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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

DENISE C. GEORGE,

Lawyer (Bar No. 10749).

Proceeding No. 17#000 66

ODC File No. 16-01219

STIPULATION TO SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Benjamin J. Attanasio and Respondent lawyer Denise C. George.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she 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 her. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the

1 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 May 12,
4 1980. Respondent is currently on inactive status and is not practicing law in Washington.

5 **II. STIPULATED FACTS**

6 2. In or around April 2013, Curtis Wright hired Respondent to expunge his daughter's
7 criminal record in Pierce and Whatcom Counties.

8 3. Mr. Wright paid Respondent a \$600 advance fee for the expungement work.

9 4. In summer 2014, Respondent relocated from Washington to Florida.

10 5. Despite her move, Respondent states she intended to complete pending work for
11 several clients in Washington, including Mr. Wright.

12 6. Shortly after her move to Florida, Respondent experienced personal and family
13 health issues that impeded her ability to complete the work for Mr. Wright.

14 7. Between April 2013 and April 2016, Mr. Wright sent Respondent multiple emails
15 inquiring about the status of the matter and asking for an estimate of when the expungements
16 would be completed.

17 8. In various email responses between April 2013 and March 2015, Respondent told
18 Mr. Wright "expungement stuff is always slow," that she had "been waiting to hear back from
19 the prosecutor's office," and that she was making progress and would have "some paperwork
20 for [Mr. Wright's daughter] to sign in the near future."

21 9. Respondent did not provide details on her work, did not provide Mr. Wright with an
22 estimate of when the expungement might be completed, and did not explain that she would be
23 unable to complete the work.

1 10. Respondent also did not inform Mr. Wright that she had moved to Florida.

2 11. Respondent never filed any pleadings and never provided paperwork to Mr. Wright
3 or his daughter.

4 12. After June 2013, Respondent did not take any steps to complete the expungement
5 work.

6 13. Mr. Wright filed a grievance against Respondent on August 8, 2016.

7 14. In her response to Mr. Wright's grievance, Respondent admits she "did not spend
8 adequate time on this case" and that she failed to communicate effectively with Mr. Wright.

9 15. In March and April 2017, Respondent refunded \$600 to Mr. Wright.

10 **III. STIPULATION TO MISCONDUCT**

11 16. By failing to act with reasonable diligence and promptness in completing work for
12 Mr. Wright, Respondent violated RPC 1.3.

13 17. By failing to keep Mr. Wright reasonably informed on the status of her work, failing
14 to explain to Mr. Wright that she would be unable to complete the work, and failing to tell Mr.
15 Wright she had moved out of state, Respondent violated RPC 1.4.

16 **IV. PRIOR DISCIPLINE**

17 18. Respondent received a reprimand in 1994 for failing to timely complete work for
18 multiple clients and failing to adequately communicate with those clients, in violation of RPC
19 1.3 and 1.4.

20 19. Respondent received a censure in 2000 for failing to abide by her client's decision
21 concerning the objectives of the representation, failing to act with reasonable diligence, and
22 failing to adequately communicate with a client, in violation of RPC 1.2, 1.3, and 1.4.

1 **V. APPLICATION OF ABA STANDARDS**

2 20. The following American Bar Association Standards for Imposing Lawyer Sanctions
3 (1991 ed. & Feb. 1992 Supp.) apply to this case:

4 **4.4 Lack of Diligence**

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

9 4.41 Disbarment is generally appropriate when:

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

16 **4.42 Suspension is generally appropriate when:**

- 17 (a) **a lawyer knowingly fails to perform services for a client and**
18 **causes injury or potential injury to a client, or**
- 19 (b) **a lawyer engages in a pattern of neglect and causes injury or**
20 **potential injury to a client.**

21 4.43 Reprimand is generally appropriate when a lawyer is negligent and does
22 not act with reasonable diligence in representing a client, and causes
23 injury or potential injury to a client.

24 4.44 Admonition is generally appropriate when a lawyer is negligent and does
not act with reasonable diligence in representing a client, and causes little
or no actual or potential injury to a client.

8.0 Prior Discipline Orders

Absent aggravating or mitigating circumstances, upon application of the factors
set out in Standard 3.0, the following sanctions are generally appropriate in cases
involving prior discipline.

8.1 Disbarment is generally appropriate when a lawyer:

- (a) intentionally or knowingly violates the terms of a prior
disciplinary order and such violation causes injury or potential
injury to a client, the public, the legal system, or the profession; or
- (b) has been suspended for the same or similar misconduct, and
intentionally or knowingly engages in further similar acts of
misconduct that cause injury or potential injury to a client, the
public, the legal system, or the profession.

