

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**A. SPENCER BERGSTEDT,**  
Lawyer (Bar No. 19825).

Proceeding No. 16#00109

ODC File No(s). 16-00396, 16-00594

STIPULATION TO SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Kathy Jo Blake and Respondent lawyer A. Spencer Bergstedt.

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

Stipulation to Discipline  
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OFFICE OF DISCIPLINARY COUNSEL  
OF THE WASHINGTON STATE BAR ASSOCIATION  
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015

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 November  
4 13, 1990.

5 **II. STIPULATED FACTS**

6 SC Grievance

7 2. In December 2015, SC paid Respondent \$1,500 to file a bankruptcy petition on her  
8 behalf.

9 3. Respondent and SC did not have a written flat fee agreement.

10 4. Respondent told SC that he would hold \$335 of the \$1,500 in his trust account to  
11 cover the filing fee

12 5. Respondent failed to deposit SC's funds into his trust account.

13 6. On December 4, 2015, SC emailed Respondent inquiring about her case.  
14 Respondent did not respond.

15 7. On December 10, 2016, SC texted Respondent inquiring about her case. Respondent  
16 received the text, but did not respond.

17 8. On December 15, 2016, SC texted Respondent requesting an update on her case.

18 9. On December 19, 2016, Respondent told SC he was working on her case.

19 10. On January 7, 2016, SC emailed Respondent asking if he had filed the bankruptcy  
20 yet. Respondent did not respond.

21 11. On January 29, 2016, SC sent Respondent an email and a letter requesting that he  
22 return her file and her \$1,500. Respondent did not respond.

23 12. On February 24, 2016, SC sent Respondent an email and a letter again requesting

1 that he return her file and refund her \$1,500. Respondent did not respond.

2 13. On March 1, 2016, SC sent Respondent a text stating that she had decided to hire a  
3 different bankruptcy attorney and requesting her file and a refund of her \$1,500. Respondent  
4 received the text but did not respond.

5 14. On March 1, 2016, the balance in Respondent's trust account was only \$235.94.

6 15. On March 14, 2016, SC texted Respondent again requesting her file and a refund of  
7 her \$1,500. Respondent received the text but did not respond.

8 16. Respondent never filed the bankruptcy petition.

9 17. SC filed a grievance on April 13, 2016.

10 18. On April 15, 2016, ODC mailed a copy of SC's grievance to Respondent with a  
11 request that he provide a written response. Respondent received a copy of the grievance and  
12 ODC's request. Respondent did not respond to ODC.

13 19. On May 19, 2016, ODC sent Respondent a 10-day letter under ELC 5.3(h)(1)  
14 advising him that he must file a written response to the grievance on or before June 1, 2016.  
15 Respondent received ODC's letter. Respondent did not respond.

16 20. Respondent has not refunded any money to SC.

17 JG Grievance

18 21. In June 2014, JG hired Respondent to represent him in a bankruptcy and adversarial  
19 proceedings.

20 22. JG and Respondent agreed on a flat fee of \$1,500 for the bankruptcy and \$2,000 for  
21 the adversarial proceeding.

22 23. JG and Respondent also agreed that JG would pay Respondent \$350 for the filing fee  
23 and that those funds would be held in Respondent's trust account.

1 24. The fee agreement was not reduced to writing nor was it signed by JG.

2 25. By March 31, 2015, JG paid Respondent a total of \$3,400.

3 26. Respondent did not deposit any of these funds into a trust account.

4 27. By March 31, 2015, Respondent had not yet earned the entire \$3,400.

5 28. JG paid Respondent another \$450 on September 11, 2015.

6 29. Respondent did not deposit any of these funds into a trust account.

7 30. On July 6, 2015, Respondent filed the bankruptcy petition and applied for an  
8 installment plan for the bankruptcy filing fees.

9 31. The application called for \$100 to be paid with the filing of the petition, \$100 on or  
10 before September 1, 2015, and \$135 on or before October 1, 2015.

11 32. Respondent paid \$100 with the filing of the petition, but did not attempt to make  
12 another payment until after both installment deadlines passed.

13 33. In mid-October 2015, Respondent attempted to make his first \$100 installment  
14 payment with a check drawn on his general bank account. Respondent's check was returned for  
15 insufficient funds, resulting in a \$53 failed transaction fee by the court.

16 34. Respondent was aware that his check was returned for insufficient funds and that his  
17 client was assessed a \$53 failed transaction fee by the court but took no action to remedy the  
18 situation with the court.

