

FILED

Feb 15 2019
Disciplinary
Board

Docket # 007

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

MICHAEL JOHN MCLAUGHLIN,

Lawyer (Bar No. 13367).

Proceeding No. 18#00074

ODC File No(s). 17-02069

Resignation Form of Michael John
McLaughlin (ELC 9.3(b))

I, Michael John McLaughlin, declare as follows:

1. I am over the age of eighteen years and am competent. I make the statements in this declaration from personal knowledge.

2. I was admitted to practice law in the State of Washington on July 7, 1983.

3. I was served with a Formal Complaint and Notice to Answer in this matter on January 10, 2019.

4. After consulting with my counsel, I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

5. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged

1 misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in
2 Disciplinary Counsel's statement, but rather than defend against the allegations, I wish to
3 permanently resign from membership in the Association.

4 6. I consent to entry of an order under ELC 13.9(e) assessing expenses of \$1,500 in
5 this matter.

6 7. I agree to pay any additional costs or restitution that may be ordered by a Review
7 Committee under ELC 9.3(g).

8 8. I understand that my resignation is permanent and that any future application by
9 me for reinstatement as a member of the Association is currently barred. If the Washington
10 Supreme Court changes this rule or an application is otherwise permitted in the future, it will be
11 treated as an application by one who has been disbarred for ethical misconduct. If I file an
12 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,
13 allegations, or instances of alleged misconduct on which this resignation was based.

14 9. I agree to (a) notify all other states and jurisdictions in which I am admitted of this
15 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in all
16 other states and jurisdictions in which I am admitted; and (c) provide Disciplinary Counsel with
17 copies of this notification and any response(s). I acknowledge that this resignation could be
18 treated as a disbarment by all other jurisdictions.

19 10. I agree to (a) notify all other professional licensing agencies in any jurisdiction
20 from which I have a professional license that is predicated on my admission to practice law of
21 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and
22 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

23 11. I agree that when applying for any employment, I will disclose the resignation in

1 lieu of discipline in response to any question regarding disciplinary action or the status of my
2 license to practice law.

3 12. I understand that my resignation becomes effective on Disciplinary Counsel's
4 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) Disciplinary
5 Counsel must do so promptly following receipt of this document.

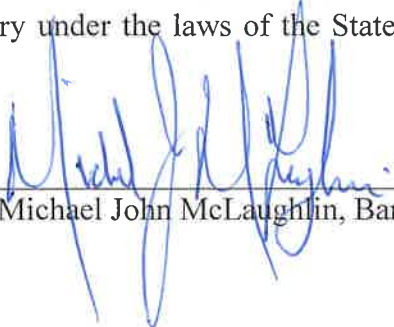
6 13. When my resignation becomes effective, I agree to be subject to all restrictions that
7 apply to a disbarred lawyer.

8 14. Upon filing of my resignation, I agree to comply with the same duties as a
9 disbarred lawyer under ELC 14.1 through ELC 14.4.

10 15. I understand that, after my resignation becomes effective, it is permanent. I will
11 never be eligible to apply and will not be considered for admission or reinstatement to the
12 practice of law nor will I be eligible for admission for any limited practice of law.

13 16. I certify under penalty of perjury under the laws of the State of Washington that
14 the foregoing is true and correct.

15 1/31/19 Newport Wa.
16 Date and Place


17 Michael John McLaughlin, Bar No. 13367

18 ENDORSED BY:

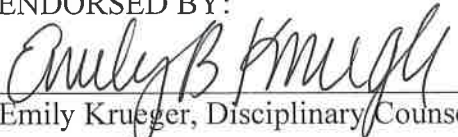

19 Emily Krueger, Disciplinary Counsel
20 Bar No. 53186

EXHIBIT A

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OF THE
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In re

MICHAEL JOHN MCLAUGHLIN,

Lawyer (Bar No. 13367).

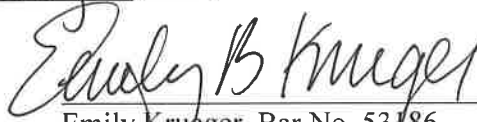
Proceeding No. 18#00074

ODC File No(s). 17-02069

STATEMENT OF ALLEGED
MISCONDUCT UNDER ELC 9.3(b)(1)

The attached formal complaint, filed on January 8, 2019 in Proceeding No. 18#00074, constitutes Disciplinary Counsel's statement of alleged misconduct under Rule 9.3(b)(1) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

DATED this 14th day of February, 2019.



