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DISCIPLINARY
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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
RODNEY R. MOODY,
Lawyer (Bar No. 17416).

Proceeding No. 16#00075
ODC File No(s). 15-00482, 15-1415
STIPULATION TO 60-DAY SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to 60-Day Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Francesca D'Angelo, Respondent's counsel Elizabeth Ann Turner and Respondent lawyer Rodney Moody.

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 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 October 28,
4 1987.

5 **II. STIPULATED FACTS**

6 *Raymond Robinson Matter*

7 2. In January 2014, Respondent agreed to represent Raymond Robinson.

8 3. Respondent's fee agreement with Mr. Robinson called for an hourly rate of \$350 per
9 hour.

10 4. Mr. Robinson paid Respondent an advance fee of \$3,500.

11 5. Respondent deposited Mr. Robinson's advance fee into his trust account.

12 6. On or about April 1, 2014, Respondent billed Mr. Robinson for fees in the amount of
13 \$1,225.

14 7. On or about April 21, 2014, Mr. Robinson informed Respondent that he would
15 resolve the matter himself.

16 8. On or about July 7, 2014, Respondent billed Mr. Robinson \$210 for work done prior
17 to April 21, 2014, leaving a balance in trust of \$2,065.

18 9. Respondent forgot he had Mr. Robinson's \$2,065 in his trust because he was not
19 consistently preparing monthly reconciliations of his trust account.

20 10. When Mr. Robinson filed a grievance with the Association on March 16, 2015,
21 Respondent realized he had not refunded Mr. Robinson's funds. On March 20, 2015,
22 Respondent disbursed \$2,065 to Mr. Robinson.

1 *Trust Account Matter*

2 11. On or about July 21, 2015, Respondent deposited \$95,000 in settlement funds to his
3 Key Bank trust account ending in 4282.

4 12. The same day, Respondent issued two checks, one to his client in the amount of
5 \$63,365 and one to himself for fees and costs in the amount of \$31,635.

6 13. Respondent believed, based on his past dealings with Key Bank, that there would not
7 be a hold placed on the deposited check.

8 14. Because the bank had placed a hold on the deposited check and the deposited check
9 had not cleared the banking process, the check to Respondent for \$31,635 was presented against
10 insufficient funds, causing an overdraft.

11 15. In March 2015, before Mr. Robinson filed his grievance and before the trust account
12 overdraft occurred, Respondent hired a bookkeeper to reconcile his trust accounts. When the
13 bookkeeper completed the reconciliations, Respondent realized his records did not account for
14 the client ownership of 358.99 held in trust.

15 16. In April, 2016, Respondent sent \$358.99 to the Washington State Department of
16 Revenue Unclaimed Property.

17 **III. STIPULATION TO MISCONDUCT**

18 17. By not promptly refunding to Mr. Robinson the \$2,065 balance of his funds held in
19 trust upon termination of the representation, Respondent violated RPC 1.16(d) and RPC
20 1.15A(f).

21 18. By failing to reconcile his trust account records, Respondent violated RPC
22 1.15A(h)(6).

23 19. By disbursing the \$95,000 from trust on July 21, 2015, the same day the funds were
24

1 deposited, without waiting for those funds to clear the banking process and be collected,

2 Respondent violated RPC 1.15A(h)(7).

3 20. By holding \$358.99 in trust without adequate records to establish the client
4 ownership of the funds, Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a).

5 IV. PRIOR DISCIPLINE

6 21. In July 2008, Respondent was suspended for eighteen months for misconduct that
7 included failure to keep adequate trust account records and failure to reconcile his trust account
8 records.

9 V. APPLICATION OF ABA STANDARDS

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

12 4.1 *Failure to Preserve the Client's Property*

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

15 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
client property and causes injury or potential injury to a client.

16 4.12 Suspension is generally appropriate when a lawyer knows or should
17 know that he is dealing improperly with client property and causes injury
or potential injury to a client.

18 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
with client property and causes injury or potential injury to a client.

19 4.14 Admonition is generally appropriate when a lawyer is negligent in
20 dealing with client property and causes little or no actual or potential
injury to a client.

21 23. Respondent knew or should have known he was not dealing properly with client
22 funds.

23 24. Respondent's conduct caused actual harm to Mr. Robinson in that he was denied use
24 of his funds for many months.

1 25. Respondent's conduct caused potential harm in that client funds were placed at risk,
2 however, no other clients lost funds.

3 26. The presumptive sanction is suspension.

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

- 5 (a) Prior discipline (Respondent was suspended for eighteen months
6 in 2008);
- 7 (i) Substantial experience in the practice of law (Respondent was
8 admitted in 1987).