19 35. JG paid the remaining \$235 filing fee and the \$53 failed transaction fee himself.

20 36. During late summer and early fall of 2015, JG made multiple inquires to  
21 Respondent about his case. Respondent did not respond.

22 37. In early October 2015, JG fired Respondent and hired new counsel, Kathleen Box.

23 38. On October 28, 2015, Judge Barreca filed an Order to Show Cause (1) Whether

1 Debtor is Being Adequately Represented By Counsel and (2) Whether Fees Should Be  
2 Disgorged.

3 39. JG, Ms. Box, and Respondent submitted declarations in support of their positions.

4 40. On January 11, 2016, Judge Barreca ordered Respondent to disgorge all attorney  
5 fees collected from JG.

6 41. Judge Barreca also required Respondent to reimburse JG the \$235 filing fee and  
7 the \$53 failed transaction fee.

8 42. Judge Barreca further required Respondent to send \$3,788, representing the  
9 disgorged attorney fees, the unpaid filing fee, and the failed transaction fee, to Ms. Box no later  
10 than 30 days from the entry of the order.

11 43. Respondent did not comply with the court order.

12 44. On March 21, 2016, JG filed a grievance against Respondent.

13 45. On March 23, 2016, ODC mailed a copy of JG's grievance to Respondent with a  
14 request that he provide a written response. Respondent received a copy of the grievance and  
15 ODC's request. Respondent did not respond to ODC's request.

16 46. On April 26, 2016, ODC sent Respondent a 10-day letter under ELC 5.3(h)(1)  
17 notifying him that if ODC did not receive his response within 10 days ODC would subpoena  
18 him for a deposition. Respondent received the 10-day letter but did not respond.

19 47. On July 6, 2016, ODC received an envelope from the Respondent containing two  
20 checks dated June 30, 2016 and made payable to JG.

21 48. One check for \$235 was drawn on his trust account and another check for \$53 was  
22 drawn on his personal account.

23 49. At Respondent's request, ODC forwarded the checks to JG.

1 50. Respondent's \$53 check bounced.

2 51. As of the date of the complaint, Respondent has not refunded any portion of the  
3 \$3,500 fee collected from JG.

4 52. As of the date of the complaint, Respondent has not reimbursed JG for the \$53  
5 failed transaction fee.

### 6 III. STIPULATION TO MISCONDUCT

7 53. By failing to keep SC reasonably informed about the status of her matter, and by  
8 failing to promptly comply with her reasonable requests for information, Respondent violated  
9 RPC 1.4(a)(3) and 1.4(a)(4).

10 54. By charging, collecting and retaining \$1,500 for services he did not perform,  
11 Respondent violated RPC 1.5(a).

12 55. By failing to deposit into a trust account SC's legal fees and expenses paid in  
13 advance, Respondent violated RPC 1.5(f) and RPC 1.15A(c)(2).

14 56. By failing to return the client file to SC and/or by failing to refund any part of the  
15 advanced payment he received from her, Respondent violated RPC 1.15A(f).

16 57. By failing to promptly respond to requests for information relevant to a grievance,  
17 Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and/or 5.3(g)).

18 58. By failing to promptly comply with JG's reasonable requests for information,  
19 Respondent violated RPC 1.4(a)(3) and 1.4(a)(4).

20 59. By charging, collecting and retaining \$3,850 for services he did not completely  
21 perform, Respondent violated RPC 1.5(a).

22 60. By failing to deposit into a trust account JG's legal fees and expenses paid in  
23 advance, Respondent violated RPC 1.5(f) and RPC 1.15A(c)(2)

1 61. By failing to refund any part of the advanced payment he received from JG,  
2 Respondent violated RPC 1.15A(f).

3 62. By failing to comply with the filing fee payment plan, Respondent violated RPC  
4 1.3.

5 63. By failing to comply with the court order requiring him to disgorge his attorney's  
6 fees and refund the \$250 filing fee and \$53 failed transaction fee, Respondent violated RPC  
7 8.4(j).

8 64. By failing to promptly respond to requests for information relevant to a grievance,  
9 Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and 5.3(g)).

10 **IV. PRIOR DISCIPLINE**

11 65. Respondent has no prior discipline.

