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FILED
JAN 22 2018
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
KENNETH MARK ANDERSON,
Lawyer (Bar No. 14246).

Proceeding No. 16#00016
ODC File No(s).14-01807, 15-01972,16-00396
STIPULATION TO THREE YEAR
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 Kathy Jo Blake and Respondent lawyer Kenneth Mark Anderson.

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

MDV

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 November 1,
5 1984.

6 **II. STIPULATED FACTS**

7 2. Respondent maintained an IOLTA account, ending in #9046, at US Bank for the
8 deposit of client funds during all relevant times.

9 3. Between June 1, 2014 and October 31, 2014, Respondent did not maintain a
10 complete and/or accurate trust account register, did not reconcile his check register to a
11 combined total of client ledgers, and did not reconcile his check register to his bank statements.

12 **Timbrook Grievance**

13 4. William Timbrook hired Respondent to represent him in the dissolution of his
14 marriage. Within a day of their initial meeting, Mr. Timbrook paid Respondent \$5,000 in
15 advance fees.

16 5. Respondent agreed to provide Mr. Timbrook with monthly billing statements.

17 6. Respondent did not deposit Mr. Timbrook's funds to his trust account. Instead, he
18 deposited the money to his business account, and used the entire \$5,000 for his own benefit
19 before the funds were earned.

20 7. Respondent had not yet earned the entire \$5,000 in fees when he used Mr.
21 Timbrook's advance fees for his own use.

22 8. On July 1, 2014, Respondent sent a letter to Mr. Timbrook discussing the terms of
23 their fee agreement as follows:

1 I also thank you for your deposit of \$5,000 into my IOLTA account...

2 My current hourly rate for providing services is \$250 which includes, for
3 example, talking on the phone with you and others on your behalf, responding to
4 email and other correspondence, reviewing documents and drafting them when
5 necessary. At my option, you will be billed either bi-weekly or monthly. Costs
6 may also be incurred and you would provide reimbursement for them.

7 9. Respondent's letter requested "an additional fee deposit of \$5,000" and advised,
8 "[a]ny unused portion will be applied to future billings or returned to you at the conclusion of
9 the dissolution."

10 10. Mr. Timbrook delivered a \$5,000 check to Respondent's office on July 7, 2014.

11 11. Respondent did not deposit the \$5,000 check into his trust account. Instead, he
12 deposited the second \$5,000 advance to his business account, and used the funds for his own
13 benefit prior to earning those funds.

14 12. Respondent eventually earned the entire \$10,000 advanced fee deposit.

15 13. In August, 2012, Mr. Timbrook asked Respondent for a detailed billing statement.
16 Respondent did not provide Mr. Timbrook with a billing statement.

17 14. Later in August, Mr. Timbrook fired Respondent and advised him that his new
18 attorney was Joshua Wheeler. Mr. Wheeler asked Respondent to sign a notice of withdrawal
19 and provide Mr. Timbrook's client file. Respondent signed the notice of withdrawal but did not
20 provide Mr. Timbrook's file.

21 15. On September 22, 2014, Mr. Timbrook again asked Respondent for a detailed
22 billing statement and for a refund of the remaining balance on his account. Respondent
23 received Mr. Timbrook's September 22, 2014 request but did not respond.

24 16. Mr. Timbrook filed a grievance against Respondent on October 9, 2014.

17. Prior to the filing of a grievance by Mr. Timbrook, Respondent never provided Mr.

1 Timbrook with a billing statement or accounting.

2 18. On October 30, 2014, Respondent responded to ODC's request for a preliminary
3 written response by providing ODC with copies of Mr. Timbrook's file, billing statement and
4 email correspondence.

5 19. On December 9, 2014, ODC sent Respondent a letter requesting a narrative
6 response to the grievance and additional information and documents relating to Mr. Timbrook's
7 grievance. The letter indicated his response was due within 30 days. Respondent did not
8 respond.

9 20. On January 14, 2015, ODC sent Respondent a letter stating that ODC would issue
10 a deposition subpoena under ELC 5.3(h) unless Respondent's response was received within ten
11 days. On January 27, 2015, Respondent submitted some documents but requested an additional
12 10 days to submit the remaining requested information. Respondent did not submit the
13 remaining requested information within 10 days.

