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Disciplinary
Board

Docket # 002

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DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JOHN GIBSON,

Lawyer (Bar No. 19407).

Proceeding No.

ODC File No. 20-01180

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 Managing Disciplinary Counsel Joanne S. Abelson and Respondent lawyer John Gibson.

Respondent understands that Respondent is entitled under the ELC to a hearing, to present exhibits and witnesses, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that Respondent 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. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk, time, and expense

1 attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on June 12, 1990.

4 **II. STIPULATED FACTS**

5 2. Respondent has a history of gross misdemeanor convictions dating back to the 1990s,
6 including convictions in 1992 and 1994 for DUI and a conviction in 1996 for driving with a
7 suspended or revoked license.

8 3. More recent convictions and a pending criminal proceeding are discussed below.

9 **King County District Court No. 7Z0577737**

10 4. On September 27, 2017, Respondent was charged with DUI and Harassment based on
11 an incident on April 29, 2017.

12 5. On January 29, 2018, Respondent pleaded guilty to amended charges of DUI (RCW
13 46.61.502) and brandishing a weapon (RCW 9.41.270).

14 6. That same day the court sentenced Respondent to 364 days in jail for Count 1 and 354
15 days in jail for Count 2, both of which were partially suspended. The court imposed 60 months
16 of active probation, with terms including attending Alcoholics Anonymous meetings, refraining
17 from the use of alcohol or drugs, and no alcohol or drug violations, including no driving with an
18 alcohol level greater than .08.

19 **King County Superior Court No. 19-1-02545-6**

20 7. On April 3, 2019, Respondent was charged with second degree assault (domestic
21 violence) based on an incident on April 1, 2019, while Respondent was on probation in King
22 County District Court No. 7Z0577737.

23 8. On October 5, 2020, Respondent pleaded guilty to an amended charge of malicious

1 mischief/domestic violence (RCW 9A.48.090(1)(a); RCW 9A.36.041(4), 10.99.020).

2 9. On December 4, 2020, the court sentenced Respondent to 364 days in jail, suspended,
3 with credit for time served. The court also imposed 24 months of probation, with terms including
4 no purchase, possession, or use of alcohol or controlled substances and no further criminal law
5 violations.

6 **King County District Court No. 420022525**

7 10. On December 23, 2020, Respondent was charged with DUI (RCW 46.61.502; RCW
8 46.61.506). The complaint further alleged that the alcohol concentration in Respondent's blood
9 was at least 0.15, which would subject Respondent to enhanced penalties under RCW 46.61.5055.

10 11. Respondent's arrest in this matter occurred on December 20, 2020, less than three
11 weeks after Respondent was sentenced in King County Superior Court No. 19-1-02545-6 and
12 while Respondent was on probation in that case and in King County District Court No.
13 7Z0577737.

14 12. The matter is pending.

15 **III. STIPULATION TO MISCONDUCT**

16 13. By repeatedly violating the criminal law and the terms of probation, Respondent
17 violated RPC 8.4(i) (disregard for the rule of law).

18 **IV. PRIOR DISCIPLINE**

19 14. Respondent has no prior discipline.

20 **V. APPLICATION OF ABA STANDARDS**

21 15. No ABA Standard applies directly to violations of RPC 8.4(i). In re Disciplinary
22 Proceeding Against Curran, 115 Wn.2d 747, 770, 801 P.2d 962 (1990).

23 16. The Curran court ruled that the appropriate sanction generally is a reprimand for

1 | violations of RPC 8.4(i) involving disregard of the rule of law. Id. at 772.

2 | 17. Respondent acted knowingly.

3 | 18. Respondent's conduct harmed the legal system and the profession. See Curran, 115
4 | Wn.2d at 762 (repeated violations of the law by lawyers contributes to the erosion of public
5 | confidence in the legal system).

6 | 19. The presumptive sanction is a reprimand.

7 | 20. The following aggravating factors apply under ABA Standard 9.22:

8 | (c) a pattern of misconduct;

9 | (i) substantial experience in the practice of law (admitted 1990).

10 | 21. The following mitigating factors apply under ABA Standard 9.32:

11 | (a) absence of a prior disciplinary record;

12 | (c) personal or emotional problems (see Confidential Attachment).