Emily Krueger, Bar No. 53186
Disciplinary Counsel

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

MICHAEL JOHN MCLAUGHLIN,

Lawyer (Bar No. 13367).

Proceeding No. 18#00074

FORMAL COMPLAINT

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Under Rule 10.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Washington Supreme Court's Rules of Professional Conduct (RPC) as set forth below.

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ADMISSION TO PRACTICE

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1. Respondent Michael John McLaughlin was admitted to the practice of law in the State of Washington on July 7, 1983.

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FACTS REGARDING COUNTS 1 AND 2

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2. In 2007, Daniel Burggraf purchased property in Newport, Washington (the Newport property).

23

3. The purchase of the Newport property was financed by Elaine Linders.

1 4. Respondent and his company, Pend Oreille Title & Closing, were hired to serve as
2 the closing agent and service the escrow for the loan.

3 5. Mr. Burggraf was required to make monthly payments to Respondent, who was
4 responsible for paying the property taxes, homeowner's insurance, and Ms. Linders.

5 6. From 2007 to mid-2017, Mr. Burggraf made cash payments on the loan to
6 Respondent or one of the employees in Respondent's office.

7 7. In 2017, Respondent informed Mr. Burggraf that he had paid the homeowner's
8 insurance through 2016.

9 8. In 2017, Mr. Burggraf and his wife, Amy Burggraf, planned to sell the Newport
10 property and contacted their homeowner's insurance carrier.

11 9. The Burggrafs learned that their homeowner's insurance policy had been canceled
12 in 2009 because the premiums had not been paid.

13 10. When the Burggrafs contacted Respondent to inquire about the insurance
14 payments, Respondent stated that their contract did not include payment for homeowner's
15 insurance.

16 11. Respondent provided the Burggrafs with a copy of a document called the Reserve
17 Account Summary, which had the payment of homeowner's insurance premiums crossed out
18 with Mr. Burggraf's initials.

19 12. Mr. Burggraf did not initialize the change to the Reserve Account Summary or
20 authorize the cancellation of his homeowner's insurance policy or authorize Respondent not to
21 pay the insurance company.

22 13. The Burggrafs asked Respondent to provide an accounting and the balance due on
23 their loan.

1 14. After receiving statements from Respondent, the Burggrafs learned that they had
2 been paying numerous "late fees" of \$25/month.

3 15. The Burggrafs inquired about these late fees with Respondent, who informed them
4 that he was not responsible for keeping track of their loan payments or informing them that their
5 payments were late.

6 16. In 2017, the Burggrafs hired lawyer Brian Waid to obtain an accounting, records,
7 and information from Respondent regarding their loan.

8 17. In September 2017, Mr. Waid wrote Respondent a letter requesting various
9 documentation, including trust account records pertaining to the Burggraf loan, and
10 documentation confirming that Respondent filed the annual IRS Form 1099 with the IRS
11 to reflect their interest payments.

12 18. In September 2017, Respondent sent a letter to Mr. Waid and provided some of the
13 requested documents, but failed to provide the trust account records and documentation
14 confirming that Respondent annually filed the tax forms.

15 19. In his letter to Mr. Waid, Respondent denied that he was responsible for paying the
16 homeowner's insurance, stating that Mr. Burggraf requested that the homeowner's insurance not
17 be paid from escrow.

18 20. Respondent provided several "Account History Ledgers," which included the date
19 of payment, the total payment, the principal payment, the interest payment, and the end balance.

20 21. Additionally, several of the Account History Ledgers Respondent provided to Mr.
21 Waid identified Ferry County P.S., Inc. (Ferry County) as the escrow company handling the
22 Burggraf loan, rather than Respondent's escrow company, Pend Oreille Title & Closing.

23 22. The Burggrafs were never notified that Ferry County took over the servicing of

1 their loan.

2 23. In November 2017, Mr. Waid sent a second letter to Respondent stating that the
3 Burggrafs were never notified that Ferry County took over the servicing of their loan. In this
4 letter, Mr. Waid also informed Respondent that he failed to provide all of the requested
5 information and documents.

