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APR 01 2014

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

LARRY JAMES LANDRY,
Lawyer (Bar No. 16792).

Proceeding No. 13#00093

STIPULATION TO SIX-MONTH
SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Six-Month Suspension is entered into by the Washington State Bar Association (Association), through disciplinary counsel Natalea Skvir and Respondent lawyer Larry James Landry, and Respondent's counsel Joseph John Ganz.

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

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

2 **I. ADMISSION TO PRACTICE**

3 ~~1. Respondent was admitted to practice law in the State of Washington on June 2,~~
4 ~~1987.~~

5 **II. STIPULATED FACTS**

6 2. Respondent has been a sole practitioner since 1990, with a majority of his practice
7 devoted to personal injury cases.

8 3. At all times relevant to this matter, Respondent has maintained an IOLTA trust
9 account at JPMorgan Chase Bank (Chase), account number ending in 4112.

10 4. On October 6, 2011, the Association received a notice from Chase that a \$2,025
11 check written on Respondent's trust account had been returned unpaid on September 30, 2011
12 because his bank balance at the time was \$200.01.

13 5. On October 7, 2011, the Association's Audit Manager wrote to Respondent and
14 asked him to provide an explanation for the overdraft with supporting documentation.

15 6. Respondent replied on October 19, 2011 that he had opened a new trust account at
16 Chase on September 1, 2011 and transferred the balance from his old account into the new one
17 without realizing that the \$2,025 check had not yet cleared the old account. He produced no
18 documentation to corroborate this explanation.

19 7. On November 22, 2011, the Association's Senior Auditor asked Respondent to
20 produce the bank statements, check registers, client ledgers, cancelled checks, deposit slips,
21 bank statement reconciliations and client ledger reconciliations for both of his trust accounts for
22 the period August 1, 2011 through October 31, 2011.

23 8. On February 8, 2012, the Association received Respondent's bank statements and
24

1 check registers, but the latter were incomplete and Respondent gave no explanation of his
2 failure to supply the other records the Association had requested.

3 ~~9. Over the ensuing twelve months, the Association continued to ask Respondent to~~
4 produce records but he either did not respond or, when he did, his responses were incomplete.

5 10. During the Association's investigation, Respondent hired Pearson Business
6 Management Services, Inc. to reconstruct and reconcile his trust account records.

7 11. The Association finally received all the requested documents in March 2013 and
8 completed an audit of both trust accounts covering the period from July 13, 2009 through
9 December 31, 2012. It revealed the following deficiencies:

10 12. Respondent's check register either did not contain a running balance after each
11 transaction or, when it did, the balance was incorrect.

12 13. Respondent did not maintain client ledgers.

13 14. Respondent did not reconcile his check registers to his monthly bank statements and,
14 because he kept no client ledgers, he could not reconcile their balances to his check register
15 balance.

16 15. In making the transition between his old and new trust accounts, Respondent moved
17 \$61,021.58 from the old account to the new one, without identifying to which client[s] the funds
18 belonged.

19 16. After making this transfer, Respondent then listed specific deposits for some clients
20 in amounts that had already been included in the transferred lump sum, in effect counting their
21 funds twice. This error caused the balance in his check register to be overstated by more than
22 \$33,000.

23 17. Respondent held funds for many clients whose reconstructed client ledgers showed
24

1 no activity for long periods of time. In particular, five reconstructed client ledgers with a
2 combined balance of \$54,451.44 showed no activity for more than three years, indicating that
3 Respondent did not promptly deliver to some clients all the funds they were entitled to receive.

4 18. Respondent disbursed from the trust account more funds for certain clients than they
5 had on deposit, thereby possibly invading the funds of other clients.

6 19. In 2011, Respondent received, on behalf of a minor, settlement funds to be held until
7 she reached majority, but he failed to negotiate the check for five months after its issuance and,
8 when he finally did so, he deposited the funds into his pooled trust account rather than an
9 individual, blocked, interest-bearing account so that the interest would accrue to the client's
10 benefit.

11 20. Respondent left his fees in the trust account for long periods of time rather than
12 timely withdrawing them when earned. At the end of the audited period, \$64,677.58 in checks
13 payable to himself had yet to be negotiated, some outstanding for as long as seven months.

14 21. This commingling of Respondent's fees with client funds exposed the entire trust
15 account to the risk of seizure by his creditors at a time when there were federal tax liens totaling
16 more than \$22,000 pending against him due to unpaid payroll taxes.

