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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**Michele Avalon Michalek,**  
Lawyer (Bar No. 19461).

Proceeding No. 17#00039  
ODC File No. 17-00641  
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 Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through Managing Disciplinary Counsel Joanne S. Abelson, Respondent’s Counsel Anne I. Seidel, and Respondent lawyer Michele Avalon Michalek.

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

4 Respondent agrees to the facts set forth in this stipulation. She does not agree that the  
5 stipulated facts constitute a violation of RPC 8.4(b) or RPC 8.4(i) as set forth in ¶ 11, or to the  
6 application of the ABA Standards to her conduct. Nonetheless, so she is able to resume the  
7 practice of law, Respondent agrees that, if this matter were to proceed to a public hearing, there  
8 is a substantial likelihood that ODC would be able to prove, by a clear preponderance of the  
9 evidence, that the stipulated facts violate the rules set forth in ¶ 11. She further agrees the  
10 misconduct set forth in in ¶ 11 will be deemed proved in any subsequent disciplinary proceeding  
11 in any jurisdiction. Under the circumstances of this case, and since Respondent has taken  
12 responsibility for her actions through the criminal justice system, the parties agree that it would  
13 be appropriate for the Disciplinary Board and Supreme Court to approve this stipulation to a  
14 six-month suspension.

#### 15 I. ADMISSION TO PRACTICE

16 1. Respondent was admitted to practice law in the State of Washington on June 12,  
17 1990. She was suspended on an interim basis under ELC 7.1 on June 20, 2017.

#### 18 II. STIPULATED FACTS

19 2. On or about August 20, 2016, Respondent was stopped for speeding while driving  
20 through South Dakota.

21 3. Respondent was on her way from Oregon to Georgia, where she planned to attend  
22 a large party at her sister's farm.

23 4. Law enforcement officers found illegal drugs and drug paraphernalia in her car.

1           5.     Respondent intended that some or all of the drugs be distributed as “party favors”  
2 at her sister’s party.

3           6.     On August 25, 2016, in State of South Dakota v. Avalon, Union County Circuit  
4 Court No. 63CR116-00307, the Grand Jury in Union County, South Dakota filed a six-count  
5 indictment charging Respondent with the following:

- 6           a) Count 1 - Possession of a Schedule I or II Controlled Drug or Substance (THC oil), a  
7           Class 5 felony, in violation of South Dakota Codified Laws (SDCL) 22-42-5;
- 8           b) Count 2 - Possession of a Schedule I or II Controlled Drug or Substance  
9           (methamphetamine), a Class 5 felony, in violation of SDCL 22-42-5;
- 10          c) Count 3 - Possession of a Schedule III or IV Controlled Drug or Substance  
11          (phentermine), a Class 6 felony, in violation of SDCL 22-42-5;
- 12          d) Count 4 - Possession of Marijuana Two Ounces or Less, a Class 1 misdemeanor, in  
13          violation of SDCL 22-42-6;
- 14          e) Count 5 - Possession of Drug Paraphernalia in a Motor Vehicle, a Class 2  
15          misdemeanor, in violation of SDCL 22-42A-3 & SDCL 32-12-52.3; and
- 16          f) Count 6 - Speeding, a Class 2 misdemeanor, in violation of SDCL 32-25-4.

17          7.     On March 27, 2017, Respondent entered a guilty plea to Counts 1 and 2, and the  
18 State dismissed the remaining charges.

19          8.     The court found Respondent’s plea was voluntary, knowing, and intelligent, that  
20 she was represented by competent counsel, that she was competent to enter the plea, and that a  
21 factual basis existed for the plea.

22          9.     The court accepted Respondent’s guilty plea and, by order entered May 2, 2017,  
23 ordered a suspended sentence without entering a judgment of guilt and placed Respondent on

1 supervised probation.

2 10. Respondent completed the terms of her probation. On August 10, 2017, the court  
3 dismissed the action, discharged her from probation, and ordered that the records be sealed.

4 **III. STIPULATION TO MISCONDUCT**

5 11. By committing the felonies of Possession of a Schedule I or II Controlled Drug or  
6 Substance (THC oil) and Possession of a Schedule I or II Controlled Drug or Substance  
7 (methamphetamine), as set forth in Counts 1 and 2 of the August 25, 2016 Indictment  
8 referenced above, Respondent violated RPC 8.4(b) (criminal conduct) and RPC 8.4(i) (disregard  
9 for the rule of law).

