

Dec 18 2019

Disciplinary
Board

Docket # 023

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

MONTY JAMES BOOTH,
Lawyer (Bar No. 19785).

Proceeding No. 19#00030

ODC File No. 18-01418

STIPULATION TO FOUR MONTH
SUSPENSION

[FOLLOWING SETTLEMENT
CONFERENCE CONDUCTED UNDER
ELC 10.12(h)]

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to Four 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 Kevin M. Bank, and Respondent lawyer Monty James Booth.

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,

1 misconduct and sanction in this case. Respondent further understands that he is entitled under
2 the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, the
3 Supreme Court. Respondent further understands that a hearing and appeal could result in an
4 outcome more favorable or less favorable to him. Respondent chooses to resolve this
5 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
6 avoid the risk, time, expense, and publicity attendant to further proceedings.

7 I. ADMISSION TO PRACTICE

8 1. Respondent was admitted to practice law in the State of Washington on November 8,
9 1990.

10 II. STIPULATED FACTS

11 2. In 2015, TC began working as a court specialist with the Tulalip Tribal Clerk's
12 Office.

13 3. At that time Respondent was a member of the Tulalip Bar and engaged by the
14 Tulalip Tribal Court as a criminal conflict attorney.

15 4. TC and Respondent often saw each other at the courthouse and had a professional
16 relationship.

17 5. In September 2017, TC and her husband decided to divorce.

18 6. On December 1, 2017, TC hired Respondent to represent her. They had a verbal
19 agreement for a \$2,500 fee, which TC was paying in installments. By early January 2018 she
20 had paid Respondent \$1,950.

21 7. Respondent represented TC in her dissolution in the Tulalip Tribal Court between
22 December 2017 and May 2018.

1 8. During the period of the representation, Respondent subjected TC to multiple
2 inappropriate, sexually explicit comments and text messages. Over time, Respondent's
3 messages to TC became more frequent.

4 9. In addition, while TC was at work, Respondent visited her at the clerk's window and
5 made remarks about her appearance.

6 10. Respondent's conduct was deeply disturbing to TC.

7 11. On May 3, 2018, TC emailed Respondent and asked him to withdraw from her case.

8 12. Respondent withdrew from the representation the next day.

9 13. TC subsequently represented herself in her dissolution.

10 14. On May 9, 2018, TC filed a complaint against Respondent with the Tulalip Tribal
11 Court regarding his conduct towards her described above.

12 15. On July 2, 2018, shortly after receiving the report of the Tulalip Tribal Court
13 investigator, Respondent offered to remove himself from two upcoming cases before the court.

14 16. On August 7, 2018, before a hearing was held, Respondent resigned from practice
15 before the Tulalip Tribal Court.

16 17. Respondent never engaged in any inappropriate physical contact with TC.

17 **III. STIPULATION TO MISCONDUCT**

18 18. By creating a significant risk that his representation of TC would be materially
19 limited by his personal interest, Respondent violated RPC 1.7(a)(2).

20 **IV. PRIOR DISCIPLINE**

21 19. Respondent has no prior discipline.

1 **V. APPLICATION OF ABA STANDARDS**

2 20. The following American Bar Association Standards for Imposing Lawyer Sanctions
3 (1991 ed. & Feb. 1992 Supp.) apply to this case:¹

4 21. ABA Standard 4.3 applies to the violation of RPC 1.7(a)(2).

5 22. Respondent acted knowingly.

6 23. TC suffered emotional injury. The legal profession suffered injury in the eyes of the
7 public.

8 24. The presumptive sanction is suspension under ABA Standards 4.32.

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

10 (b) selfish motive; and

11 (i) substantial experience in the practice of law [admitted 1990].

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

13 (a) absence of a prior disciplinary record;

14 (d) timely good faith effort to make restitution or to rectify consequences of
15 misconduct [Respondent offered to remove himself from remaining cases in the
16 Tulalip Tribal Court after receiving the report of the Tulalip Tribal Court
17 investigator];

18 (e) cooperative attitude towards proceedings [Respondent voluntarily participated in
19 two consultation/training sessions on workplace harassment issues after disciplinary
20 counsel advised him that this condition would be required as part of a stipulation but
21 before entering into the stipulation]; and

22 _____
23 ¹ The applicable ABA Standards are attached as Appendix A.

1 (l) remorse.

2 27. It is an additional mitigating factor that Respondent has agreed to resolve this matter
3 at an early stage of the proceedings.

4 28. On balance the aggravating and mitigating factors do not require a departure from
5 the presumptive sanction but support a suspension of four months.

6 **VI. STIPULATED DISCIPLINE**

7 29. The parties stipulate that Respondent shall receive a four month suspension.

8 30. Respondent understands that the starting date of any suspension is set by the
9 Washington Supreme Court. He requests that the starting date of his suspension be April 1,
10 2020 due to commitments to current clients. The Office of Disciplinary Counsel does not
11 oppose this request.

12 **VII. RESTITUTION**

13 31. Restitution is not required by this stipulation.

14 **VIII. COSTS AND EXPENSES**

15 32. In light of Respondent's willingness to resolve this matter by stipulation at an early
16 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,000
17 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
18 13.9(l) if these costs are not paid within 30 days of approval of this stipulation. Reinstatement
19 from suspension or disbarment is conditioned on payment of costs.

20 **IX. VOLUNTARY AGREEMENT**

21 33. Respondent states that prior to entering into this Stipulation he has consulted
22 independent legal counsel regarding this Stipulation, that Respondent is entering into this
23

1 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
2 Association, nor by any representative thereof, to induce the Respondent to enter into this
3 Stipulation except as provided herein.

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

6 X. LIMITATIONS

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

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

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

22 38. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
23


1 the record agreed to by the parties. Under ELC 31(h), all documents that form the record
2 before the Board for its review become public information on approval of the Stipulation by the
3 Board, unless disclosure is restricted by order or rule of law.


4 39. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
5 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
6 Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition
7 to Washington, Respondent also is admitted to practice law in the following state jurisdictions,
8 whether current status is active, inactive, or suspended: None.

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

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

15 
16 Monty James Booth, Bar No. 19785
Respondent Dated: 11/12/2019

17 
18 Kevin M. Bank, Bar No. 28935
19 Counsel for Respondent Dated: 11/12/2019

20 
21 Joanne S. Abelson, Bar No. 24877
22 Managing Disciplinary Counsel Dated: 11/12/19

APPENDIX A

SELECTED ABA STANDARDS

ABA Standard 4.3 -- Failure to Avoid Conflicts of Interest

- 4.31 Disbarment is generally appropriate when a lawyer, without the informed consent of client(s):
- (a) engages in representation of a client knowing that the lawyer's interests are adverse to the client's with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client; or
 - (b) simultaneously represents clients that the lawyer knows have adverse interests with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client; or
 - (c) represents a client in a matter substantially related to a matter in which the interests of a present or former client are materially adverse, and knowingly uses information relating to the representation of a client with the intent to benefit the lawyer or another and causes serious or potentially serious injury to a client.
- 4.32 Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.
- 4.33 Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client.
- 4.34 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes little or no actual or potential injury to a client.