14 21. Respondent knowingly provided ODC with certain financial records that falsely
15 reflected Mr. Timbrook's funds had been deposited into his trust account.

16 22. On March 4, 2015, Respondent was served with a letter and Subpoena Duces
17 Tecum for his deposition to be held on March 17, 2015.

18 23. Respondent did not submit his narrative response to the grievance until March 16,
19 2015.

20 **ODC Grievance**

21 24. In February 2011, Respondent filed suit in King County Superior Court on behalf of
22
23

1 Client A¹.

2 25. Client A entered into an hourly fee agreement that called for an advanced fee
3 deposit. Client A paid the required advanced fee deposit.

4 26. Respondent deposited the entirety of Client A's advanced fee deposit into his
5 business account prior to earning the entire advance fee deposit. Respondent was required to
6 deposit the funds to his trust account.

7 27. Respondent used Client A's funds, without entitlement, prior to having earned those
8 funds. Eventually, Respondent earned the entire initial advanced fee deposit.

9 28. Respondent did not provide Client A with a written accounting of the full initial
10 advanced fee deposit.

11 29. In February 2012, the court dismissed the suit on Respondent's motion without
12 prejudice, but ordered that if the matter were re-filed, sanctions would be ordered against Client
13 A for the opposing party's costs and fees in defending the first action.

14 30. Respondent refiled the action in February 2013. On the first day of trial, April 21,
15 2014, the court ruled that because of certain discovery violations by Client A, Client A could
16 not call any witnesses unless Client A put up \$12,000 to pay costs to the opposing party, in the
17 event that Client A was ultimately ordered to pay the opposing party's costs. The court
18 ultimately ordered Client A to pay \$11,393.75 in costs.

19 31. On April 21, 2014, Respondent received \$12,000 to pay the opposing party's costs.

20 32. Respondent deposited the funds in his trust account on April 21, 2014. Pursuant to
21 an agreement between Respondent and the opposing party's lawyer, Respondent disbursed a
22

23 ¹ Client A did not file this grievance. In order to protect this individual's privacy, ODC is identifying
this individual using the name Client A.

1 check in the amount of \$6,000 from his trust account to the opposing party's lawyer.

2 33. Following a bench trial, the court ruled against Client A. The court's June 10, 2014
3 findings stated, "The \$5,393.75 in his [Client A's] counsel's trust account should be transferred
4 to the trust account of opposing counsel." Respondent did not make the transfer.

5 34. On December 23, 2015, the opposing party brought a motion to compel the
6 disbursement of \$5,393.75. Respondent did not respond to the motion and on January 13, 2016,
7 the court entered an Order Granting Motion to Compel Disbursement of Funds and Judgement
8 requiring Respondent to transfer \$5,393.75 from his trust account to the opposing party's
9 counsel by January 23, 2016. Respondent did not make the transfer.

10 35. When Respondent failed to make the transfer, the opposing party filed a motion to
11 compel. On January 13, 2016, an Order Granting Motion to Compel Disbursement of Funds
12 and Judgment entered a judgment against Respondent in favor of the opposing party for \$1,925
13 as the opposing party's attorney's fees in connection with the motion to compel. The order
14 required Respondent to pay the amount of the judgment, a total of \$1,925, via cashier's check,
15 directly to the opposing party's lawyer by January 23, 2016.

16 36. Respondent states he was not aware of the January 13, 2016 court order until well
17 after the deadline to pay had passed, however, as of the date of this Stipulation, Respondent has
18 not yet paid the required \$1,925. Respondent states he intends to file a motion to vacate the
19 court's January 13, 2016 order.

20 37. On May 22, 2015, ODC sent Respondent a letter requesting that he respond to
21 specific questions and provide related documents within 30 days. Respondent did not provide
22 either the requested response or the requested documents.

23 38. On June 29, 2015, ODC sent Respondent a letter stating that ODC would issue a

1 deposition subpoena under ELC 5.3(h) unless the requested response and documents were
2 provided within 10 days.

3 39. At Respondent's request, ODC gave Respondent until July 31, 2015 to provide the
4 response. Respondent did not provide the requested response by July 31, 2015.