**8.2 Suspension is generally appropriate when a lawyer has been
reprimanded for the same or similar misconduct and engages in
further similar acts of misconduct that cause injury or potential
injury to a client, the public, the legal system, or the profession.**

- 1 8.3 Reprimand is generally appropriate when a lawyer:
2 (a) negligently violates the terms of a prior disciplinary order and
3 such violation causes injury or potential injury to a client, the
4 public, the legal system, or the profession; or
5 (b) has received an admonition for the same or similar misconduct
6 and engages in further similar acts of misconduct that cause injury
7 or potential injury to a client, the public, the legal system, or the
8 profession.
- 9 8.4 An admonition is generally not an appropriate sanction when a lawyer
10 violates the terms of a prior disciplinary order or when a lawyer has
11 engaged in the same or similar misconduct in the past.

12 21. Respondent knowingly failed to provide diligent representation and to adequately
13 communicate with Mr. Wright.

14 22. Respondent's conduct caused at least potential injury to Mr. Wright, who paid for
15 legal work that went unfinished for over three years, and Mr. Wright's daughter, whose ability
16 to find gainful employment was hindered by the criminal record Respondent was to expunge.

17 23. The presumptive sanction is suspension under ABA Standards 4.42 and 8.2.

18 24. The following aggravating factors apply under ABA Standard 9.22:

- 19 (a) prior disciplinary offenses [Respondent received a reprimand in 1994 and a
20 censure in 2000, as described in Section IV above];
21 (i) substantial experience in the practice of law [Respondent was admitted in 1980].

22 25. The following mitigating factors apply under ABA Standard 9.32:

- 23 (c) personal or emotional problems [following her move to Florida, Respondent
24 suffered a broken ankle and soon thereafter relocated to Hawaii to care for her
25 mother, who suffers from Alzheimer's disease];
26 (l) remorse [Respondent has acknowledged her failure to act diligently and
27 adequately communicate and has refunded Mr. Wright's \$600 advance fee].

28 26. It is an additional mitigating factor that Respondent has agreed to resolve this matter
29 at an early stage of the proceedings.

30 27. On balance, the aggravating and mitigating factors do not require a departure from
31 the presumptive sanction of suspension.

1 **VI. STIPULATED DISCIPLINE**

2 28. The parties stipulate that Respondent shall receive a six-month suspension for her
3 conduct.

4 29. Respondent will be subject to probation for a period of two years beginning when
5 Respondent is reinstated to the practice of law. Respondent's compliance with probation
6 conditions will be monitored by the Probation Administrator of the Office of Disciplinary
7 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed
8 herein may be grounds for further disciplinary action under ELC 13.8(b). Respondent shall
9 comply with the specific probation conditions set forth below.

10 30. No later than two weeks following her reinstatement to the practice of law,
11 Respondent must notify the Probation Administrator in writing whether she is currently
12 representing any clients or anticipates representing any clients within the next 30 days.
13 Thereafter, on a monthly basis, Respondent must notify the Probation Administrator in writing
14 whether she is currently representing any clients or anticipates representing any clients within
15 the next 30 days. Such notice must be received no later than the last business day of each
16 month of the probation period.

17 31. At such time as Respondent resumes representing clients, she shall comply with the
18 following conditions:

- 19 a) For the remainder of the period of probation, Respondent's practice will be
20 supervised by a practice monitor. The practice monitor must be a WSBA member
21 with no record of public discipline and who is not the subject of a pending public
22 disciplinary proceeding.
- 23 b) The role of the practice monitor is to consult with and provide guidance to
24 Respondent regarding case management, office management, and avoiding
violations of the Rules of Professional Conduct, and to provide reports and
information to the Probation Administrator regarding Respondent's compliance
with the terms of probation and the RPC. The practice monitor does not represent
the Respondent.

