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FILED

JUN 25 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

SUELLEN HOWARD,
Lawyer (Bar No. 20506).

Proceeding No. 13#00043

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 Erica Temple and Respondent lawyer Suellen Howard.

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 outcome more favorable or less favorable to her. 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 attendant to further proceedings.

1 **I. ADMISSION TO PRACTICE**

2 1. Respondent was admitted to practice law in the State of Washington on June 3,
3 1991.

4 **II. STIPULATED FACTS**

5 2. In August 2011, Deborah Viggiano hired Respondent to represent her in a
6 dissolution case in Pierce County Superior Court No. 11-3-02896-7.

7 3. On October 19, 2011, Respondent's legal assistant e-mailed Ms. Viggiano a
8 financial declaration for her to fill out and send back.

9 4. Respondent also requested that Ms. Viggiano write a separate declaration relating
10 to other contested issues.

11 5. On Friday, November 18, 2011, the same date that the declarations were due with
12 the court, Respondent received Ms. Viggiano's financial declaration via e-mail. It was mostly
13 completed, and signed under penalty of perjury, dated November 15, 2011.

14 6. Because Ms. Viggiano had not returned the separate declaration, in order to ensure
15 that a declaration was timely filed, Respondent drafted the separate declaration herself, and sent
16 Ms. Viggiano an e-mail telling her that she would prepare the separate declaration. Ms.
17 Viggiano did not respond.

18 7. Respondent added Ms. Viggiano's signature page, under penalty of perjury, from
19 the financial declaration onto the separate declaration.

20 8. On Monday, November 21, 2011, Respondent filed both the financial declaration
21 and the separate declaration.

22 9. Ms. Viggiano did not review or sign the separate declaration before Ms. Howard
23 filed it.

1 causes injury or potential injury to a party to the legal proceeding, or causes an
2 adverse or potentially adverse effect on the legal proceeding.

3 6.13 Reprimand is generally appropriate when a lawyer is negligent
4 either in determining whether statements or documents are false or in taking
5 remedial action when material information is being withheld, and causes injury
6 or potential injury to a party to the legal proceeding, or causes an adverse or
7 potentially adverse effect on the legal proceeding.

8 6.14 Admonition is generally appropriate when a lawyer engages in an
9 isolated instance of neglect in determining whether submitted statements or
10 documents are false or in failing to disclose material information upon learning
11 of its falsity, and causes little or no actual or potential injury to a party, or causes
12 little or no adverse or potentially adverse effect on the legal proceeding.

13 18. Respondent knowingly filed a document for her client, under penalty of perjury,
14 without her client's actual signature.

15 19. The injury was that Ms. Vigianno's "signature" was placed on a document that
16 contained false statements, and Ms. Viggiano was angered by Ms. Howard's actions.

17 20. The presumptive sanction is suspension.

18 21. The following aggravating factor applies under ABA Standards Section 9.22:

- 19 (i) substantial experience in the practice of law [Respondent was admitted to
20 practice in 1991].

21 22. The following mitigating factors apply under ABA Standards Section 9.32:

- 22 (a) absence of a prior disciplinary record;
23 (b) absence of a dishonest or selfish motive.

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

25 24. Based on the factors set forth above, the presumptive sanction should be mitigated to
reprimand.

26 VI. STIPULATED DISCIPLINE

27 25. The parties stipulate that Respondent shall receive a reprimand for her conduct.

1 **VII. RESTITUTION**

2 26. An order of restitution is not appropriate in this matter.

3 **VIII. COSTS AND EXPENSES**

4 27. 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.

8 **IX. VOLUNTARY AGREEMENT**

9 28. Respondent states that prior to entering into this Stipulation she had an opportunity
10 to 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 the Association,
12 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
13 as provided herein.

14 **X. LIMITATIONS**

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

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

23 31. This Stipulation results from the consideration of various factors by both parties,
24


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

7 32. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for
8 his or her review become public information on approval of the Stipulation by the Hearing
9 Officer, unless disclosure is restricted by order or rule of law.


10 33. If this Stipulation is approved by the Hearing Officer, it will be followed by the
11 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
12 Enforcement of Lawyer Conduct will be made.

13 34. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
14 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
15 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
16 or criminal action.

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

19 
20 _____
21 Suellen Howard, Bar No. 20506
22 Respondent

Dated: 6/13/13

23 
24 _____
25 Erica Temple, Bar No. 28458
26 Disciplinary Counsel

Dated: 6/17/13