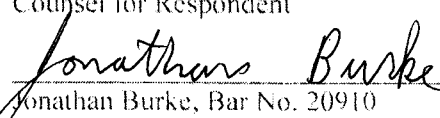
2 WHEREFORE the undersigned being fully advised, adopt, and agree to this Stipulation
3 to Discipline as set forth above.

4 
5 Barry Alan Keech, Bar No. 8933
6 Respondent

Dated: 3/27/2015

7 
8 Stephen Skinner, Bar No. 17317
9 Counsel for Respondent

Dated: 3/31/2015

10 
11 Jonathan Burke, Bar No. 20910
12 Senior Disciplinary Counsel

Dated: 3/31/2015

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