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DISCIPLINARY BOARD  
WASHINGTON STATE BAR ASSOCIATION

In re

**ROGER B. MADISON JR,**

Lawyer (Bar No. 15338).

Proceeding No. 20#00036

ODC File No. 19-01455

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Henry Cruz, Respondent’s Counsel Kenneth Scott Kagan, and Respondent lawyer Roger B. Madison Jr.

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

1 entering into the following stipulation to facts, misconduct, and sanction to avoid the risk, time,  
2 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 4,  
5 1985.

### 6 II. STIPULATED FACTS

7 2. Respondent previously represented MM and LW in separate matters.

8 3. Approximately three years ago, MM's wife, TM, posted a negative online review of  
9 Respondent after the conclusion of the representation.

10 4. In his response to TM's post, Respondent posted a response that included MM's full  
11 last name and other confidential information of MM, including information from a Child  
12 Protective Services report. Respondent's post characterized MM as "not stable," and concluded,  
13 "We did our best to represent Mr. [M], but sometimes we cannot reverse the effects of seriously  
14 wrong life decisions or mental health issues."

15 5. MM did not give Respondent his informed consent to reveal any of the information  
16 disclosed in the posted response.

17 6. Approximately two years ago, LW's ex-spouse, MC, posted a negative online review  
18 of Respondent after the representation concluded.

19 7. In response to MC's post, Respondent posted a response that included confidential  
20 information of LW, including that LW claimed to have been emotionally abused and that both  
21 parties were ordered to undergo psychological evaluations.

22 8. Respondent's post included information that could have led to the discovery of LW's  
23 identity.

1 9. Respondent did not obtain LW's informed consent to reveal any of the information  
2 disclosed in his posted response prior to the posting, although she later said she would have agreed  
3 had Respondent asked and she supported Respondent's response to her ex-husband's post.

### 4 III. STIPULATION TO MISCONDUCT

5 10. By disclosing MM's name and other information relating to representing MM, and by  
6 disclosing information that could reasonably lead to the identity of LW and revealing other  
7 information related to the representation of LW, Respondent violated RPC 1.9(c)(2).

### 8 IV. PRIOR DISCIPLINE

9 11. Respondent was suspended for six months in 2006 for conduct occurring in 2002 that  
10 involved the use of illegal means to aid in discovery in his civil case against a former girlfriend,  
11 in violation of RPC 8.4(d).

### 12 V. APPLICATION OF ABA STANDARDS

13 12. The following American Bar Association Standards for Imposing Lawyer Sanctions  
14 (1991 ed. & Feb. 1992 Supp.) apply to this case:

#### 15 4.2 *Failure to Preserve the Client's Confidences*

16 4.21 Disbarment is generally appropriate when a lawyer, with the intent to benefit the  
17 lawyer or another, knowingly reveals information relating to representation of a  
18 client not otherwise lawfully permitted to be disclosed, and this disclosure causes  
19 injury or potential injury to a client.

18 4.22 Suspension is generally appropriate when a lawyer knowingly reveals information  
19 relating to the representation of a client not otherwise lawfully permitted to be  
20 disclosed, and this disclosure causes injury or potential injury to a client.

19 4.23 Reprimand is generally appropriate when a lawyer negligently reveals information  
20 relating to representation of a client not otherwise lawfully permitted to be  
21 disclosed and this disclosure causes injury or potential injury to a client.

21 4.24 Admonition is generally appropriate when a lawyer negligently reveals  
22 information relating to representation of a client not otherwise lawfully permitted  
23 to be disclosed and this disclosure causes little or no actual or potential injury to a  
24 client.

23 13. Respondent's conduct was knowing.

1 14. Respondent's disclosures caused potential injury to MM and LW. LW, however,  
2 supported Respondent's response to her ex-husband's post.

3 15. The presumptive sanction is suspension.

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

5 (a) prior disciplinary offense;

6 (d) multiple offenses;

7 (i) substantial experience in the practice of law [admitted in 1985].