12 **V. APPLICATION OF ABA STANDARDS**

13 66. The following American Bar Association Standards for Imposing Lawyer Sanctions  
14 (1991 ed. & Feb. 1992 Supp.) apply to this case:<sup>1</sup>

- 15 • ABA Standard 4.1 applies to the violations of RPC 1.5(f), 1.15A(c)(2)
- 16 • ABA Standard 4.4 applies to the violations of RPC 1.3, 1.4(a)(3) and 1.4(a)(4).
- 17 • ABA Standard 6.2 applies to the violations of RPC 8.4(j)
- 18 • ABA Standard 7.0 applies to the violations of RPC 1.5 (a), 1.15A(f), 8.4(l) (by  
19 violating ELC 1.5, 5.3(f), and/or 5.3(g)).

20  
21 67. Respondent acted knowingly in failing to respond to SC's and JG's reasonable  
22 requests for information. SC and JG were injured in that they experienced additional stress. JG

23 <sup>1</sup> Applicable ABA Standards are attached as Appendix A.

1 was further injured because Respondent's lack of communication forced him to hire new  
2 counsel at additional expense to JG. The presumptive sanction for Respondent's violation of  
3 RPC 1.4(a)(3) and 1.4(a)(4) is suspension under ABA Standard 4.42.

4 68. Respondent acted knowingly in retaining fees paid by SC and JG for work he never  
5 completed. SC and JG were injured in that they paid for legal work of no benefit to them. The  
6 presumptive sanction for Respondent's violations of RPC 1.5(a) is suspension under ABA  
7 Standard 7.2.

8 69. Respondent acted knowingly in failing to deposit into a trust account SC's and JG's  
9 legal fees and expenses paid in advance and in failing to refund unearned fees. SC and JG were  
10 injured in that they were deprived of funds to which they were entitled. The presumptive  
11 sanction for Respondent's violation of RPC 1.5(f) and/or RPC 1.15A(c)(2) and/or RPC 1.15A(f)  
12 is suspension under ABA Standard 4.12.

13 70. Respondent acted knowingly in failing to comply with the filing fee payment plan.  
14 JG was injured in that he was forced to expend additional funds. JG was also harmed because  
15 he experienced additional stress. The presumptive sanction for Respondent's violation of RPC  
16 1.3 is suspension under ABA Standard 4.42(a).

17 71. Respondent acted knowingly in violating the court order requiring him to disgorge  
18 his attorney's fees and refund the \$250 filing fee and \$53 failed transaction fee. Respondent's  
19 conduct harmed JG because he was deprived of funds to which he was entitled. The  
20 presumptive sanction for Respondent's violation of RPC 8.4(j) is suspension under ABA  
21 Standard 6.22.

22 72. Respondent acted knowingly in failing to promptly respond to requests for  
23 information relevant to a grievance. Respondent's conduct caused harm to the disciplinary



1 system by causing ODC to expend additional resources during the grievance investigation.  
2 Respondent's conduct also caused harm to the legal system. Respondent's conduct reflects  
3 poorly on the profession and diminishes public confidence in the legal system. The presumptive  
4 sanction for Respondent's violation of RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and/or 5.3(g))  
5 is suspension under ABA Standard 7.2.

6 73. The following aggravating factors apply under ABA Standard 9.22:

- 7 (c) pattern of misconduct;
- 8 (d) multiple offenses;
- 9 (i) substantial experience in the practice of law [admitted 11/13/1990];

10 74. The following mitigating factors apply under in ABA Standard 9.32

- 11 (a) absence of a prior disciplinary record;
- 12 (c) personal or emotional problems (See Appendix B).<sup>2</sup>

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

15 76. On balance the aggravating and mitigating factors do not require a departure from  
16 the presumptive sanction of suspension but do warrant a length of suspension greater than the  
17 accepted minimum term of six-months.

18 77. The seriousness of the misconduct, the numerous acts of misconduct, and the harm  
19 to two clients, ODC, and the legal system warrants a suspension of 21-months.

## 20 VI. STIPULATED DISCIPLINE

21 78. The parties stipulate that Respondent shall receive a 21-month suspension for his  
22 conduct.

23 79. Respondent will be subject to probation for a period of two years commencing upon

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24 <sup>2</sup> The medical problems referenced in Appendix B do not qualify for mitigation under ABA Standard  
9.32(i) because Respondent has not satisfied subsections (2), (3), and (4) of that Standard.

