

**FILED**

JAN 07 2014

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**TIMOTHY MICHAEL GREENE,**  
Lawyer (Bar No. 17499).

Proceeding No. 12#00086

**STIPULATION TO REPRIMAND**

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to reprimand is entered into by the Washington State Bar Association (Association), through disciplinary counsel Natalea Skvir and Respondent lawyer Timothy Michael Greene, and Respondent's counsel Leland G. Ripley.

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

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1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to  
2 avoid the risk, time, 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 6,  
5 1987.

6 **II. STIPULATED FACTS**

7 2. In 2009, Respondent was a sole practitioner and maintained an IOLTA trust account  
8 for client funds.

9 3. On or about August 14, 2009, the Association received notice from Bank of  
10 America (BOA) that Respondent's trust account ending in 6114 was overdrawn.

11 4. The Association conducted an audit of this trust account for the period September  
12 30, 2007 through October 31, 2009.

13 5. Respondent's check registers listed some transactions that did not occur, failed to list  
14 other transactions that did occur, did not identify the date, check number, and payor or payee for  
15 each transaction, and did not include a running balance after each transaction.

16 6. During the audit period, Respondent did not maintain client ledgers.

17 7. Following the overdraft, Respondent reconstructed sets of client ledgers, but they  
18 were not accurate.

19 8. Respondent's reconstructed client ledgers showed trust account activity for  
20 approximately 25 clients, but the client ledgers reconstructed by the Association's auditor from  
21 the bank records showed there had actually been account activity for approximately 48 clients.

22 9. Respondent did not reconcile his check register balance to his bank statements, and  
23 had no client ledgers to which he could reconcile the balance.

1           10. During the audit period, Respondent allowed his clients to pay his advance fees by  
2 credit card but these funds went directly into Respondent's general account rather than his trust  
3 account.

4           11. Respondent's assistant was to transfer these advance fees into Respondent's trust  
5 account, but Respondent did not verify whether the transfers had actually been made.

6           12. The reconstruction of Respondent's accounts showed that not all of these credit card  
7 deposits were transferred to trust.

8           13. During the audit period, Respondent made at least 13 disbursements from his trust  
9 account on behalf of clients who did not have sufficient funds on deposit to cover them,  
10 resulting in invading of the funds that were being held on behalf of other clients.

11           14. Respondent regularly received and disbursed worker's compensation payments for  
12 certain clients.

13           15. Due to mathematical errors, Respondent's disbursements to some of these worker  
14 compensation clients caused shortages in the funds being held for them.

15           16. On at least nine occasions during the audit period, Respondent transferred from his  
16 general account into his trust account funds that were not, and could not be, identified by client.  
17 These transfers totaled more than \$6,800 and appear to have been deposited to cover shortages  
18 in the trust account.

19           17. It appears that, during the audited period, the trust account had a shortage at the end  
20 of every month, ranging from \$10 to \$7,534.86.

21           18. From October 5, 2009 through January 31, 2011, Respondent held in his trust  
22 account a total of \$4,291.07 for five clients without distributing any of these funds to the clients.

23           19. According to the bank records for Respondent's trust account, some 22 cash  
24

1 withdrawals were made from the account during the audit period.

2 20. On at least three occasions during the audit period, Respondent deposited funds into  
3 his trust account on behalf of clients and then disbursed them without waiting for the deposits to  
4 clear the banking system and be collected.

5 21. Respondent's former assistant, a non-lawyer, was a signatory on Respondent's trust  
6 account until September 21, 2009.

7 **III. STIPULATION TO MISCONDUCT**

8 22. By failing to maintain complete records as required by RPC 1.15B, Respondent  
9 violated RPC 1.15A(h)(2).

10 23. By failing to maintain an accurate, current and complete check register or equivalent,  
11 Respondent violated RPC 1.15B(a)(1).

12 24. By failing to maintain an accurate, current, complete client ledger for each client on  
13 whose behalf there were trust account transactions, Respondent violated RPC 1.15B(a)(2).

14 25. By failing to reconcile his trust account check register to the bank statements and  
15 then to the total of all client ledgers, Respondent violated RPC 1.15A(h)(6).

16 26. By depositing into his general account advance fees clients paid by credit card, and  
17 failing to ensure that these funds were transferred into his trust account, Respondent violated  
18 RPC 1.15A(c)(1), RPC 1.15A(c)(2), and RPC 5.3(b).

19 27. By disbursing funds on behalf of clients who had insufficient funds in the trust  
20 account to cover the disbursements, Respondent invaded funds belonging to other clients in  
21 violation of RPC 1.15A(h)(8).