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

15 | 23. Further, a significant mitigating factor is the contribution this stipulation makes to the
16 | efficient and effective operation of the lawyer discipline system considering the effect the
17 | COVID-19 public health emergency has had on disciplinary resources and the orderly processing
18 | of disciplinary matters.

19 | 24. On balance the aggravating and mitigating support the sanction of a reprimand.

20 | **VI. STIPULATED DISCIPLINE**

21 | 25. The parties stipulate that Respondent shall receive a Reprimand.

22 | **VII. CONDITIONS OF PROBATION**

23 | 26. Respondent will be subject to probation for a period of two years beginning when this

1 stipulation receives final approval by the Chief Hearing Officer and shall comply with the specific
2 probation conditions set forth in ¶¶ 28-47.

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

7 **Terms Regarding Substance Abuse**

8 28. Within 60 days after probation begins, Respondent shall provide the Probation
9 Administrator with the name and contact information of a proposed chemical-dependency
10 evaluator. The proposed evaluator must be a licensed chemical-dependency treatment provider,
11 who may be a person or organization providing services to Respondent through the court. The
12 Probation Administrator will either approve or reject the proposed evaluator and will notify
13 Respondent of that decision in writing. If the evaluator is rejected, Respondent shall provide the
14 Probation Administrator with the name and contact information of another proposed evaluator
15 within three weeks of the date of the Probation Administrator's letter. If Respondent changes
16 providers during the course of the probation term, Respondent shall advise the Probation
17 Administrator within two weeks to obtain approval for a new provider.

18 29. Within 60 days of the date of the Probation Administrator's written approval of an
19 evaluator, Respondent shall undergo a chemical-dependency evaluation. If Respondent has
20 undergone a chemical-dependency evaluation through the court within the prior six months,
21 Respondent may rely on that evaluation.

22 30. Respondent shall execute an authorization allowing the evaluator to release
23 information regarding the evaluation to the Probation Administrator, to include a written report

1 of the evaluator's findings, diagnosis, and recommended treatment plan, if any. Respondent shall
2 provide the Probation Administrator with a copy of the authorization.

3 31. Any program of continued treatment shall include random toxicology monitoring.

4 32. If the chemical-dependency evaluator recommends treatment, Respondent shall
5 undergo treatment with the evaluator or with another treatment provider approved by the
6 Probation Administrator. Respondent will not be required to undergo chemical-dependency
7 treatment if not recommended by a chemical-dependency evaluator approved by the Probation
8 Administrator.

9 33. Respondent shall comply with all requirements and recommendations of the treatment
10 provider, including but not limited to the completion of any period of in- or out-patient treatment
11 and aftercare, the taking of any prescribed medications, abstinence/sobriety as required, and
12 compliance with any toxicology monitoring.

13 34. Respondent shall continue to participate in the recommended treatment program
14 throughout the period of probation or until such time as the treatment provider determines that
15 further participation is not needed.

16 35. Respondent shall maintain sobriety. Respondent must report any lapses in sobriety to
17 the Probation Administrator within seven days.

18 36. Respondent shall participate in a support group, such as Alcoholics Anonymous or
19 Narcotics Anonymous, if participation in such a group is recommended or required by the
20 treatment provider. Respondent shall provide the Probation Administrator with documentation
21 of participation on a quarterly basis.

22 37. Respondent shall execute an authorization[s] allowing and directing the treatment
23 provider to take the following actions:

- 1 a) on a quarterly basis, send written reports to the Probation Administrator that
2 include the dates of treatment, whether Respondent has been cooperative with
3 treatment, whether continued treatment is recommended, and results of random
4 toxicology reports;
- 5 b) report immediately to the Probation Administrator incidences of relapse or if
6 Respondent fails to appear for treatment or stops treatment without the
7 provider's agreement and consent prior to either termination of the treatment
8 plan or expiration of the probation period set forth in this stipulation;
- 9 c) report immediately to the Probation Administrator if Respondent fails to comply
10 with any treatment recommendations of the treatment provider;
- 11 d) report immediately to the Probation Administrator if Respondent otherwise
12 violates any of the terms or conditions of probation;
- 13 e) report immediately to the Probation Administrator if the provider will no longer
14 serve as treatment provider to Respondent prior to termination of the treatment
15 plan or expiration of the probation period set forth in this stipulation; and
- 16 f) report to the Probation Administrator if Respondent successfully completes
17 treatment and is discharged from further treatment.

