

FILED

MAY 23 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

CHARLES WILLIAM REHM,

Lawyer (Bar No. 10708).

Proceeding No. 12#00044

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 Washington State Bar Association (Association), through disciplinary counsel Francesca D'Angelo, Respondent lawyer Charles William Rehm, and Respondent's attorney, Brian Fresonke.

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

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I. ADMISSION TO PRACTICE

1. Respondent was admitted to practice law in the State of Washington on May 12, 1980.

II. STIPULATED FACTS

2. In January 2010, Justice Gouarison ("Mr. Gouarison") was awarded custody of his minor son by a New York court.

3. In May 2010, Mr. Gouarison hired and paid Respondent a \$700 advance fee to modify his Washington State child support order and determine his back support obligation. Respondent deposited Mr. Gouarison's \$700 advance fee into his IOLTA account.

4. In September 2010, Mr. Gouarison called Respondent to get an update on his case. Respondent did not return Mr. Gouarison's call.

5. From May 2010 through October 2010, Respondent performed no work on Mr. Gouarison's case. In September and October 2010, Mr. Gouarison made several attempts to contact Respondent by telephone and email. Respondent did not respond to Mr. Gouarison.

6. On October 14, 2010, Mr. Gouarison sent Respondent a certified letter requesting a refund of his \$700. Respondent failed to respond to Mr. Gouarison's letter or to account for his \$700 advance fee.

7. In July 2011, Mr. Gouarison wrote Respondent and asked him once again to return his money. Respondent failed to do so.

8. In July 2011, Mr. Gouarison, acting pro se, obtained an order suspending his current child support obligation. He later obtained an order granting him an equitable offset for back support.

1 9. On September 27, 2011, Mr. Gouarison filed a grievance against Respondent.

2 10. In November 2011, Respondent refunded \$700 to Mr. Gouarison from his trust
3 account and \$119 from his general account, representing interest.

4 **III. STIPULATION TO MISCONDUCT**

5 11. By failing to respond to Mr. Gouarison's reasonable requests for information,
6 Respondent violated RPC 1.4(a)(3) and RPC 1.4(a)(4).

7 12. By failing to work on Mr. Gouarison's case, Respondent violated RPC 1.3.

8 13. By failing to provide a prompt accounting and/or refund of Mr. Gouarison's \$700
9 advance fee, Respondent violated RPC 1.15A(f) and RPC 1.15A(e) and RPC 1.16(d).

10 **IV. OTHER DISCIPLINE**

11 14. On March 23, 2012, Respondent received an admonition for his failure to promptly
12 conclude a probate and failure to timely distribute client funds held in his trust account.

13 **V. APPLICATION OF ABA STANDARDS**

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

16 ***4.1 Failure to Preserve the Client's Property***

17 Absent aggravating or mitigating circumstances, upon application of the
18 factors set out in 3.0, the following sanctions are generally appropriate in cases
19 involving the failure to preserve client property:

18 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
19 client property and causes injury or potential injury to a client.

19 4.12 Suspension is generally appropriate when a lawyer knows or should
20 know that he is dealing improperly with client property and causes injury
21 or potential injury to a client.

20 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
21 with client property and causes injury or potential injury to a client.

21 4.14 Admonition is generally appropriate when a lawyer is negligent in
22 dealing with client property and causes little or no actual or potential
23 injury to a client.

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1 **4.4 Lack of Diligence**

2 Absent aggravating or mitigating circumstances, upon application of the
3 factors set out in Standard 3.0, the following sanctions are generally appropriate
4 in cases involving a failure to act with reasonable diligence and promptness in
5 representing a client:

6 4.41 Disbarment is generally appropriate when:

- 7 (a) a lawyer abandons the practice and causes serious or potentially serious
8 injury to a client; or
9 (b) a lawyer knowingly fails to perform services for a client and causes
10 serious or potentially serious injury to a client; or
11 (c) a lawyer engages in a pattern of neglect with respect to client matters and
12 causes serious or potentially serious injury to a client.

13 4.42 Suspension is generally appropriate when:

- 14 (a) a lawyer knowingly fails to perform services for a client and causes
15 injury or potential injury to a client, or
16 (b) a lawyer engages in a pattern of neglect and causes injury or potential
17 injury to a client.

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

21 4.44 Admonition is generally appropriate when a lawyer is negligent and does
22 not act with reasonable diligence in representing a client, and causes little
23 or no actual or potential injury to a client.

24 16. Respondent acted knowingly in failing to communicate with Mr. Gouarison.

17 17. Mr. Gouarison was injured in that he was denied information about his case and lost
18 the use of his \$700 advance fee payment, suffered stress because of it and ultimately had to
19 prosecute his action pro se.

20 18. The presumptive sanction is suspension.

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

- 22 (i) substantial experience in the practice of law [Respondent was admitted in
23 May 1980].

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

- (b) absence of a dishonest or selfish motive;
(c) personal or emotional problems;
(d) timely good faith effort to make restitution or to rectify consequences of
misconduct;
(f) remorse.

1 21. Based on the factors set forth above, the presumptive sanction should be mitigated
2 to a reprimand.

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4 **VI. STIPULATED DISCIPLINE**

5 22. Respondent stipulates to receive a Reprimand for his conduct in handling Mr.
6 Gouarison's matter.

7 **VII. RESTITUTION**

8 23. Because Respondent has fully refunded Mr. Gouarison's advance fee plus interest,
9 Restitution is not appropriate in this matter.

10 **VIII. COSTS AND EXPENSES**

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

15 **IX. VOLUNTARY AGREEMENT**

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

21 **X. LIMITATIONS**

22 26. This Stipulation is a compromise agreement intended to resolve this matter in
23 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
24 expenditure of additional resources by the Respondent and the Association. Both the

1 Respondent lawyer and the Association acknowledge that the result after further proceedings in
2 this matter might differ from the result agreed to herein.

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

6 28. This Stipulation results from the consideration of various factors by both parties,
7 including the benefits to both by promptly resolving this matter without the time and expense of
8 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
9 such, approval of this Stipulation will not constitute precedent in determining the appropriate
10 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
11 subsequent proceedings against Respondent to the same extent as any other approved
12 Stipulation. Under ELC 3.1(b), all documents that form the record before the Hearing Officer
13 for his or her review become public information on approval of the Stipulation by the Hearing
14 Officer, unless disclosure is restricted by order or rule of law.

15 29. If this Stipulation is approved by the Hearing Officer, it will be followed by the
16 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
17 Enforcement of Lawyer Conduct will be made.

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

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

3 Charles William Rehm

4 Charles William Rehm, Bar No. 10708
Respondent

Dated: 5/10/2013

5 Francesca D'Angelo

6 Francesca D'Angelo, Bar No. 22979
Disciplinary Counsel

Dated: 5/13/2013

8 Brian Fresonke

9 Brian Fresonke, Bar No. 17655
10 Attorney for Respondent

Dated: 10 MAY 2013