1 Respondent's reinstatement to the practice of law, with periodic reviews under ELC 13.8 of his  
2 trust account practices,

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

7 Trust Account

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

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

- 1           iv) Months 10 – 12. By no later than the 30<sup>th</sup> day of the thirteenth month after  
2           the commencement of probation, Respondent shall provide the trust  
3           account records from the end of the previously provided quarter through  
4           the end of month twelve.
- 5           v) Months 13– 15. By no later than the 30<sup>th</sup> day of the sixteenth month after  
6           the commencement of probation, Respondent shall provide the trust  
7           account records from the end of the previously provided quarter through  
8           the end of month fifteen.
- 9           vi) Months 16 – 18. By no later than the 30<sup>th</sup> day of the nineteenth month after  
10           the commencement of probation, Respondent shall provide the trust  
11           account records from the end of the previously provided quarter through  
12           the end of month eighteen.
- 13           vii) Months 19 – 21. By no later than the 30<sup>th</sup> day of the twenty-second month  
14           after the commencement of probation, Respondent shall provide the trust  
15           account records from the end of the previously provided quarter through  
16           the end of month twenty-one.

17           The trust account records Respondent provides to ODC for each quarterly review of  
18           his trust account will include: (a) a complete checkbook register for his/her trust  
19           account covering the period being reviewed, (b) complete individual client ledger  
20           records for any client with funds in Respondent's trust account during all or part of  
21           the period being reviewed, as well as for Respondent's own funds in the account (if  
22           any), (c) copies of all trust-account bank statements, deposit slips, and cancelled  
23           checks covering the period being reviewed, (d) copies of all trust account client  
24           ledger reconciliations for the period being reviewed, and (e) copies of  
            reconciliations of Respondent's trust account check register covering the period  
            being reviewed. The ODC's Audit Manager or designee will review Respondent's  
            trust account records for each period.

- 17           d) On the same quarterly time schedule set forth in the preceding paragraph,  
18           Respondent will provide ODC's Audit Manager or designee with copies of any and  
19           all fee agreements entered into within the time period at issue.
- 20           e) The ODC's Audit Manager or designee may request additional financial or client  
21           records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.  
22           Within twenty days of a request from ODC's Audit Manager or designee for  
23           additional records needed to verify Respondent's compliance with RPC 1.15A  
24           and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the  
            additional records requested.

82. Respondent will reimburse the Association for time spent by ODC's Audit Manager  
or designee in reviewing and reporting on Respondent's records to determine his/her

1 compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour. Respondent will make  
2 payment within thirty days of each written invoice setting forth the auditor's time and payment  
3 due.

4 Practice Monitor

5 a) During the period of probation, Respondent's practice will be supervised by a  
6 practice monitor. The practice monitor must be a WSBA member with no record of  
7 public discipline and who is not the subject of a pending public disciplinary  
8 proceeding.

9 b) The role of the practice monitor is to consult with and provide guidance to  
10 Respondent regarding case management, office management, and avoiding  
11 violations of the Rules of Professional Conduct, and to provide reports and  
12 information to the Probation Administrator regarding Respondent's compliance  
13 with the terms of probation and the RPC. The practice monitor does not represent  
14 the Respondent.

15 c) At the beginning of the probation period, the Probation Administrator will  
16 select a lawyer to serve as practice monitor for the period of Respondent's  
17 probation.

18 i) Initial Challenge: If, within 15 days of the written notice of the  
19 selection of a practice monitor, Respondent sends a written request to the  
20 Probation Administrator that another practice monitor be selected, the  
21 Probation Administrator will select another practice monitor. Respondent  
22 need not identify any basis for this initial request.

23 ii) Subsequent Challenges: If, after selection of a second (or subsequent)  
24 practice monitor, Respondent believes there is good cause why that  
individual should not serve as practice monitor, Respondent may, within 15  
days of notice of the selected practice monitor, send a written request to the  
Probation Administrator asking that another practice monitor be selected.  
That request must articulate good cause to support the request. If the  
Probation Administrator agrees, another practice monitor will be selected.  
If the Probation Administrator disagrees, the Office of Disciplinary Counsel  
will submit its proposed selection for practice monitor to the Chair of the  
Disciplinary Board for appointment pursuant to ELC 13.8(a)(2), and will  
also provide the Chair with the Respondent's written request that another  
practice monitor be selected.

d) In the event the practice monitor is no longer able to perform his or her duties,  
the Probation Administrator will select a new practice monitor at his or her  
discretion.

