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FEB 02 2015
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

RAYMOND A. CONNELL,

Lawyer (Bar No. 16119).

Proceeding No. 14#00017

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 Discipline is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Natalea Skvir, Respondent's Counsel Phillip H. Ginsberg and Respondent lawyer Raymond A. Connell.

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, expense and publicity attendant to further proceedings.

4 I. ADMISSION TO PRACTICE

5 1. Respondent was admitted to practice law in the State of Washington on September 8,
6 1986.

7 II. STIPULATED FACTS

8 2. From 1992 to 1999, Respondent was a sole practitioner, after which he joined a
9 partnership where he practiced until it dissolved in March 2012, after which he resumed a solo
10 practice that has continued to the present.

11 3. The primary focus of Respondent's practice has been personal injury cases, with a
12 small proportion of cases in other areas.

13 4. In 1992, Respondent opened an IOLTA trust account for client funds at U.S. Bank
14 and continued using it until he closed it in September 2012 and established a new trust account
15 at the same bank.

16 5. Between 1992 and approximately 2002, Respondent utilized the services of several
17 bookkeepers, including Joan Kinn, to maintain his trust account records.

18 6. While employed by the Respondent in the 1990s, Ms. Kinn showed him the trust
19 account records she kept, including a check register, client ledgers, reconciliations and bank
20 statements, and explained to him what they were and how they were used.

21 7. Starting in or around 2002 or 2003, Respondent no longer had the assistance of a
22 bookkeeper and, thereafter, he started using pads of checks with carbon copies which he kept as
23 his only record of trust account transactions.

1 8. On August 10, 2011, U.S. Bank notified ODC that Respondent's trust account was
2 overdrawn when a check was presented for payment on August 4, 2011.

3 9. On August 12, 2011, U.S. Bank notified ODC that Respondent's trust account was
4 overdrawn when a check was presented for payment on August 10, 2011.

5 10. On September 21, U.S. Bank notified ODC that Respondent's check account was
6 overdrawn when a check was presented for payment on September 15, 2011.

7 11. During the period January 1, 2011 through September 2012, Respondent did not
8 maintain a check register that contemporaneously listed for all transactions the date, amount,
9 check number, payor or payee, the client on whose behalf the funds were received or disbursed,
10 and a running balance after the transaction.

11 12. During the period January 1, 2011 through September 2012, Respondent maintained
12 no individual client ledgers that showed all individual receipts, disbursements or transfers for
13 the client and identified the purpose, date, check number, and payor/payee for each transaction,
14 and a running balance after each transaction.

15 13. During the period January 1, 2011 through September 2012, Respondent did not
16 reconcile his monthly bank statements with his check register and any client ledgers.

17 14. During the period January 1, 2011 through September 2012, Respondent made a
18 number of withdrawals from his trust account, totaling over \$36,000, in the form of cash.

19 15. During the period January 1, 2011 through September 2012, Respondent did not
20 remove his fees and costs from his trust account when earned, but used trust account checks to
21 pay his own personal and business expenses directly from the account.

22 16. During the period January 1, 2011 through September 2012, Respondent
23 overestimated the portion of the trust account balance he had earned and, on a number of
24

1 occasions, removed more than the amount to which he was entitled.

2 17. During the period January 1, 2011 through September 2012, Respondent's trust
3 account held not only client funds and earned fees Respondent had failed to withdraw, but also,
4 on a number of occasions, funds from his personal business interests unrelated to his law
5 practice.

6 18. During the period January 1, 2011 through September 2012, Respondent on a
7 number of occasions disbursed money from the trust account on behalf of a client in excess of
8 the amount the client had on deposit.

9 19. During the period January 1, 2011 through September 2012, on a number of
10 occasions, Respondent failed to promptly deliver to third persons the funds to which they were
11 entitled.

12 20. During the period January 1, 2011 through September 2012, on a number of
13 occasions, Respondent deposited checks into his trust account and disbursed the funds without
14 waiting for the deposited check to clear the banking process and for the funds to be collected.