5 40. On August 12, 2015, Respondent was served with a subpoena for deposition and
6 subpoena duces tecum requiring his appearance at a deposition on August 28, 2015. On the
7 morning of August 28, 2015, the deposition was continued at Respondent's counsel's request to
8 September 23, 2015.

9 41. Respondent failed to appear at the September 23, 2015 deposition.

10 42. On October 5, 2015, Disciplinary Counsel filed a petition with the Washington
11 Supreme Court for Respondent's interim suspension for failure to cooperate with the
12 investigation.

13 43. On October 9, 2015, the Supreme Court issued an Order to Show Cause directing
14 Respondent to appear before the Court on November 12, 2015 to show cause why he should not
15 be interim suspended.

16 44. On October 29, 2015, Respondent appeared with his counsel for his deposition.
17 Respondent did not produce the documents he was required to produce.

18 **Dudley Grievance**

19 45. In December 2014, Michael Dudley hired Respondent to probate his mother's estate.

20 46. Mr. Dudley agreed to pay Respondent \$5,000 that Respondent would bill against as
21 legal services were provided. Respondent agreed to send Mr. Dudley monthly billing
22 statements.

23 47. On December 12, 2014, Mr. Dudley wrote Respondent a check for \$1,000.

1 Respondent deposited the check into his business account the same day.

2 48. On December 31, 2014, Mr. Dudley wrote Respondent a check for \$2,000.
3 Respondent deposited the \$2,000 into his business account on January 5, 2015.

4 49. On January 5, 2015, Mr. Dudley wrote Respondent a final check for \$2,000.
5 Respondent deposited those funds into his business account on January 8, 2015.

6 50. Some of the funds deposited into the business account were unearned fees paid in
7 advance. Respondent eventually earned all the advanced fees paid by Mr. Dudley.

8 51. Beginning June 4, 2015, Mr. Dudley emailed Respondent multiple times requesting
9 an itemized billing statement and a refund of any unused portion of the \$5,000 advance fee.
10 Respondent failed to send Mr. Dudley any billing statements.

11 52. On or about January 13, 2016, Mr. Dudley terminated Respondent's services. At
12 that time he requested an itemized billing statement and a refund of any unused portion of the
13 \$5,000 advance fee. Respondent did not provide the requested itemized billing statement.

14 53. On March 4, 2016, Mr. Dudley emailed Respondent a final time, reminding him that
15 he had been terminated and again requesting an itemized billing statement and a refund of any
16 unused portion of the \$5,000 advance fee. Respondent did not provide an itemized billing
17 statement.

18 54. Mr. Dudley filed a grievance with the ODC on March 5, 2016.

19 55. Respondent responded to the grievance by providing ODC with a copy of an
20 itemized billing statement for Mr. Dudley dated March 5, 2016. Respondent had not previously
21 provided this invoice to Mr. Dudley.

22 56. On May 11, 2016, ODC sent Respondent a letter requesting he respond to specific
23 questions regarding his representation of Mr. Dudley and provide ODC with a copy of the client

1 file, fee agreement, and other financial records. Respondent did not respond.

2 57. On June 16, 2016, ODC sent Respondent a letter stating that ODC would issue a
3 deposition subpoena unless the requested response and documents were provided on or before
4 June 29, 2016. Respondent did not respond.

5 58. On July 26, 2016, Respondent was served with a subpoena for a deposition requiring
6 his appearance at a deposition on August 4, 2016. The subpoena required that he bring a copy
7 of the client file, fee agreement, and other financial records.

8 59. Disciplinary counsel continued the deposition because Respondent told disciplinary
9 counsel he had medical issues and wanted to hire counsel. A week before the continued
10 deposition, Respondent advised disciplinary counsel that he would not be appearing for medical
11 reasons.

12 60. Respondent has never provided the records requested by disciplinary counsel
13 regarding his representation of Mr. Dudley.

14 III. STIPULATION TO MISCONDUCT

15 61. By using Mr. Timbrook's advance fees for his own use without entitlement,
16 Respondent violated RPC 1.15A(b).

17 62. By failing to deposit Mr. Timbrook's advance fees in a trust account, Respondent
18 violated RPC 1.15A(c)(1).