- 1 c) At the beginning of the probation period, the Probation Administrator will select a
2 lawyer to serve as practice monitor for the period of Respondent's probation.
- 3 i) Initial Challenge: If, within 15 days of the written notice of the selection of a
4 practice monitor, Respondent sends a written request to the Probation
5 Administrator that another practice monitor be selected, the Probation
6 Administrator will select another practice monitor. Respondent need not
7 identify any basis for this initial request.
- 8 ii) Subsequent Challenges: If, after selection of a second (or subsequent)
9 practice monitor, Respondent believes there is good cause why that
10 individual should not serve as practice monitor, Respondent may, within 15
11 days of notice of the selected practice monitor, send a written request to the
12 Probation Administrator asking that another practice monitor be selected.
13 That request must articulate good cause to support the request. If the
14 Probation Administrator agrees, another practice monitor will be selected. If
15 the Probation Administrator disagrees, the Office of Disciplinary Counsel
16 will submit its proposed selection for practice monitor to the Chair of the
17 Disciplinary Board for appointment pursuant to ELC 13.8(a)(2), and will also
18 provide the Chair with the Respondent's written request that another practice
19 monitor be selected.
- 20 d) In the event the practice monitor is no longer able to perform his or her duties, the
21 Probation Administrator will select a new practice monitor at his or her discretion.
- 22 e) During the period of probation, Respondent must cooperate with the named practice
23 monitor. Respondent must meet with the practice monitor at least once per month.
24 Respondent must communicate with the practice monitor to schedule all required
meetings.
- f) The Respondent must bring to each meeting a current, complete written list of all
pending client legal matters being handled by the Respondent. The list must
identify the current status of each client matter and any problematic issues regarding
each client matter. The list may identify clients by using the client's initials rather
than the client's name.
- g) At each meeting, the practice monitor will discuss with Respondent practice issues
that have arisen or are anticipated. In light of the conduct giving rise to the
imposition of probation, ODC recommends that the practice monitor and
Respondent discuss whether Respondent is diligently making progress on each
client matter, whether Respondent is in communication with each client, and
whether Respondent needs to consider withdrawing from any client matters.
Meetings may be in person or by telephone at the practice monitor's discretion. The
practice monitor uses discretion in determining the length of each meeting.
- h) The practice monitor will provide the Probation Administrator with quarterly
written reports regarding Respondent's compliance with probation terms and the

1 RPC. Each report must include the date of each meeting with Respondent, a brief
2 synopsis of the discussion topics, and a brief description of any concerns the
3 practice monitor has regarding the Respondent's compliance with the RPC. The
report must be signed by the practice monitor. Each report is due within 30 days of
the completion of the quarter.

- 4 i) If the practice monitor believes that Respondent is not complying with any of her
5 ethical duties under the RPC or if Respondent fails to schedule or attend a monthly
6 meeting, the practice monitor will promptly communicate that to the Probation
Administrator.

7 32. Respondent must make payments under ELC 13.9(b) totaling \$1,000 to the
8 Washington State Bar Association to defray the costs and expenses of administering the
9 probation, as follows:

- 10 a) \$250 due within 30 days of the start of the probation period;
11 b) \$250 due within 6 months of the start of the probation period;
12 c) \$250 due within 12 months of the start of the probation period; and
13 d) \$250 due within 18 months of the start of the probation period.

14 All payments should be provided to the Probation Administrator for processing.

15 **VII. RESTITUTION**

16 33. Respondent has refunded Mr. Wright's \$600 advance fee and therefore no restitution
17 is required by this stipulation.

18 **VIII. COSTS AND EXPENSES**

19 34. In light of Respondent's willingness to resolve this matter by stipulation at an early
20 stage of the proceedings, Respondent shall pay reduced attorney fees and administrative costs of
21 \$1,000 under ELC 13.9(c). This amount shall be paid in accordance with ELC 13.9(i). The
22 Association will seek a money judgment under ELC 13.9(l) if these costs are not paid within 30
23 days of approval of this stipulation. Reinstatement from suspension is conditioned on payment
24 of these costs.

1 **IX. VOLUNTARY AGREEMENT**

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

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

9 **X. LIMITATIONS**

10 37. 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 Respondent and ODC. Both Respondent and ODC
13 acknowledge that the result after further proceedings in this matter might differ from the result
14 agreed to herein.

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

18 39. 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
24

1 Stipulation.

2 40. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
3 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record
4 before the Board for its review become public information on approval of the Stipulation by the
5 Board, unless disclosure is restricted by order or rule of law.

6 41. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
7 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
8 Rules for Enforcement of Lawyer Conduct will be made.

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

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

15 Denise C. George
16 Denise C. George, Bar No. 00749
17 Respondent

Dated: July 6, 2017

18 Benjamin J. Attanasio
19 Benjamin J. Attanasio, Bar No. 43032
20 Disciplinary Counsel

Dated: 7/14/17