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

9 (d) timely good faith effort to make restitution or to rectify consequences of  
10 misconduct [Respondent removed the postings when the misconduct was brought to his  
11 attention];

12 (g) character or reputation;

13 (l) remorse;

14 (m) remoteness of prior offense.

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

17 19. On balance, based on the factors set forth above, the parties agree that the presumptive  
18 sanction should be mitigated to a reprimand.

## 19 VI. STIPULATED DISCIPLINE

20 20. The parties stipulate that Respondent shall receive a reprimand for his misconduct.

## 21 VII. CONDITIONS OF PROBATION

22 21. Respondent will be subject to probation for a period of two years beginning when this  
23 stipulation receives final approval and shall comply with the specific probation terms set forth

1 below.

2 22. Respondent's compliance with these conditions will be monitored by the Probation  
3 Administrator of the Office of Disciplinary Counsel ("Probation Administrator"). Failure to  
4 comply with a condition of probation listed herein may be grounds for further disciplinary action  
5 under ELC 13.8(b).

6 **Ethics School**

7 23. Respondent shall attend Ethics School by webinar (approximately 7.5 hours), or by  
8 obtaining the recorded product, and pay registration costs of \$150 plus applicable sales tax.  
9 Respondent will receive all applicable approved CLE credits for time in attendance at the Ethics  
10 School.

11 24. Respondent shall contact the Ethics School Administrator, currently Thea Jennings, at  
12 (206) 733-5985 or [theaj@wsba.org](mailto:theaj@wsba.org), by October 1, 2020 to confirm enrollment in Ethics School  
13 and related logistics.

14 25. Respondent shall complete the ethics school requirement by November 1, 2020.

15 26. Respondent shall provide evidence of completion of ethics school to the Probation  
16 Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall  
17 include the program brochure, evidence of payment, and a written statement that includes the date  
18 and time of attendance.

19 27. The Ethics School administrator may respond to inquiries from the Probation  
20 Administrator regarding Respondent's compliance with these conditions.

21 **Reading Requirement**

22 28. Respondent agrees to read Bill Eddy's *BIFF: Quick Responses to High Conflict*  
23 *People* and write a 4-6 page double spaced reflection using 12-point font and standard one-inch

1 margins. At a minimum, Respondent's reflection should summarize what Respondent learned  
2 and how Respondent plans to incorporate these strategies into Respondent's practice. Respondent  
3 shall provide a copy of the written reflection to the Probation Administrator no later than 90 days  
4 after approval of the stipulation.

#### 5 **VIII. RESTITUTION**

6 29. No restitution is required by this Stipulation.

#### 7 **IX. COSTS AND EXPENSES**

8 30. In light of Respondent's willingness to resolve this matter by stipulation at an early  
9 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in  
10 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if  
11 these costs are not paid within 30 days of approval of this stipulation.

#### 12 **X. VOLUNTARY AGREEMENT**

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

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

#### 20 **XI. LIMITATIONS**

21 33. This Stipulation is a compromise agreement intended to resolve this matter in  
22 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
23 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer

1 and ODC acknowledge that the result after further proceedings in this matter might differ from  
2 the result agreed to herein.

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

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

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

15 37. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by the  
16 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement  
17 of Lawyer Conduct will be made. Respondent represents that he is not admitted to practice law  
18 in any other jurisdiction.

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

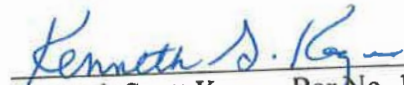
1 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to

2 Reprimand as set forth above.

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4 Roger B. Madison Jr, Bar No. 15338  
Respondent

Dated: August 14, 2020

5 

6 Kenneth Scott Kagan, Bar No. 12983  
Counsel for Respondent

Dated: 8/18/2020

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8 Henry Cruz, Bar No. 38799  
Disciplinary Counsel

Dated: 08/19/2020