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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
AARON LEE LOWE
Lawyer (Bar No. 15120).

Proceeding No. 15#00009
STIPULATION TO DISCIPLINE

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to Reprimand and Probation is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Natalea Skvir and Respondent lawyer Aaron Lee Lowe (Respondent).

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

2 | **I. ADMISSION TO PRACTICE**

3 | 1. Respondent was admitted to practice law in the State of Washington on June 3,
4 | 1985.

5 | **II. STIPULATED FACTS**

6 | 2. In June 2007, David M. Gooch and his wife wished to develop their property, and
7 | they hired and paid Respondent \$5,000 to represent them in resolving a boundary dispute with
8 | their neighbors. Respondent advised them he would file a quiet title lawsuit on their behalf.

9 | 3. Respondent filed a complaint to quiet title in Spokane Superior Court, No. 07-2-
10 | 04988-1, on October 31, 2007 on behalf of the Gooches but was unable to effect service of
11 | process on the defendants, and the court dismissed the case without prejudice on August 15,
12 | 2008.

13 | 4. Respondent re-filed the case on October 30, 2008, Spokane Superior Court No. 08-
14 | 2-04916-1, but it, too was dismissed without prejudice on May 22, 2009 due to a failure to serve
15 | the defendants with the summons and complaint.

16 | 5. On March 11, 2011, Respondent wrote to Mr. Gooch, advised him that the case had
17 | been dismissed and stated he had filed a new, amended complaint, Spokane Superior Court No.
18 | 11-2-00993-3.

19 | 6. Counsel for the defendants filed an appearance and the court issued a case schedule
20 | order on June 17, 2011, set a trial date of February 13, 2012, as well as pretrial deadlines for
21 | initial disclosure of witnesses, disclosure of rebuttal witnesses, motions to change the trial date,
22 | discovery cutoff, exchange of exhibit lists and documentary exhibits, and a trial management
23 | joint report. On August 23, 2011, the defendants filed an Answer and Counterclaim, but
24 |

1 Respondent filed no Answer to the Counterclaim, nor any other materials in accordance with the
2 pretrial deadlines.

3 7. On January 13, 2012, the defendants submitted a Motion in Limine to preclude
4 Respondent from presenting any witnesses or exhibits at trial, based on his failure to comply
5 with the case schedule. At the same time, Respondent filed a motion to continue the trial date,
6 based on the fact he had recently been ordered to trial in a criminal case expected to last from
7 February 9 to 24, 2012. Regarding the missed deadlines, Respondent explained that his mother
8 had recently died. To resolve the matter, on January 30, 2012, counsel for both parties
9 stipulated to dismissal of the case without prejudice, to attempt to work out a mutually
10 acceptable resolution and not to re-file the case for six months.

11 8. Respondent did not promptly inform the Gooches of the events in court on January
12 13, 2012, nor of the dismissal. When he did inform them, they informed him they were
13 unwilling to settle the case, and agreed that he could re-file the matter in six months.

14 9. Respondent filed the Gooches' lawsuit one more time on July 2, 2012, Spokane
15 Superior Court No. 12-2-02555-4. After a trial date was set and re-set several times, the case
16 was dismissed without prejudice on April 4, 2014 because the defendants had not been served.
17 Respondent did not inform the Gooches of the dismissal before they were told about it by
18 courthouse staff, at which time they visited Respondent and asked for a refund of his fee and
19 discharged him. Respondent repaid the entire \$5,000 shortly thereafter.

20 10. Although the Gooches frequently initiated contact with Respondent during the
21 course of the representation, he did not always respond nor did he keep them reasonably
22 informed about the status of the matter to the extent necessary to permit them to make informed
23 decisions about the representation, nor reasonably consult with them about the means to
24

1 accomplish their objectives.

2 **III. STIPULATION TO MISCONDUCT**

3 11. By failing to timely pursue the Gooches' matter to completion over a period of
4 seven years, and by failing to comply with the case schedule when the matter was in litigation
5 before the court, thereby leading to its dismissal, Respondent violated RPC 1.3 and RPC 3.2.

6 12. By failing to keep the Gooches reasonably informed about the status of their
7 matter, consult with them as to the means by which to accomplish their objectives, and explain
8 the matter to the extent reasonably necessary to permit them to make informed decisions
9 regarding the representation, Respondent violated RPC 1.2(a) and RPC 1.4.