10 **IV. PRIOR DISCIPLINE**

11 12. Respondent has no prior discipline.

12 **V. APPLICATION OF ABA STANDARDS**

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

15 5.1 Failure to Maintain Personal Integrity

16 5.11 Disbarment is generally appropriate when:

17 (a) a lawyer engages in serious criminal conduct, a necessary element of which  
18 includes intentional interference with the administration of justice, false swearing,  
19 misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or  
importation of controlled substances; or the intentional killing of another; or an attempt  
or conspiracy or solicitation of another to commit any of these offenses; or

20 (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud,  
21 deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to  
practice.

22 5.12 Suspension is generally appropriate when a lawyer knowingly engages in  
23 criminal conduct which does not contain the elements listed in Standard 5.11 and that  
seriously adversely reflects on the lawyer's fitness to practice.

1 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any  
2 other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that  
adversely reflects on the lawyer's fitness to practice law.

3 5.14 Admonition is generally appropriate when a lawyer engages in any other conduct  
4 that reflects adversely on the lawyer's fitness to practice law.

5 14. Respondent acted knowingly.

6 15. Respondent's conduct did not cause injury but could have caused serious injury.

7 16. The presumptive sanction is suspension under ABA Standard 5.12 and In re  
8 Disciplinary Proceeding Against Curran, 115 Wn.2d 747, 762, 801 P.2d 962 (1990).

9 17. The following aggravating factors apply under ABA Standard 9.22:

- 10 (d) multiple acts (Respondent pleaded guilty to two crimes);  
11 (i) substantial experience in the practice of law (admitted 1990).

12 18. The following mitigating factors apply under ABA Standard 9.32:

- 13 (a) absence of a prior disciplinary record;  
14 (c) personal or emotional problems (see confidential attachment, Appendix A);  
15 (l) remorse.

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

18 20. On balance the aggravating and mitigating factors do not require a departure from  
19 the presumptive sanction.

## 20 VI. STIPULATED DISCIPLINE

21 21. The parties stipulate that Respondent shall receive a six-month suspension.

22 22. The parties agree to ask the Supreme Court to commence the suspension  
23 retroactively to June 20, 2017, the date of Respondent's interim suspension. See In re  
24 Disciplinary Proceeding Against Tasker, 141 Wn.2d 557, 572, 9 P.3d 822 (2000).

1 **VII. RESTITUTION**

2 23. No restitution is required under the facts of this case.

3 **VIII. COSTS AND EXPENSES**

4 24. In light of Respondent's willingness to resolve this matter by stipulation at an early  
5 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$500 in  
6 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)  
7 if these costs are not paid within 30 days of approval of this stipulation. Reinstatement from  
8 suspension or disbarment is conditioned on payment of costs or entry into a payment plan.

9 **IX. VOLUNTARY AGREEMENT**

10 25. Respondent states that prior to entering into this Stipulation she has consulted  
11 independent legal counsel regarding this Stipulation, that she is entering into this Stipulation  
12 voluntarily, and that no promises or threats have been made by ODC, the Association, nor by  
13 any representative thereof, to induce her to enter into this Stipulation except as provided herein.

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

16 **X. LIMITATIONS**

17 27. This Stipulation is a compromise agreement intended to resolve this matter in  
18 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
19 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer  
20 and ODC acknowledge that the result after further proceedings in this matter might differ from  
21 the result agreed to herein.

22 28. This Stipulation is not binding upon ODC or the respondent as a statement of all  
23 existing facts relating to the professional conduct of the respondent lawyer, and any additional

1 existing facts may be proven in any subsequent disciplinary proceedings.

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

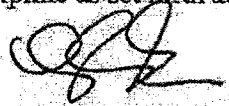
9         30. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on  
10 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record  
11 before the Board for its review become public information on approval of the Stipulation by the  
12 Board, unless disclosure is restricted by order or rule of law.

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

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

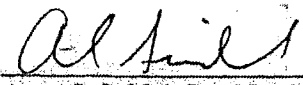
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WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to Discipline as set forth above.



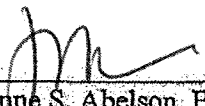
Michele Avalon Michalek, Bar No. 19461  
Respondent

Dated: 8/13/2017



Anne I. Seidel, Bar No. 22742  
Counsel for Respondent

Dated: 8/14/17



Joanne S. Abelson, Bar No. 24877  
Managing Disciplinary Counsel

Dated: 8/22/17