- 1 e) During the period of probation, Respondent must cooperate with the named  
2 practice monitor. Respondent must meet with the practice monitor at least once per  
3 month. Respondent must communicate with the practice monitor to schedule all  
4 required meetings.
- 5 f) The Respondent must bring to each meeting a current, complete written list of  
6 all pending client legal matters being handled by the Respondent. The list must  
7 identify the current status of each client matter and any problematic issues regarding  
8 each client matter. The list may identify clients by using the client's initials rather  
9 than the client's name.
- 10 g) At each meeting, the practice monitor will discuss with Respondent practice  
11 issues that have arisen or are anticipated. In light of the conduct giving rise to the  
12 imposition of probation, ODC recommends that the practice monitor and  
13 Respondent discuss whether Respondent is diligently making progress on each  
14 client matter, whether Respondent is in communication with each client, and  
15 whether Respondent's fee agreements are consistent with the RPC and are  
16 understandable to the client. Meetings may be in person or by telephone at the  
17 practice monitor's discretion. The practice monitor uses discretion in determining  
18 the length of each meeting.
- 19 h) The practice monitor will provide the Probation Administrator with quarterly  
20 written reports regarding Respondent's compliance with probation terms and the  
21 RPC. Each report must include the date of each meeting with Respondent, a brief  
22 synopsis of the discussion topics, and a brief description of any concerns the  
23 practice monitor has regarding the Respondent's compliance with the RPC. The  
24 report must be signed by the practice monitor. Each report is due within 30 days of  
the completion of the quarter.
- i) If the practice monitor believes that Respondent is not complying with any of  
his ethical duties under the RPC or if Respondent fails to schedule or attend a  
monthly meeting, the practice monitor will promptly communicate that to the  
Probation Administrator.
- j) Respondent must make payments totaling \$1,000 to the Washington State Bar  
Association to defray the costs and expenses of administering the probation, as  
follows:
- i) \$250 due within 30 days of the start of the probation;
  - ii) \$250 due within 6 months of the start of the probation period;
  - iii) \$250 due within 12 months of the start of the probation period; and
  - iv) \$250 due within 18 months of the start of the probation period.

All payments should be provided to the Probation Administrator for processing.

1 LOMAP

- 2 k) Respondent shall participate in the Association's Law Office Management  
3 Assistance Program ("LOMAP").
- 4 l) Respondent shall meet with a LOMAP Practice Management Advisor ("LOMAP  
5 Advisor") to discuss and implement procedures intended to improve Respondent's  
6 practice. Disciplinary Counsel suggests the consultation focuses on fee agreements  
7 and communicating with clients.
- 8 m) The initial meeting with the LOMAP Advisor will take place at Respondent's  
9 office. Respondent shall contact the LOMAP Advisor to schedule the meeting  
10 within 30 days of the commencement of probation. The initial meeting shall take  
11 place no later than 180 days from the commencement of probation. The LOMAP  
12 Advisor can be reached at: 206-733-5914 or lomap@wsba.org.
- 13 n) Respondent shall complete the LOMAP Self-Audit Checklist, to be provided by the  
14 LOMAP Advisor, prior to the initial meeting with the LOMAP Advisor.
- 15 o) The LOMAP Advisor may establish deadlines by which Respondent must comply  
16 with recommendations made by the LOMAP Advisor and for follow-up  
17 communication. Respondent shall strictly comply with these deadlines. Follow-up  
18 communication may be in person or by email, regular mail, or telephone, at the sole  
19 discretion of the LOMAP Advisor.
- 20 p) Respondent shall respond promptly to all inquiries from the LOMAP Advisor and  
21 the Probation Administrator regarding Respondent's compliance with the LOMAP  
22 requirements described herein.
- 23 q) The LOMAP Advisor may respond to inquiries from the Probation Administrator  
24 regarding Respondent's compliance with these conditions.
- r) The LOMAP Advisor will promptly notify the Probation Administrator if  
Respondent fails to comply with any LOMAP requirements or conditions.
- s) Respondent shall pay all costs for LOMAP services, except travel time and cost,  
subject to a cap of 15 hours at a rate not to exceed \$95.00 per hour.