10 **IV. APPLICATION OF ABA STANDARD**

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

13 14. ABA Standard 4.4 is most applicable to the duty to the duty to abide by a client's
14 decision whether to settle a matter, to act with reasonable diligence and promptness in
15 representing a client, and to adequately communicate with a client. It provides:

16 ***4.4 Lack of Diligence***

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

19 4.41 Disbarment is generally appropriate when:

- 20 (a) a lawyer abandons the practice and causes serious or potentially serious
injury to a client; or
21 (b) a lawyer knowingly fails to perform services for a client and causes
serious or potentially serious injury to a client; or
22 (c) a lawyer engages in a pattern of neglect with respect to client matters and
causes serious or potentially serious injury to a client.

23 4.42 Suspension is generally appropriate when:

- 24 (a) a lawyer knowingly fails to perform services for a client and causes
injury or potential injury to a client, or

1 (b) a lawyer engages in a pattern of neglect and causes injury or potential
2 injury to a client.

3 4.43 Reprimand is generally appropriate when a lawyer is negligent and does
4 not act with reasonable diligence in representing a client, and causes injury or
5 potential injury to a client.

6 4.44 Admonition is generally appropriate when a lawyer is negligent and does
7 not act with reasonable diligence in representing a client, and causes little or no
8 actual or potential injury to a client.

9 15. Respondent acted knowingly in failing to pursue litigation of the third case once it
10 was before the court and case deadlines set, in agreeing to dismiss the case in the face of his
11 clients' opposition to settlement, and in failing to communicate adequately with them. His
12 conduct over the span of the four cases formed a pattern which caused actual injury to his
13 clients: (a) the Gooches had insufficient information to make reasoned decisions about their
14 matter; (b) Respondent failed to achieve their objectives or produce work of any use to them; (c)
15 the Gooches were unable to pursue their ongoing interest in developing their property; and (d)
16 Respondent retained his entire \$5,000 fee for 7 years, during which the Gooches could not
17 access that sum to hire other counsel.

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

19 (c) a pattern of misconduct;

20 (d) multiple offenses; and

21 (i) substantial experience in the practice of law: Respondent was admitted in to
22 practice in 1985.

23 17. The following mitigating factors apply under ABA Standard 9.32:

24 (a) absence of a prior disciplinary record; and

(c) personal and emotional problems (Respondent had suffered from a period of

1 depression).

2 18. It is also a mitigating factor that Respondent has agreed to resolve this matter at an
3 early stage of the proceedings.

4 19. On balance, the mitigating factors outweigh the aggravating factors and support a
5 sanction of reprimand with a period of probation with appropriate terms.

6 **V. STIPULATED DISCIPLINE**

7 20. The parties stipulate that Respondent shall receive a reprimand.

8 21. Respondent will be subject to probation for a period of two years, beginning when
9 this stipulation receives final approval, and shall comply with the specific probation terms set
10 forth below:

11 a. Respondent will, at his own expense, obtain the services of a lawyer on active status,
12 who is approved by Disciplinary Counsel, to serve as a practice monitor who will
13 meet with Respondent on a bimonthly basis to review his caseload and case
14 management. The practice monitor will report quarterly to Disciplinary Counsel
15 Respondent's cooperation and participation with this requirement.

16 b. Respondent will, at his own expense, maintain a therapeutic relationship with a
17 licensed mental health professional during the period of his probation and meet with
18 such mental health professional on such frequency as the mental health professional
19 requires. The mental health professional will report quarterly to Disciplinary
20 Counsel Respondent's cooperation and participation with this requirement.

21 c. Respondent will comply with all Rules of Professional Conduct.

22 **VI. RESTITUTION**

23 22. Because Respondent has already returned his full fee to the Gooches, restitution is
24 not warranted.

1 **VII. COSTS AND EXPENSES**

2 23. In light of Respondent's willingness to resolve this matter by stipulation at an early
3 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,000
4 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
5 13.9(l) if these costs are not paid within 60 days of approval of this stipulation.

6 **VIII. VOLUNTARY AGREEMENT**

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

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

14 **IX. LIMITATIONS**

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

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

23 28. This Stipulation results from the consideration of various factors by both parties,
24 including the benefits to both by promptly resolving this matter without the time and expense of

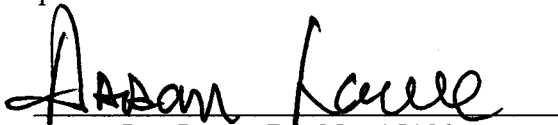
1 | hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
2 | such, approval of this Stipulation will not constitute precedent in determining the appropriate
3 | sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
4 | subsequent proceedings against Respondent to the same extent as any other approved
5 | Stipulation.

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


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

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

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

18 | 
19 | _____
20 | Aaron Lee Lowe, Bar No. 15120
21 | Respondent

Dated: 9/15/15

21 | 
22 | _____
23 | Natalea Skvir, Bar No. 34335
24 | Disciplinary Counsel

Dated: 9-15-15