19 63. By failing to provide Mr. Timbrook with a billing statement and/or a written
20 accounting, Respondent violated RPC 1.15A(e) and RPC 1.4.

21 64. By misrepresenting to Mr. Timbrook that his initial payments had been deposited to
22 a trust account, Respondent violated RPC 8.4(c).

23 65. By providing false and misleading information to the Office of Disciplinary Counsel

1 in connection with a grievance investigation, Respondent violated RPC 8.4(c) and RPC 8.4(l)
2 (by violating ELC 1.5 and ELC 5.3(g)).

3 66. By failing to maintain Client A's advance fees in a trust account, Respondent
4 violated RPC 1.15A(c)(1).

5 67. By using Client A's funds, without entitlement to do so, Respondent violated RPC
6 1.15A(b).

7 68. By failing to provide Client A with a written accounting after distribution of
8 property, Respondent violated RPC 1.15A(e).

9 69. By failing to provide Mr. Dudley with a billing statement and/or a written
10 accounting, Respondent violated RPC 1.15A(e) and RPC 1.4.

11 70. By failing to maintain complete and/or accurate trust account records, Respondent
12 violated RPC 1.15A(h)(2) and RPC 1.15B(a)(2).

13 71. By failing to reconcile his trust account, Respondent violated RPC 1.15A(h)(6) and
14 RPC 1.15B(a)(8).

15 72. By failing to promptly respond to requests and inquiries during a grievance
16 investigation relating to the Timbrook, ODC and Dudley grievances, Respondent violated RPC
17 8.4(d) and RPC 8.4(l) (by violating ELC 1.5, ELC 5.3(f) and ELC 5.3(g)).

18 **IV. PRIOR DISCIPLINE**

19 73. Respondent has no prior discipline.

20 **V. APPLICATION OF ABA STANDARDS**

21 74. The following American Bar Association Standards for Imposing Lawyer Sanctions
22 (1991 ed. & Feb. 1992 Supp.) apply to this case:
23

1 ***4.1 Failure to Preserve the Client's Property***

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

5 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
6 client property and causes injury or potential injury to a client.

7 **4.12 Suspension is generally appropriate when a lawyer knows or should
8 know that he is dealing improperly with client property and causes
9 injury or potential injury to a client.**

10 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
11 with client property and causes injury or potential injury to a client.

12 4.14 Admonition is generally appropriate when a lawyer is negligent in
13 dealing with client property and causes little or no actual or potential
14 injury to a client.

15 ***4.6 Lack of Candor***

16 Absent aggravating or mitigating circumstances, upon application of the
17 factors set out in Standard 3.0, the following sanctions are generally appropriate
18 in cases where the lawyer engages in fraud, deceit, or misrepresentation directed
19 toward a client:

20 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a
21 client with the intent to benefit the lawyer or another, and causes serious
22 injury or potential serious injury to a client.

23 **4.62 Suspension is generally appropriate when a lawyer knowingly
24 deceives a client, and causes injury or potential injury to the client.**

 4.63 Reprimand is generally appropriate when a lawyer negligently fails to
provide a client with accurate or complete information, and causes injury
or potential injury to the client.

 4.64 Admonition is generally appropriate when a lawyer engages in an
isolated instance of negligence in failing to provide a client with accurate
or complete information, and causes little or no actual or potential injury
to the client.

1 **7.0 Violations of Duties Owed as a Professional**

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 false or misleading communication about the lawyer or the
5 lawyer's services, improper communication of fields of practice, improper
6 solicitation of professional employment from a prospective client, unreasonable
7 or improper fees, unauthorized practice of law, improper withdrawal from
8 representation, or failure to report professional misconduct.

9 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
10 conduct that is a violation of a duty owed as a professional with the intent
11 to obtain a benefit for the lawyer or another, and causes serious or
12 potentially serious injury to a client, the public, or the legal system.

13 7.2 **Suspension is generally appropriate when a lawyer knowingly
14 engages in conduct that is a violation of a duty owed as a professional
15 and causes injury or potential injury to a client, the public, or the
16 legal system.**

17 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
18 conduct that is a violation of a duty owed as a professional and causes
19 injury or potential injury to a client, the public, or the legal system.