17 III. STIPULATION TO MISCONDUCT

18 22. By failing to maintain check registers with correct running balances after each
19 transaction, Respondent violated RPC 1.15B(a)(1)(v).

20 23. By failing to maintain individual client ledgers identifying the ownership of all funds
21 in his trust account, Respondent violated RPC 1.15B(a)(2).

22 24. By failing to reconcile his trust account check registers to his bank statements,
23 Respondent violated RPC 1.15A(h)(6).
24

1 should know that he is dealing improperly with client property and causes
2 injury or potential injury to a client.

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

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

9 31. Respondent knew or should have known that he was dealing with client funds
10 improperly.

11 32. Some clients were actually harmed when their funds were used on behalf of other
12 clients; some were harmed when Respondent failed to promptly distribute their funds to them;
13 the minor client was harmed because Respondent deposited her funds into an account from
14 which the interest was paid to the Legal Foundation rather than accruing to her benefit; and all
15 or most of Respondent's clients were potentially harmed by Mr. Landry's commingling of his
16 funds with theirs.

17 33. The presumptive sanction is suspension.

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

- 19 (a) prior disciplinary offenses;
20 (b) dishonest or selfish motive: Respondent allowed his earnings to
21 remain in his client trust account, putting his clients' funds at risk, while
22 the federal government was seeking his payment of outstanding taxes;
23 (d) multiple offenses;
24 (e) bad faith obstruction of the disciplinary proceeding by
intentionally failing to comply with rules or orders of the disciplinary
agency; and
(i) substantial experience in the practice of law.

35. None of the mitigating factors identified in ABA Standard 9.32 is applicable here.

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

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 the Association for each quarterly
14 review of his trust account will include: (a) a complete checkbook register for
15 his/her trust account covering the period being reviewed, (b) complete individual
16 client ledger records for any client with funds in Respondent's trust account during
17 all or part of the period being reviewed, as well as for Respondent's own funds in
18 the account (if any), (c) copies of all trust-account bank statements, deposit slips,
19 and cancelled checks covering the period being reviewed, (d) copies of all trust
20 account client ledger reconciliations for the period being reviewed, and (e) copies of
21 all reconciliations of Respondent's trust account check register covering the period
22 being reviewed. The Association's Audit Manager or designee will review
23 Respondent's trust account records for each period.

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

e) The Association'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 the Association'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 the Association's Audit
Manager or designee the additional records requested.

f) Respondent will reimburse the Washington State Bar Association for time spent by
the Association's Audit Manager or designee in reviewing and reporting on
Respondent's records to determine his 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.

VII. RESTITUTION

40. An order of restitution is not warranted at this time.

1 this matter might differ from the result agreed to herein.

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

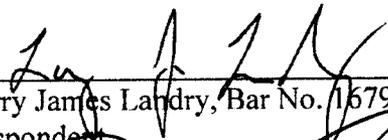
5 47. This Stipulation results from the consideration of various factors by both parties,
6 including the benefits to both by promptly resolving this matter without the time and expense of
7 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
8 such, approval of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

12 48. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary
13 Board shall have available to it for consideration all documents that the parties agree to submit
14 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that
15 form the record before the Board for its review become public information on approval of the
16 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

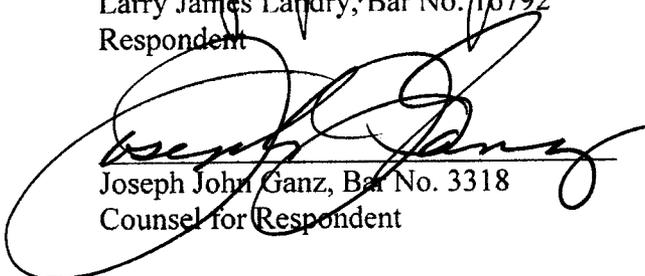
17 49. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
18 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
19 Rules for Enforcement of Lawyer Conduct will be made.

20 50. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this
21 Stipulation will have no force or effect, and neither it nor the fact of its execution will be
22 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
23 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 _____
5 Larry James Landry, Bar No. 16792
6 Respondent

Dated: 1/8/14

7 
8 _____
9 Joseph John Ganz, Bar No. 3318
10 Counsel for Respondent

Dated: 1/13/14

11 
12 _____
13 Natalea Skvir, Bar No. 34335
14 Disciplinary Counsel

Dated: 1/14/14