15 21. Respondent closed his old trust account and opened a new trust account in
16 September 2012.

17 22. During the period of September 2012 through June 2013, Respondent obtained the
18 assistance of a part-time bookkeeper.

19 23. During the period of September 2012 through June 2013, transactions in the account
20 were not always entered in the records contemporaneously, but were periodically updated by the
21 bookkeeper after the fact.

22 III. STIPULATION TO MISCONDUCT

23 24. By failing to maintain a check register as required by RPC 1.15B(a), Respondent

1 violated RPC 1.15A(h)(2).

2 25. By failing to maintain individual client ledgers as required by RPC 1.15B(a),
3 Respondent violated RPC 1.15A(h)(2).

4 26. By failing to reconcile his trust account records, Respondent violated RPC
5 1.15A(h)(6) and/or RPC 1.15B(a)(8).

6 27. By making cash withdrawals from his trust account, Respondent violated RPC
7 1.15A(h)(5).

8 28. By failing to maintain all client funds in trust, Respondent violated RPC 1.15A(c)(1).

9 29. By commingling his funds in his trust account with those of his clients, Respondent
10 violated 1.15A(c) and/or RPC 1.15A(h)(1).

11 30. By disbursing more funds on behalf of a client than the client had on deposit in the
12 trust account, Respondent violated RPC 1.15A(h)(8).

13 31. By failing to promptly deliver to a client or third person property that person was
14 entitled to receive, Respondent violated RPC 1.15A(f).

15 IV. PRIOR DISCIPLINE

16 32. Respondent has no prior record of discipline.

17 V. APPLICATION OF ABA STANDARDS

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

20 4.1 Failure to Preserve the Client's Property

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

23 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
24 client property and causes injury or potential injury to a client.

1 4.12 Suspension is generally appropriate when a lawyer knows or should
2 know that he is dealing improperly with client property and causes injury or
potential injury to a client.

3 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
4 with client property and causes injury or potential injury to a client.

5 4.14 Admonition is generally appropriate when a lawyer is negligent in
6 dealing with client property and causes little or no actual or potential injury to a
7 client.

8 34. Respondent knew/should have known that he was dealing improperly with client
9 property.

10 35. Respondent's clients were potentially injured by the possibility that they might have
11 lost their funds if anything had happened to him while their funds were not being maintained.

12 36. The presumptive sanction is suspension.

13 37. The following aggravating factors apply under ABA Standard 9.22: (d) multiple
14 offenses; and (i) substantial experience in the practice of law.

15 38. The following mitigating factors apply under ABA Standard 9.32: (a) no prior
16 discipline; (g) character or reputation; and (l) remorse.

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

19 40. The mitigating and aggravating factors warrant a downward deviation from the
20 minimum six-month term of a suspension under ABA Standard 2.3.

21 VI. STIPULATED DISCIPLINE

22 41. The parties stipulate that Respondent shall receive a sixty-day suspension for his
23 conduct.

24 42. As a condition of reinstatement, Respondent will reconstruct his trust account
records for the period of September 6, 2012 through October 31, 2014 to the satisfaction of

1 disciplinary counsel. Any dispute as to compliance with this condition for reinstatement will be
2 resolved under ELC 13.3(b)(2).

3 43. 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
5 his/her trust account practices, and shall comply with the specific probation terms set forth
6 below:

