

FILED

APR 14 2014

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

THOMAS L. DICKSON,
Lawyer (Bar No. 11802).

Proceeding No. 13#00007

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 Natalea Skvir and Respondent lawyer Thomas L. Dickson (Respondent), 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

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

I. ADMISSION TO PRACTICE

1. Respondent was admitted to practice law in the State of Washington on October 27, 1981.

II. STIPULATED FACTS

2. At all times relevant to this matter, Respondent was a principal and the managing partner in the Tacoma law firm of Dickson Steinacker (the firm) with responsibility for overseeing the firm's IOLTA trust account. At the time, in addition to the two named partners, the firm had five associate attorneys, six staff employees, and an office manager.

3. At the beginning of 2009, the firm maintained one trust account for client funds, at Bank of America (BOA).

4. In April 2009, the firm opened a second trust account at Wells Fargo Bank.

5. In August 2009, the Association received a notice from Wells Fargo that the firm's trust account was overdrawn due to a check for \$2,100 being presented for payment when the account balance was only \$767.33.

6. Respondent was asked to provide an explanation as to the overdraft, with supporting documentation.

7. Based on information he received from his staff, Respondent informed the Association that the overdraft occurred because a check for \$2,100 was written on the new trust account at Wells Fargo before all of the funds had been transferred from the BOA account to the new one.

8. Unbeknownst to Respondent, this explanation was erroneous. When the check in question was presented for payment, the BOA account held only \$96.69 and therefore could not

have covered the \$2,100 check, even if the funds had been transferred to the Wells Fargo account beforehand.

9. The Wells Fargo trust account had four signatories: Respondent, his law partner, his wife, who was the firm's bookkeeper, and the firm's office manager. The bookkeeper and office manager were not lawyers.

10. In 2009, the firm's bookkeeper handled the firm's trust accounts.

11. In 2009, dozens of trust account checks were signed either by the bookkeeper or the office manager.

12. After receiving Respondent's explanation for the overdraft, the Association examined documents for both trust accounts for the year 2009 and, based in part on work done by the firm's office manager, prepared a reconstruction based on bank records and internal records the firm produced, including those it maintained on Timeslips, a computer program for time-tracking and billing.

13. Without Respondent's knowledge, in 2009 the bookkeeper frequently moved funds in round amounts from the trust account to an operating account or other non-IOLTA account by electronic transfer. These transfers, which at times ran to five figures, did not correspond to earned fees that had been billed by the firm and were not identified as relating to any client matter in any records maintained by Respondent. On some occasions, the bookkeeper re-deposited the funds into the trust account on the same day or several days later. Respondent has been unable to explain why these transactions occurred.

14. These transactions resulted in temporary shortages in client funds being held in trust.

15. Respondent believed that the bookkeeper was handling client funds properly and maintaining proper records for the trust accounts and he relied on her assurances to that effect,

with inadequate supervision. The bookkeeper repeatedly showed Respondent trust account bank statements on which she had written "reconciled" and a date so Respondent would believe she had reconciled the account when she had not.

16. This lack of supervision continued, even after the overdraft notification, because Respondent believed the overdraft was caused by changing banks.

17. Respondent hired the office manager to work at the firm prior to 2009, with the expectation that he would take over the recordkeeping tasks from the bookkeeper, who suffered from a degenerative spine condition. But, even after Respondent repeatedly directed her to turn the records over to the office manager, she failed to turn over the trust account records.

18. One of the Association's auditors scheduled a visit to the firm for December 3, 2009 to discuss the trust accounts and recordkeeping.

19. Before Respondent left home for the office that day, the bookkeeper left a letter for him in which she admitted that she had kept things from him, lied to him, and had "really screwed up" the trust account, and that it was short of funds. She wrote she had thought she could fix the problems, but "the bank statements and [T]imeslips don't lie."

20. Respondent immediately had the office manager assume responsibility for the firm's trust account[s] and related recordkeeping.

21. Since that time, the firm has taken steps to correct its recordkeeping for client funds held in trust, has removed non-lawyers as signatories on trust accounts, and transferred money into the trust accounts to make up for any prior shortages caused by improper disbursements.

22. Although not all client funds were maintained at all times in a trust account, no clients failed to receive the funds to which they were entitled.

III. STIPULATION TO MISCONDUCT

23. By failing to maintain client funds in trust, it appears Respondent violated RPC 1.15A(c)(1).

24. By failing to maintain all required records, including a checkbook register that identified the client matter for each trust account withdrawal and disbursement and documentation to support all disbursements or transfers from the trust account, it appears Respondent violated RPC 1.15B(a)(1)(i) and 1.15B(a)(6).