20 7.4 Admonition is generally appropriate when a lawyer engages in an
21 isolated instance of negligence that is a violation of a duty owed as a
22 professional, and causes little or no actual or potential injury to a client,
23 the public, or the legal system.

24 75. Respondent should have known he was using Client A and Mr. Timbrook's funds
without entitlement prior to earning those fees. Client A and Mr. Timbrook were harmed
because their funds were not protected in a trust account as they should have been.

76. The presumptive sanction is suspension under ABA Standard 4.12.

77. Respondent knew he was deceiving Mr. Timbrook when he told him he placed his
deposit of \$5,000 into his IOLTA account. Mr. Timbrook was harmed because his funds were
not safeguarded and he was denied information about his funds.

78. The presumptive sanction is suspension under ABA Standard 4.62.

79. Respondent knew or should have known that he was failing to maintain adequate
trust account records and failing to properly handle client funds. Respondent's conduct caused
actual and potential injury to his clients. Client funds were not safeguarded in a trust account

1 and clients were denied information about their funds.

2 80. The presumptive sanction is suspension under ABA Standard 4.12.

3 81. Respondent acted knowingly in making false statements to ODC, failing to
4 cooperate in grievance investigations, and failing to comply with subpoenas duces tecum.
5 Respondent's conduct caused actual and potential injury to the discipline system by impeding
6 the investigation and requiring ODC to expend additional time and resources that could have
7 been devoted to other disciplinary investigations and proceedings. Respondent's dishonesty and
8 noncooperation also reflect poorly on the legal profession and diminishes public confidence in the
9 disciplinary system.

10 82. The presumptive sanction is suspension under ABA Standard 7.2

11 83. The following aggravating factors apply under ABA Standard 9.22:

12 (d) Multiple offenses, and

13 (i) Substantial experience in the practice of law. Respondent was admitted to
14 practice November 1, 1984.

15 84. The following mitigating factors apply under ABA Standard 9.32:

16 (a) Absence of prior disciplinary records;

17 (c) Personal or emotional problems (Respondent's conduct was affected by anxiety,
18 chemical dependency, the illness and death of his father, and homelessness during the
19 representation of Client A, Mr. Timbrook and Mr. Dudley and the investigation of these
20 grievances).

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

23 86. On balance the aggravating and mitigating factors do not require a departure from

1 the presumptive sanction of suspension.

2 **VI. STIPULATED DISCIPLINE**

3 87. The parties stipulate that Respondent shall receive a three-year suspension for his
4 conduct.

5 **VII. STIPULATED CONDITIONS OF REINSTATEMENT**

6 88. Respondent's reinstatement from suspension is conditioned on an independent
7 fitness to practice evaluation by a licensed mental health professional to be approved by
8 disciplinary counsel and to be obtained at Respondent's own expense.

9 89. Respondent shall execute all necessary releases to permit the evaluator and
10 disciplinary counsel to obtain full access to all health care and treatment records, and to permit
11 the evaluator to report to disciplinary counsel regarding the evaluation and Respondent's fitness
12 to practice law.

13 90. If the evaluator concludes that Respondent is not currently fit to practice law, the
14 report shall recommend a course of treatment to enable Respondent to return to the practice of
15 law.

16 91. If the evaluator concludes that Respondent is not currently fit to practice law,
17 Respondent (or Respondent's counsel, if Respondent is then represented) and disciplinary
18 counsel shall meet to discuss the evaluator's report and what steps can be taken to address the
19 evaluator's concerns. If Respondent and disciplinary counsel cannot reach an agreement, both
20 parties may present written materials and argument to the Disciplinary Board. The Disciplinary
21 Board shall determine whether and under what conditions Respondent may return to the active
22 practice of law.

23 92. Reinstatement from suspension is also conditioned on Respondent's payment of

1 costs and restitution.