- 7 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
8 1.15B, and shall carefully review the current version of the publication, Managing
9 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 10 b) For all client matters, Respondent shall have a written fee agreement signed by the
11 client, which agreements are to be maintained for least seven years (see RPC
12 1.15B(a)(3)).
- 13 c) On a semiannual basis, Respondent shall provide ODC's audit staff with all trust-
14 account records for the time period to be reviewed by ODC's audit staff and
15 disciplinary counsel for compliance with the RPC:
- 16 i) Months 1 – 6. By no later than the 30th day of the seventh month after the
17 commencement of probation, Respondent shall provide the trust account
18 records from the date probation commenced to the end of the sixth full
19 month.
 - 20 ii) Months 7 – 12. By no later than the 30th day of the thirteenth month after
21 the commencement of probation, Respondent shall provide the trust
22 account records from the end of the previously provided period through the
23 end of month twelve.
 - 24 iii) Months 13– 18. By no later than the 30th day of the nineteenth month after
the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided period through the
end of month eighteen.
 - iv) Months 19 – 24. By no later than the 30th day of the twenty-fifth month
after the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided period through the
end of month twenty-four.

The trust account records Respondent provides to ODC for each semiannual review
of his trust account will include: (a) a complete checkbook register for his trust
account covering the period being reviewed, (b) complete individual client ledger

1 records for any client with funds in Respondent's trust account during all or part of
2 the period being reviewed, as well as for Respondent's own funds in the account (if
3 any), (c) copies of all trust-account bank statements, deposit slips, and cancelled
4 checks covering the period being reviewed, (d) copies of all trust account client
5 ledger reconciliations for the period being reviewed, and (e) copies of
6 reconciliations of Respondent's trust account check register covering the period
7 being reviewed. The ODC's Audit Manager or designee will review Respondent's
8 trust account records for each period.

- 9
- 10 d) On the same semiannual time schedule set forth in the preceding paragraph,
11 Respondent will provide ODC's Audit Manager or designee with copies of any and
12 all fee agreements entered into within the time period at issue.
- 13 e) The ODC's Audit Manager or designee may request additional financial or client
14 records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.
15 Within twenty days of a request from ODC's Audit Manager or designee for
16 additional records needed to verify Respondent's compliance with RPC 1.15A
17 and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the
18 additional records requested.
- 19 f) Respondent will reimburse the Association for time spent by ODC's Audit Manager
20 or designee in reviewing and reporting on Respondent's records to determine his
21 compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour.
22 Respondent will make payment within thirty days of each written invoice setting
23 forth the auditor's time and payment due.

24 VII. RESTITUTION

44. Restitution is not appropriate in this matter.

VIII. COSTS AND EXPENSES

45. In light of Respondent's willingness to resolve this matter by stipulation at an early
stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,000
in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
13.9(l) if these costs are not paid within 30 days of approval of this stipulation. Reinstatement
from suspension is conditioned on payment of costs.

IX. VOLUNTARY AGREEMENT

46. Respondent states that prior to entering into this Stipulation he has consulted
independent legal counsel regarding this Stipulation, that Respondent is entering into this

1 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
2 Association, nor by any representative thereof, to induce the Respondent to enter into this
3 Stipulation except as provided herein.

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

6 X. LIMITATIONS

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

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

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

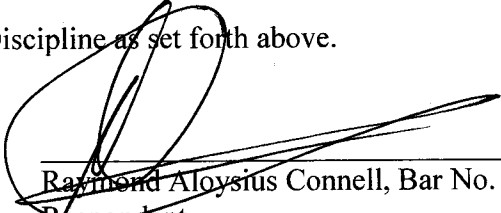
22 51. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary
23 Board shall have available to it for consideration all documents that the parties agree to submit

1 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that
2 form the record before the Board for its review become public information on approval of the
3 Stipulation by the Board, unless disclosure is restricted by order or rule of law.


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

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

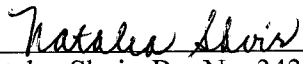
11 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
12 to Discipline as set forth above.

13 
14 Raymond Aloysius Connell, Bar No. 16119
15 Respondent

Dated: 11-25-2014

16 
17 Phillip H. Ginsberg, Bar No. 164
18 Counsel for Respondent

Dated: 11-25-2014

19 
20 Natalea Skvir, Bar No. 34335
21 Disciplinary Counsel

Dated: 11-25-2014