

**FILED**

Jan 29 2020

Disciplinary  
Board

Docket # 030

i

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON SUPREME COURT

In re

**ALLAN BYERS BAKALIAN,**  
Lawyer (Bar No. 14255).

Proceeding No. 19#00039

ODC File No(s) 19-00202

STIPULATION TO REPRIMAND

Following settlement conference conducted  
under ELC 10.12(h)

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), 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, Respondent's Counsel Kevin M. Bank and Respondent lawyer Allan Byers Bakalian.

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

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1 outcome more favorable or less favorable to him. Respondent chooses to resolve this  
2 proceeding now by entering into the following stipulation to facts, misconduct and sanction to  
3 avoid the risk, time, and expense attendant to further proceedings.

#### 4 I. ADMISSION TO PRACTICE

5 1. Respondent was admitted to practice law in the State of Washington on November 1,  
6 1984.

#### 7 II. STIPULATED FACTS

8 2. Geoffrey Sutton hired Respondent in 2015 to represent him in two matters: 1) In re  
9 Beryl Sutton, King County Superior Court Case Number 14-4-05982-2; and 2) In re Trust  
10 Resolution of Sutton, Clark County Superior Court Case Number 18-4-00552-4.

11 3. Mr. Sutton terminated Respondent's representation in both matters and requested  
12 that his file be provided to his new lawyer on January 7, 2019.

13 4. Between January 9, 2019 and February 7, 2019, Mr. Sutton and his new lawyer  
14 requested that they be provided a copy of the client files on more than one occasion.  
15 Respondent agreed to do so but encountered unexpected difficulties and delays.

16 5. On February 8, 2019, Mr. Sutton filed a grievance with ODC due to the delay.

17 6. On February 15, 2019, ODC sent an acknowledgment of grievance letter to  
18 Respondent requesting a response from Respondent within 30 days.

19 7. Respondent did not respond to ODC.

20 8. On February 20, 2019, Respondent provided Mr. Sutton and his new counsel a link  
21 to a portion of the client files and paperwork.

22 9. On March 21, 2019, ODC sent a letter to Respondent requiring his response within  
23 10 days or ODC would subpoena Respondent for a deposition.

1 10. Respondent does not recall receiving the March 21, 2019 letter and did not respond  
2 to ODC.

3 11. On March 25, 2019, Respondent provided Mr. Sutton's new counsel with the  
4 original will and trust documents and copies of the related probate and trust files,  
5 correspondence and communications, tax identification records and other documents and client  
6 communication, but did not copy ODC.

7 12. On April 24, 2019, ODC served a subpoena duces tecum on Respondent requiring  
8 him to appear for a deposition at the Washington State Bar Association offices at 10:00 a.m. on  
9 May 16, 2019.

10 13. Respondent failed to appear for the deposition.

11 14. On May 23, 2019, ODC filed a Petition for Interim Suspension with the Washington  
12 State Supreme Court. On May 28, 2019, the Court entered an Order to Show Cause and on June  
13 2, 2019, ODC served Respondent with the Order.

14 15. On July 12, 2019, Respondent emailed Mr. Sutton and ODC a link to the additional  
15 complete Sutton client files including files from his former law firm.

16 16. ODC withdrew the Petition after receiving the client file.

### 17 III. STIPULATION TO MISCONDUCT

18 17. By failing to promptly respond to a request for his response to the grievance and by  
19 failing to respond to a subpoena, Respondent violated RPC 8.1(b), RPC 8.4(l) by violating ELC  
20 1.5, 5.3(f), 5.3(g), 5.3(h)(3) and 5.5(d).

### 21 IV. PRIOR DISCIPLINE

22 18. Respondent has no prior discipline.

1 **V. APPLICATION OF ABA STANDARDS**

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

4 **7.0 Violations of Duties Owed as a Professional**

5 Absent aggravating or mitigating circumstances, upon application of the  
6 factors set out in Standard 3.0, the following sanctions are generally appropriate  
7 in cases involving false or misleading communication about the lawyer or the  
8 lawyer's services, improper communication of fields of practice, improper  
9 solicitation of professional employment from a prospective client, unreasonable  
10 or improper fees, unauthorized practice of law, improper withdrawal from  
11 representation, or failure to report professional misconduct.

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

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

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

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

20. Respondent knowingly failed to respond to ODC's request for a response to the  
grievance and knowingly failed to appear for his duly noted deposition.

21. "Knowledge" is defined by the ABA Standards as the conscious awareness of the  
nature or attendant circumstances of the conduct but without the conscious objective or purpose  
to accomplish a particular result.

22. Respondent's conduct caused injury to ODC which had to expend additional  
resources to receive requested materials.

23. The presumptive sanction is suspension.

24. The following aggravating factor applies under ABA Standard 9.22:

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1 (i) substantial experience in the practice of law (admitted 1984).

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

3 (a) absence of a prior disciplinary record;

4 (b) absence of a dishonest or selfish motive; and

5 (l) remorse (Respondent acknowledges and is remorseful for the need for this  
6 proceeding).

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

9 27. Based on the factors set forth above, the presumptive sanction should be mitigated to  
10 reprimand.

11 **VI. STIPULATED DISCIPLINE**

12 28. The parties stipulate that Respondent shall receive a Reprimand for his conduct.

13 **VII. RESTITUTION**

14 29. No restitution is required.

15 **VIII. COSTS AND EXPENSES**

16 30. In light of Respondent's willingness to resolve this matter by stipulation at an early  
17 stage of the proceedings, fees of \$1,000 in accordance with ELC 13.9(i). The Association will  
18 seek a money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval  
19 of this stipulation.

20 **IX. VOLUNTARY AGREEMENT**

21 31. Respondent states that prior to entering into this Stipulation he has consulted  
22 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
23 Stipulation voluntarily, and that no promises or threats have been made by ODC, the

1 Association, nor by any representative thereof, to induce the Respondent to enter into this  
2 Stipulation except as provided herein.

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

#### 5 X. LIMITATIONS

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

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


14 35. This Stipulation results from the consideration of various factors by both parties,  
15 including the benefits to both by promptly resolving this matter without the time and expense of  
16 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
17 such, approval of this Stipulation will not constitute precedent in determining the appropriate  
18 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in  
19 subsequent proceedings against Respondent to the same extent as any other approved  
20 Stipulation.

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

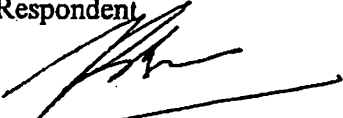
1 37. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
2 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
3 Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition to  
4 Washington, Respondent also is admitted to practice law in Oregon.

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

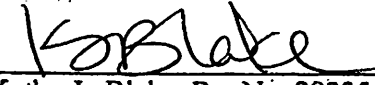
9 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation  
10 to Reprimand as set forth above.

11   
12 Allan Byers Bakalian, Bar No. 14255  
13 Respondent

Dated: 1/21/20

14   
15 Kevin M. Bank, Bar No. 28935  
16 Counsel for Respondent

Dated: 1/22/20

17   
18 Kathy Jo Blake, Bar No. 29235  
19 Managing Disciplinary Counsel

Dated: 1/23/2020