19 CLEs

- 20 t) During the probationary period, Respondent shall complete a minimum of 30 credit  
21 hours of continuing legal education courses, at Respondent's own expense, in the  
22 areas of client communication, office organization, practice management, time  
23 management, caseload management, trust accounting, and billing practices.
- 24 u) Respondent shall provide evidence of attendance at such courses to the Probation  
Administrator no later than 30 days after the conclusion of the course. Proof of

1 attendance shall include the program brochure, evidence of payment, and a written  
2 statement that includes the date and time of attendance.

3 Ethics School

- 4 v) Respondent shall attend Ethics School in person or by webinar (approximately six  
5 hours), or by obtaining the recorded product, and to pay registration costs of \$150.  
6 Respondent will receive all applicable approved CLE credits for time in attendance  
7 at the Ethics School. Ethics School will be held at the Association's office.
- 8 w) Attendance at Ethics School is in addition to and shall not fulfill any continuing  
9 legal education (CLE) requirements set out in this stipulation.
- 10 x) Respondent shall not disclose the names or other identifying information of other  
11 Ethics School attendees outside of Ethics School.
- 12 y) Respondent shall contact the Ethics School Administrator, currently Thea Jennings,  
13 at (206) 733-5985 or [theaj@wsba.org](mailto:theaj@wsba.org), by May 30, 2017 to confirm enrollment in  
14 Ethics School and related logistics.
- 15 z) The Ethics School administrator may respond to inquiries from the Probation  
16 Administrator regarding Respondent's compliance with these conditions.

17 **VII. RESTITUTION**

18 83. Respondent shall pay restitution in the amount of \$1,500.00 plus interest of 12  
19 percent per annum from May 1, 2017 to SC. Respondent shall make a minimum monthly  
20 payment of \$50 directly to SC beginning on June 1, 2017 and send proof of payment to ODC  
21 within 30 days of payment.

22 84. Respondent shall pay restitution in the amount of \$3,533.00 plus interest of 12  
23 percent per annum from June 1, 2017 to JG. Respondent shall make a minimum monthly  
24 payment of \$100 directly to JG beginning on June 1, 2017 and send proof of payment to ODC  
within 30 days of payment.

85. Reinstatement from suspension is conditioned on payment of restitution to SC and  
JG.

1 **VIII. COSTS AND EXPENSES**

2 86. In light of Respondent's willingness to resolve this matter by stipulation at an early  
3 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of  
4 \$1,898.23.27 in accordance with ELC 13.9(i), which represents \$898.23 in actual costs and  
5 \$1,000 in expenses under ELC 13.9(c)(4). The Association will seek a money judgment under  
6 ELC 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.

7 87. Reinstatement from suspension is conditioned on payment of costs.

8 **IX. VOLUNTARY AGREEMENT**

9 88. Respondent states that prior to entering into this Stipulation he had an opportunity to  
10 consult independent legal counsel regarding this Stipulation, that Respondent is entering into  
11 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
12 Association, nor by any representative thereof, to induce the Respondent to enter into this  
13 Stipulation except as provided herein.

14 89. 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 90. 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 91. 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.

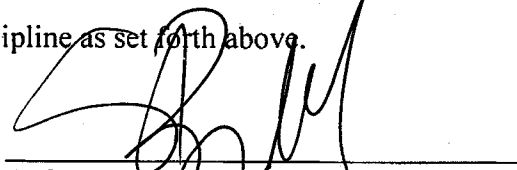
2 92. This Stipulation results from the consideration of various factors by both parties,  
3 including the benefits to both by promptly resolving this matter without the time and expense of  
4 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
5 such, approval 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 93. 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.

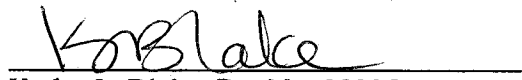
13 94. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will  
14 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
15 Rules for Enforcement of Lawyer Conduct will be made.

16 95. 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.

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

3   
4 \_\_\_\_\_  
A. Spencer Bergstedt, Bar No. 19825  
5 Respondent

Dated: 5/16/17

6  
7   
8 \_\_\_\_\_  
Kathy Jo Blake, Bar No. 29235  
9 Disciplinary Counsel

Dated: 5/15/17

## Appendix A

Selected American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.).

### 4.1 Failure to Preserve the Client's Property

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

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

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

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.

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.

### 4.4 Lack of Diligence

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

**4.42 Suspension is generally appropriate when:**

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or**
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.**

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

## 6.2 Abuse of the Legal Process

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

**6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.**

6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

## 7.0 Violations of Duties Owed as a Professional

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

**7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.**

7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.