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

- 9 (a) Absence of dishonest or selfish motive;
- 10 (b) Timely good faith effort to rectify consequences of misconduct:
11 [In March 2015, shortly before Ms. Robinson filed his grievance,
12 Respondent engaged a bookkeeper to reconcile his account.
13 Respondent has since brought his trust account records into
14 compliance];
- 15 (l) remorse.

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

16 30. On balance the aggravating and mitigating factors do not require a departure from
17 the presumptive sanction, but do warrant a suspension of 60 days.

18 **VI. STIPULATED DISCIPLINE**

19 31. The parties stipulate that Respondent shall receive a 60-day Suspension for his
20 conduct.

21 32. Respondent will be subject to probation for a period of two years commencing upon
22 Respondent's reinstatement to the practice of law, with periodic reviews under ELC 13.8 of his
23 trust account practices, and shall comply with the specific probation terms set forth below:

- 1 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
2 1.15B, and shall carefully review the current version of the publication, Managing
3 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 4 b) For all client matters, Respondent shall have a written fee agreement signed by the
5 client, which agreements are to be maintained for least seven years (see RPC
6 1.15B(a)(3)).
- 7 c) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-
8 account records for the time period to be reviewed by ODC's audit staff and
9 disciplinary counsel for compliance with the RPC:
- 10 i) Months 1 – 3. By no later than the 30th day of the fourth month after the
11 commencement of probation, Respondent shall provide the trust account
12 records from the date of commencement of probation to the end of the third
13 full month.
- 14 ii) Months 4 – 6. By no later than the 30th day of the seventh month after the
15 commencement of probation, Respondent shall provide the trust account
16 records from the end of the previously provided quarter through the end of
17 month six.
- 18 iii) Months 7 – 9. By no later than the 30th day of the tenth month after the
19 commencement of probation, Respondent shall provide the trust account
20 records from the end of the previously provided quarter through the end of
21 month nine.
- 22 iv) Months 10 – 12. By no later than the 30th day of the thirteenth month after
23 the commencement of probation, Respondent shall provide the trust
24 account records from the end of the previously provided quarter through
the end of month twelve.
- v) Months 13– 15. By no later than the 30th day of the sixteenth month after
the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month fifteen.
- vi) Months 16 – 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 quarter through
the end of month eighteen.
- vii) Months 19 – 21. By no later than the 30th day of the twenty-second month
after the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month twenty-one.

The trust account records Respondent provides to ODC for each quarterly review of

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

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

VII. RESTITUTION

33. Because Mr. Robinson has received his funds, no restitution is required under this
stipulation.

VIII. COSTS AND EXPENSES

34. 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) and auditor's costs of \$467.50. 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 or disbarment is conditioned on payment of costs.

1 IX. VOLUNTARY AGREEMENT

2 35. Respondent states that prior to entering into this Stipulation he has consulted
3 independent legal counsel regarding this Stipulation, that Respondent is entering into this
4 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
5 Association, nor by any representative thereof, to induce the Respondent to enter into this
6 Stipulation except as provided herein.

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

9 X. LIMITATIONS

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

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

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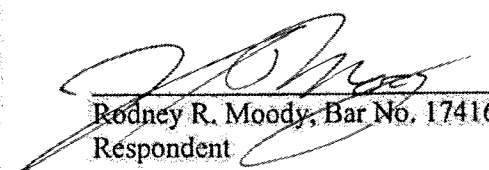
1 Stipulation.

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

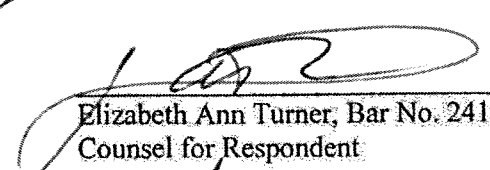
7 41. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
8 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
9 Rules for Enforcement of Lawyer Conduct will be made.

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

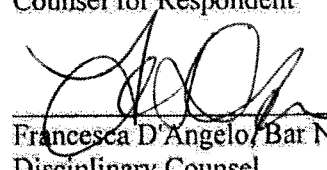
14 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
15 to Discipline as set forth above.

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17 
Rodney R. Moody, Bar No. 17416
Respondent

Dated: 6/20/16

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19 
Elizabeth Ann Turner, Bar No. 24165
Counsel for Respondent

Dated: 06/20/16

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21 
Francesca D'Angelo, Bar No. 22979
Disciplinary Counsel

Dated: 6/21/16