6 24. Respondent did not respond to this letter.

7 25. The Account History Ledgers provided by Respondent did not fully account for all
8 of the funds received by Respondent from the Burggrafs.

9 26. The Account History Ledgers provided by Respondent did not account for any of
10 the disbursements of funds given to Respondent by the Burggrafs.

11 27. Several of the Account History Ledgers contained late payment fees.

12 28. The Burggrafs always made timely payments on the Newport property loan.

13 29. Respondent knew that he was failing to properly handle the Burggrafs' loan
14 payments.

15 30. Respondent knew that he was failing to properly maintain records pertaining to the
16 Burggraf loan.

17 31. Respondent knew that he was failing to properly account to the Burggrafs.

18 32. Respondent knew that he was failing to promptly comply with the Burggrafs'
19 reasonable requests for information.

20 33. The Burggrafs suffered injury as a result of not knowing how much money they
21 owed on their home, whether their tax forms were filed, and whether their homeowner's
22 insurance premiums were paid.

23 34. The Burggrafs paid late fees that they did not owe.

1 35. The Burggrafs had to hire counsel to obtain information and records from
2 Respondent.

3 **COUNT 1**

4 36. By failing to render accountings, at least annually, to clients and third persons for
5 whom Respondent was holding funds, and/or by failing to respond to the Burggrafs requests for
6 information regarding their loan, Respondent violated RPC 1.15A(e).

7 **COUNT 2**

8 37. By falsely informing Mr. Burggraf that Respondent had paid the homeowner's
9 insurance on the Newport property through 2016, by falsely stating that the Burggraf contract
10 did not include payment for homeowner's insurance, by falsely stating that Mr. Burggraf
11 requested that the homeowner's insurance not be paid from escrow, and by improperly charging
12 "late fees," Respondent violated RPC 8.4(c).

13 **FACTS REGARDING COUNT 3**

14 38. In December 2017, the Burggrafs filed a grievance with ODC against Respondent.

15 39. On April 17, 2018, ODC sent Respondent a letter requesting an additional response
16 to the grievance, including a response to several questions and the production of specified
17 records, within thirty (30) days.

18 40. ODC's letter requested, among other things, Respondent's complete trust account
19 records for any and all trust accounts for the period beginning January 1, 2016 up through and
20 including March 31, 2018, and all financial records, including trust account records, relating to
21 the receipt, holding or disbursement of funds in connection to the Burggraf/Linders loan.

22 41. On May 23, 2018, ODC received a partial response from Respondent, which
23 included some of the requested records, but not all. Respondent's May 23, 2018 submission did

1 not include, among other things, trust account records or a written response to the questions
2 posed to Respondent in ODC's April 17, 2018 letter.

3 42. On May 29, 2018, ODC mailed Respondent a letter requiring Respondent's
4 response within ten (10) days or ODC would issue a subpoena for his deposition.

5 43. On June 14, 2018, ODC received an additional partial response from Respondent,
6 which included a written response and some of the requested records, but not all.

7 44. On June 21, 2018, ODC received an additional partial response from Respondent,
8 which included some of the requested records, but not all.

9 45. On July 12, 2018, ODC emailed Respondent a letter requiring the submission of
10 the outstanding records by July 19, 2018.

11 46. On July 20, 2018, ODC received an additional partial response from Respondent,
12 which included some of the requested records, but not all.

13 47. Respondent did not provide the specified trust account records that were requested
14 by ODC's April 17, 2018 letter.

15 48. On July 23, 2018, disciplinary counsel called Respondent and scheduled an
16 interview at the Washington State Bar Association for August 16, 2018.

17 49. Respondent was informed during this telephone conversation that he must bring
18 the requested trust account records with him to the interview.

19 50. Respondent stated that he would submit the trust account records before his
20 interview on August 16, 2018.

21 51. On July 23, 2018, disciplinary counsel emailed Respondent a letter requiring the
22 submission of the outstanding records by August 16, 2018.

23 52. On July 26, 2018, ODC received an additional partial response from Respondent,

1 | which included some of the previously requested records, but did not include the trust account
2 | records.