18 38. Respondent shall provide a copy of the authorization[s] to the Probation Administrator
19 upon execution.

20 39. Respondent is responsible for paying any and all fees, costs and/or expenses of
21 chemical dependency evaluation, treatment, and monitoring (including but not limited to the costs
22 of random toxicology monitoring).

23 **Terms Regarding Mental Health**

24 40. Within 60 days after probation begins, Respondent shall provide the Probation
Administrator with the name and contact information of a proposed mental-health evaluator, who
must be a licensed physician or psychologist or a person or organization providing services to
Respondent through the court. The Probation Administrator will either approve or reject the
proposed evaluator and will notify Respondent of that decision in writing. If the evaluator is not
approved, Respondent shall provide the Probation Administrator with the name and contact

1 information of another proposed evaluator within three weeks of the date of the Probation
2 Administrator's letter. If Respondent changes providers during the course of the probation term,
3 Respondent shall advise the Probation Administrator within two weeks to obtain approval for a
4 new provider.

5 41. Within 60 days of the date of the Probation Administrator's written approval of an
6 evaluator, Respondent shall undergo a mental-health evaluation. If Respondent has undergone a
7 mental-health evaluation through the court within the prior six months, Respondent may rely on
8 that evaluation.

9 42. Respondent shall execute an authorization allowing the evaluator to release
10 information regarding the evaluation to the Probation Administrator, to include a written report
11 of the evaluator's findings, diagnosis, and recommended treatment plan, if any. Respondent shall
12 provide the Probation Administrator with a copy of the authorization.

13 43. If the mental-health evaluator recommends treatment, Respondent shall undergo
14 treatment with the evaluator or with another treatment provider approved by the Probation
15 Administrator. Respondent will not be required to undergo mental-health treatment if not
16 recommended by a mental-health evaluator approved by the Probation Administrator.

17 44. Respondent shall comply with all requirements and recommendations of the treatment
18 provider, including but not limited to the completion of any period of in- or out-patient treatment
19 and aftercare and the taking of all prescribed medications.

20 45. Respondent shall execute an authorization[s] allowing and directing the treatment
21 provider to take the following actions:
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- 1 a) on a quarterly basis, send written reports to the Probation Administrator that include
2 the dates of treatment, whether Respondent has been cooperative with treatment, and
3 whether continued treatment is recommended;
- 4 b) report immediately to the Probation Administrator if Respondent fails to appear for
5 treatment or stops treatment without the provider's agreement and consent prior to
6 either termination of the treatment plan or expiration of the probation period set forth
7 in this stipulation;
- 8 c) report immediately to the Probation Administrator if Respondent fails to comply with
9 any treatment recommendations of the treatment provider;
- 10 d) report immediately to the Probation Administrator if Respondent otherwise violates
11 any of the terms or conditions of treatment;
- 12 e) report immediately to the Probation Administrator if the provider will no longer serve
13 as treatment provider to Respondent prior to termination of the treatment plan or
14 expiration of the probation period set forth in this stipulation; and
- 15 f) report to the Probation Administrator if Respondent successfully completes treatment
16 and is discharged from further treatment.

17 46. Respondent shall provide a copy of the authorization[s] to the Probation Administrator
18 upon execution.

19 47. Respondent is responsible for paying any and all fees, costs, and/or expenses of mental
20 health evaluation and treatment.

21 **VIII. RESTITUTION**

22 48. No restitution is required by this Stipulation.

23 **IX. COSTS AND EXPENSES**

24 49. 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 \$750 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.

1 **X. VOLUNTARY AGREEMENT**

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

7 51. 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 **XI. LIMITATIONS**

10 52. 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 53. 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 54. 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 Stipulation.

1 Under ELC 3.1(b), all documents that form the record before the Chief Hearing Officer for rev
2 become public information on approval of the Stipulation by the Chief Hearing Officer, ur
3 disclosure is restricted by order or rule of law.

4 55. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by
5 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcer
6 of Lawyer Conduct will be made.

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

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

13 John Gibson
14 John Gibson, Bar No. 19407
15 Respondent

Dated: 9/23/21

16 Joanne S. Abelson
17 Joanne S. Abelson, Bar No. 24877
18 Managing Disciplinary Counsel

Dated: 9/28/21