2 **VIII. PROBATION**

3 93. Respondent will be subject to probation for a period of two years commencing upon
4 Respondent's reinstatement to the practice of law, with periodic reviews under ELC 13.8 of his
5 trust account practices, and must comply with the specific probation terms set forth below:

- 6 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
7 1.15B, and shall carefully review the current version of the publication, Managing
8 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 9 b) For all client matters, Respondent shall have a written fee agreement signed by the
10 client, which agreements are to be maintained for least seven years (see RPC
11 1.15B(a)(3)).
- 12 c) On a monthly basis, using ODC's form report entitled "Monthly Reconciliation and
13 Review Report," Respondent shall review the trust-account records detailed on the
14 form report, review the completed report, and sign and date the completed report.
- 15 d) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-
16 account records for the time period to be reviewed by ODC's audit staff and
17 disciplinary counsel for compliance with the RPC:
- 18 i) Months 1 – 3. By no later than the 30th day of the fourth month after the
19 commencement of probation, Respondent shall provide the trust account
20 records from the date of commencement of probation to the end of the third
21 full month.
 - 22 ii) Months 4 – 6. By no later than the 30th day of the seventh month after the
23 commencement of probation, Respondent shall provide the trust account
24 records from the end of the previously provided quarter through the end of
month six.
 - iii) Months 7 – 9. By no later than the 30th day of the tenth month after the
commencement of probation, Respondent shall provide the trust account
records from the end of the previously provided quarter through the end of
month nine.
 - iv) Months 10 – 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 quarter through
the end of month twelve.

1 v) Months 13– 15. By no later than the 30th day of the sixteenth month after
2 the commencement of probation, Respondent shall provide the trust
3 account records from the end of the previously provided quarter through
4 the end of month fifteen.

5 vi) Months 16 – 18. By no later than the 30th day of the nineteenth month after
6 the commencement of probation, Respondent shall provide the trust
7 account records from the end of the previously provided quarter through
8 the end of month eighteen.

9 vii) Months 19 – 21. By no later than the 30th day of the twenty-second month
10 after the commencement of probation, Respondent shall provide the trust
11 account records from the end of the previously provided quarter through
12 the end of month twenty-one.

13 The trust account records Respondent provides to ODC for each quarterly review of
14 his trust account will include: (a) copies of each completed “Monthly
15 Reconciliation and Review Report” referenced in sub-paragraph(c) above, (b) a
16 complete checkbook register for his/her trust account covering the period being
17 reviewed, (c) complete individual client ledger records for any client with funds in
18 Respondent’s trust account during all or part of the period being reviewed, as well
19 as for Respondent’s own funds in the account (if any), and (d) copies of all trust-
20 account bank statements, deposit slips, and cancelled checks covering the period
21 being reviewed. The ODC’s Audit Manager or designee will review Respondent’s
22 trust account records for each period.

23 e) On the same quarterly time schedule set forth in the preceding paragraph,
24 Respondent will provide ODC’s Audit Manager or designee with copies of any and
all fee agreements entered into within the time period at issue.

f) The ODC’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 ODC’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 ODC’s Audit Manager or designee the
additional records requested.

g) Respondent will reimburse the Association for time spent by ODC’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.

IX. RESTITUTION

94. Respondent shall pay \$1,925 to the DuBois Law Firm unless the court’s January 13,

1 2016 order requiring Respondent to pay \$1,925 is vacated. Interest shall accrue at a rate of 12
2 percent per annum beginning December 1, 2017. Reinstatement from suspension or disbarment
3 is conditioned on payment of restitution to the DuBois Law Firm unless the court's January 13,
4 2016 order requiring Respondent to pay a total of \$1,925 to the DuBois Law Firm is vacated.

5 **X. COSTS AND EXPENSES**

6 95. In light of Respondent's willingness to resolve this matter by stipulation at an early
7 stage of the proceedings, Respondent shall pay actual costs of \$2,140.10. The Association will
8 seek a money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval
9 of this stipulation. Reinstatement from suspension is conditioned on payment of costs.

10 **XI. VOLUNTARY AGREEMENT**

11 96. Respondent states that prior to entering into this Stipulation he had an opportunity to
12 consult independent legal counsel regarding this Stipulation, that Respondent is entering into
13 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the
14 Association, nor by any representative thereof, to induce the Respondent to enter into this
15 Stipulation except as provided herein.

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

18 **XII. LIMITATIONS**

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

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


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

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


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

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

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

3 
4 Kenneth Mark Anderson, Bar No. 14246
5 Respondent

Dated: 9/18/17

6 
7 Kathy Jo Blake, Bar No. 29235
8 Managing Disciplinary Counsel

Dated: 9/18/17