3 | 53. On August 16, 2018, Respondent left a voicemail message for disciplinary counsel
4 | stating that he would not be able to attend his interview with ODC's investigator that day
5 | because his vehicle had been stolen.

6 | 54. Disciplinary counsel returned Respondent's phone call and the interview was
7 | rescheduled for August 21, 2018.

8 | 55. Respondent was informed via telephone that he must bring the trust account
9 | records with him to the interview on August 21, 2018.

10 | 56. Respondent stated that he would send the records to ODC later that day August 16,
11 | 2018 or the next day, but did not do so.

12 | 57. On August 16, 2018, disciplinary counsel emailed Respondent a letter requiring
13 | the submission of the outstanding records by August 21, 2018.

14 | 58. Respondent appeared at the Washington State Bar Association for his interview on
15 | August 21, 2018.

16 | 59. Respondent failed to provide the outstanding records, including the requested trust
17 | account records.

18 | 60. On August 21, 2018, ODC issued a Notice of Intent to Take Deposition and a
19 | Subpoena Duces Tecum requiring Respondent to appear for a non-cooperation deposition on
20 | August 29, 2018 at 1:00 p.m., and to produce the outstanding records.

21 | 61. Respondent was personally served with a cover letter, the Notice to Take
22 | Deposition, and the Subpoena Duces Tecum on August 21, 2018.

23 | 62. At 11:03 a.m., on the morning of his August 29, 2018 deposition, Respondent

1 | emailed disciplinary counsel stating that he would not be appearing for his deposition because
2 | his vehicle was "temporarily inoperable."

3 | 63. Respondent's email contained some records commanded by the subpoena, but not
4 | all.

5 | 64. Respondent resides, and maintains his office, in Newport, Washington, which is an
6 | approximate five-hour drive to Seattle.

7 | 65. At 11:37 a.m. on August 29, 2018, disciplinary counsel emailed a letter to
8 | Respondent stating that the deposition would not be rescheduled and that if the requested
9 | records were not received by September 4, 2018, ODC would file a petition with the
10 | Washington Supreme Court seeking his interim suspension.

11 | 66. Respondent did not produce the records commanded by the subpoena.

12 | 67. On September 11, 2018, ODC filed a petition for Respondent's interim suspension
13 | with the Washington Supreme Court.

14 | 68. On September 14, 2018, the Supreme Court issued an Order to Show Cause,
15 | setting the matter for a Show Cause hearing on October 25, 2018 at 1:00 p.m.

16 | 69. The Order to Show Cause required an answer to the petition to be filed by October
17 | 11, 2018.

18 | 70. Respondent filed an answer to the petition on October 12, 2018 at 5:27 p.m.

19 | 71. On October 15, 2018, the Court rejected Respondent's answer given his untimely
20 | filing and granted Respondent leave to file a motion for an extension by October 16, 2018.

21 | 72. Respondent failed to file a motion for extension.

22 | 73. Respondent failed to notify the Court whether he intended to appear at the October
23 | 25, 2018 hearing and the Show Cause hearing was stricken from the Court's docket.

1 74. On October 26, 2018, the Supreme Court issued an Order Granting Petition for
2 Interim Suspension.

3 75. To date, Respondent has not provided all of the records responsive to the
4 subpoena.

5 76. Respondent remains suspended from the practice of law pending his cooperation
6 with the disciplinary investigation.

7 77. Respondent acted knowingly in failing to cooperate with the grievance
8 investigation.

9 78. Respondent's conduct obstructed the investigation of the Burggrafs' grievance and
10 caused actual harm to the disciplinary system and to the profession.

11 **COUNT 3**

12 79. By failing to promptly and fully respond to ODC's requests for information, by
13 failing to appear for his deposition, by failing to produce records in response to a subpoena,
14 and/or by failing to respond to the Supreme Court's show cause order or the Supreme Court's
15 leave to file a motion for an extension, Respondent violated RPC 8.1, RPC 8.4(*l*) (through ELC
16 1.5, ELC 5.3, and ELC 5.5), and/or RPC 8.4(d).

17 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
18 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
19 restitution, and assessment of the costs and expenses of these proceedings.

20
21 Dated this 8th day of January, 2019.

22 
23 Emily Krueger, Bar No. 53186
Disciplinary Counsel