25. By allowing non-lawyers to act as signatories on a trust account, it appears Respondent violated RPC 1.15A(h)(9).

26. By failing to adequately supervise the bookkeeper and make reasonable efforts to ensure that his firm had in effect measures giving reasonable assurance that nonlawyer employees' conduct was compatible with his own professional obligations, it appears that Respondent violated RPC 5.3.

IV. PRIOR DISCIPLINE

27. Respondent has not been the subject of prior discipline.

V. APPLICATION OF ABA STANDARDS

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

29. Standard 4.1 is most applicable to the duty to properly handle and preserve client property. It states:

Standard 4.1 Failure to Preserve the Client's Property

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

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

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

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

30. Respondent was negligent in failing to ensure that his firm was properly handling client property and maintaining records thereof as required by the RPC.

31. The potential injury was the possible inability to remit to clients or others the funds due to them, although this never occurred.

32. The presumptive sanction is reprimand.

33. Standard 7.0 is most applicable to the duty to properly supervise nonlawyer employees. It states:

7.0 Violations of Duties Owed as a Professional

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.

34. Respondent was negligent in failing to adequately train and supervise the bookkeeper in the handling of client funds and maintenance of required records.

35. This failure caused potential injury to the firm's clients, who might have been unable to receive funds due them from the trust account.

36. The presumptive sanction is reprimand.

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

- (d) multiple offenses; and
- (i) substantial experience in the practice of law: Respondent was admitted in 1981.

38. The following mitigating factor applies under ABA Standards Section 9.32:

- (a) absence of a prior disciplinary record;
- (c) personal or emotional problems – Respondent's wife had serious health problems;
- (g) character and reputation;
- (j) delay; and
- (l) remorse.

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

40. On balance, the aggravating and mitigating factors do not require a departure from the presumptive sanction.

VI. STIPULATED DISCIPLINE

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

42. Respondent will be subject to probation for a period of one year commencing upon final approval of this stipulation, with periodic reviews under ELC 13.8 of his trust account practices, and shall comply with the specific probation terms set forth below:

- a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC 1.15B, and shall carefully review the current version of the Association's publication, Managing Client Trust Accounts: Rules, Regulations, and Common Sense.
- b) For all client matters, 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)).
- c) On a semiannual basis, Respondent shall provide the Association's audit staff with all trust-account records for the time period to be reviewed by the Association's audit staff and disciplinary counsel for compliance with the RPC:

- i) Months 1 – 6. By no later than the 30th day of the seventh month after the commencement of probation, Respondent shall provide the trust account records from the start date to the end of the sixth full month.
- ii) Months 7 – 12. By no later than the 30th day of the thirteenth month after the commencement of probation, Respondent shall provide the trust account records from the end of the previously provided period through the end of month twelve.

The trust account records Respondent provides to the Association for each semiannual review of his trust account will include: (a) a complete checkbook register for his/her 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. The Association's Audit Manager or designee will review Respondent's trust account records for each period.

- d) On the same semiannual 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.
- e) The Association's Audit Manager or designee may request additional financial or client records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B. Within twenty days of a request from the Association's Audit Manager or designee for additional records needed to verify Respondent's compliance with RPC 1.15A and/or RPC 1.15B, Respondent will provide the Association's Audit Manager or designee the additional records requested.
- f) Respondent will reimburse the Washington State Bar Association for reasonable time spent by the Association's Audit Manager or designee in reviewing and reporting on Respondent's records to determine his/her compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour. Respondent will make payment within thirty days of each written invoice setting forth the auditor's time and payment due. The Chief Hearing Officer will resolve any disputes over the reasonableness of the auditor's charges.

VII. RESTITUTION

43. Restitution is not warranted at this time.

VIII. COSTS AND EXPENSES

44. In light of Respondent's willingness to resolve this matter by stipulation at an early

stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.

IX. VOLUNTARY AGREEMENT

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

X. LIMITATIONS

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

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

48. This Stipulation results from the consideration of various factors by both parties, including the benefits to both by promptly resolving this matter without the time and expense of hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As such, approval of this Stipulation will not constitute precedent in determining the appropriate sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in

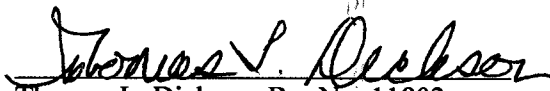
subsequent proceedings against Respondent to the same extent as any other approved Stipulation.

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


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

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


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


Thomas L. Dickson, Bar No. 11802
Respondent

Dated: 4-2-14


Anne I. Seidel, Bar No. 22742
Counsel for Respondent

Dated: 4-7-14


Natalea Skvir, Bar No. 34335
Disciplinary Counsel

Dated: 4-8-14