22 28. By continuing to hold funds in his trust account belonging to certain clients long  
23 after their matters were settled and concluded and by failing to promptly refund his clients'  
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1 unearned advance fees, Respondent violated RPC 1.15A(f) and RPC 1.16(d).

2 29. By making cash withdrawals from his trust account, Respondent violated RPC  
3 1.15A(h)(5).

4 30. By failing to properly supervise his non-lawyer assistant and ensure that the  
5 assistant's conduct was compatible with his own professional obligations, Respondent violated  
6 RPC 5.3(b).

7 31. By disbursing funds from his trust account without waiting for the associated deposit  
8 to clear the banking process and to be collected, Respondent violated RPC 1.15A(h)(7).

9 32. By including his non-lawyer assistant as a signatory on his trust account and  
10 allowing him to sign checks, Respondent violated RPC 1.15A(h)(9).

#### 11 IV. PRIOR DISCIPLINE

12 33. Respondent has not previously been the subject of discipline.

#### 13 V. APPLICATION OF ABA STANDARDS

14 34. The following American Bar Association Standards for Imposing Lawyer Sanctions  
15 (1991 ed. & Feb. 1992 Supp.) apply to this case:

#### 16 35. Standard 4.1 Failure to Preserve the Client's Property

17 4.11 Disbarment is generally appropriate when a lawyer knowingly converts  
18 client property and causes injury or potential injury to a client.

19 4.12 Suspension is generally appropriate when a lawyer knows or should  
20 know that he is dealing improperly with client property and causes injury or  
21 potential injury to a client.

22 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing  
23 with client property and causes injury or potential injury to a client.

24 4.14 Admonition is generally appropriate when a lawyer is negligent in  
dealing with client property and causes little or no actual or potential injury to a  
client.

36. Although Respondent's conduct was negligent, he should have known that he was  
dealing improperly with client funds.

1 37. Respondent's clients were actually injured by his inability to determine the  
2 ownership of all funds in his trust account, by his invading the funds belonging to one client  
3 when making disbursements on behalf of another client, and by his delay in disbursing funds  
4 due to certain of his clients. The clients were potentially injured because shortages in his trust  
5 account could have rendered him unable to promptly pay his clients funds they were due, and  
6 because advanced fees he deposited into his general account were not protected from his  
7 creditors.

8 38. The presumptive sanction is suspension.

9 39. The following aggravating factor applies under ABA Standards Section 9.22:

10 (i) substantial experience in the practice of law.

11 40. The following mitigating factors apply under ABA Standards Section 9.32:

12 (a) absence of a prior disciplinary record;

13 (c) personal or emotional problems [the terminal illness of Respondent's sibling  
14 which diverted his attention from his practice during the audit period]; and

15 (l) remorse.

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

18 42. On balance, the mitigating factors outweigh the aggravator and mitigate the sanction  
19 to a reprimand with probation.

## 20 VI. STIPULATED DISCIPLINE

21 43. The parties stipulate that Respondent shall receive a reprimand for his conduct.

22 44. Respondent will be subject to probation for a period of two years commencing upon  
23 final approval of this stipulation. If, during the probation period, Respondent maintains a client  
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1 trust account, he will be subjected to periodic reviews under ELC 13.8 of his trust account  
2 practices, and shall comply with the specific probation terms set forth below:

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





1 \$750 and auditing costs of \$1,933.75 in accordance with ELC 13.9(i). The Association will  
2 seek a money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval  
3 of this stipulation.

#### 4 **IX. VOLUNTARY AGREEMENT**

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

#### 10 **X. LIMITATIONS**

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

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

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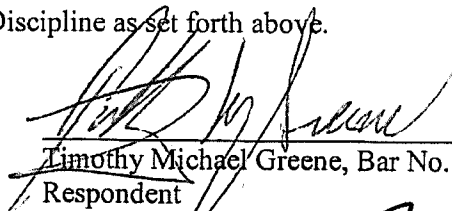
1 subsequent proceedings against Respondent to the same extent as any other approved  
2 Stipulation.

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

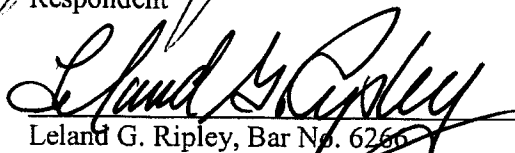
6 52. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by  
7 the disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
8 Enforcement of Lawyer Conduct will be made.

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


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

15   
16 Timothy Michael Greene, Bar No. 17499  
17 Respondent

Dated: 11/27/13

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19 Leland G. Ripley, Bar No. 6266  
Counsel for Respondent

Dated: 1/3/14

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

Dated: 1/3/14