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FILED

NOV 18 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

KEVIN R. RICHARDSON,

Lawyer (Bar No. 21125).

Proceeding No. 13#00042

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 Natalea Skvir, Respondent lawyer Kevin R. Richardson, and Respondent's counsel Anne I. Seidel.

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

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1 avoid the risk, time, expense and publicity 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, 1991.

5 **II. STIPULATED FACTS**

6 2. In early 2011, Carole Stevens (Ms. Stevens) met Respondent for a consultation
7 concerning dissolution of her marriage.

8 3. Respondent advised Ms. Stevens that the court could enter a decree in approximately
9 90 days after filing but only if a full agreement had been reached, all necessary documents were
10 signed and all court requirements, such as parenting classes, had been completed.

11 4. Due to the events set forth in paragraph 40(c)(1) below, Respondent was absent from
12 his office a great deal in the winter and spring of 2011.

13 5. On March 1, 2011, Ms. Stevens visited Respondent's office and signed an agreement
14 to pay a "fixed fee" of \$1,500 for representation in an uncontested divorce. Respondent was not
15 present for this meeting.

16 6. The fee agreement did not include the terms RPC 1.5(f)(2) requires for a flat fee not
17 to be held in trust.

18 7. Ms. Stevens paid \$1,500 for the fee and \$280 for advanced costs, by separate checks.

19 8. Respondent's assistant deposited both checks into Respondent's general, non-
20 IOLTA account.

21 9. Respondent was not aware at that time that the filing fee was wrongly deposited to
22 the general account and disbursed the funds for unrelated expenses. He later paid the \$280
23 filing fee on Ms. Stevens's behalf out of his general account.

1 10. At the time it was deposited into his general account, Respondent was entitled to no
2 portion of Ms. Stevens's advance filing fee.

3 11. On March 25, 2011, Mr. and Ms. Stevens went to Respondent's office, met with
4 Respondent's assistant, and signed a Petition, Parenting Plan, Order of Child Support and Child
5 Support Schedule Worksheets for an uncontested dissolution. Respondent was not present.

6 12. Starting in July 2011, Ms. Stevens e-mailed and telephoned Respondent to ascertain
7 whether the dissolution decree had been entered and she could obtain copies of the final papers.

8 13. Due at least in part to the circumstances referenced in paragraph 40(c)(2),
9 Respondent did not respond to all of Ms. Stevens's inquiries and, when he did email, he did not
10 directly address those two questions about the status of the case.

11 14. Ms. Stevens contacted the court in September 2011 and learned that Respondent had
12 not filed in court any of the papers she and Mr. Stevens had signed.

13 15. Ms. Stevens e-mailed Respondent on September 9, 2011 and informed him that she
14 was aware that he had not yet filed her case with the court. Respondent did not understand until
15 then that Ms. Stevens thought he had already filed the petition and related documents.

16 16. Respondent filed the papers that same day.

17 17. The court required Mr. and Ms. Stevens to complete a parenting class before a
18 dissolution decree could be entered.

19 18. Because she had moved to California, Ms. Stevens contacted the court about this
20 requirement and was told her lawyer could seek to have her attendance waived.

21 19. Starting in September 2011, Ms. Stevens asked Respondent to pursue such a waiver.
22 He did not do so.

23 20. On November 16, 2011, the court issued a warning letter to both parties concerning
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1 the parenting course requirement, but Respondent took no action at that time.

2 21. In December 2011, Ms. Stevens wrote to Respondent to remind him to obtain a
3 waiver of the parenting class, to inquire about the status of the dissolution case, and ask that he
4 send her the final papers. Under the applicable court rules, the court may waive the parenting
5 class on good cause shown. Respondent therefore asked Ms. Stevens to find out if there was a
6 similar course in California in case the court asked him for this information, but he took no
7 action to obtain the waiver and did not address her other questions.

8 22. Also in December 2011, on Respondent's recommendation, Ms. Stevens agreed to
9 postpone filing the final documents until the following year so she could benefit from a joint tax
10 filing.

11 23. Respondent did not file anything in early January, and on January 13, 2012, the
12 assigned judge dismissed the Stevens case pursuant to court rule because neither Respondent
13 nor Mr. Stevens appeared in court on that date for the Assignment to set a trial date.
14 Respondent did not inform Ms. Stevens of the dismissal.

15 24. Thereafter Respondent met with Mr. Stevens in person and spoke with Ms. Stevens
16 by phone, and reviewed and revised the final documents.

17 25. On February 3, 2012, Respondent successfully moved to vacate the dismissal, the
18 court waived the parenting class requirement for Ms. Stevens, and it entered the agreed-upon
19 final dissolution documents.

20 **III. STIPULATION TO MISCONDUCT**

21 26. By failing to deposit Ms. Stevens's advanced fee and costs into a trust account,
22 Respondent violated RPC 1.15A(c)(2).

23 27. By failing to act with reasonable diligence and promptness in representing Ms.
24

1 Stevens, Respondent violated RPC 1.3.

2 28. By failing to keep Ms. Stevens reasonably informed about the status of her matter
3 and by failing to comply with her reasonable requests for information, Respondent violated
4 RPC 1.4(a).

5 **IV. PRIOR DISCIPLINE**

6 29. Respondent has not previously been the subject of disciplinary proceedings.

7 **V. APPLICATION OF ABA STANDARDS**

8 30. The following American Bar Association Standards for Imposing Lawyer Sanctions
9 (1991 ed. & Feb. 1992 Supp.) apply to this case:¹

10 31. ABA Standard 4.4 is most applicable to Respondent's duty to act with diligence in
11 representing Ms. Stevens and to communicate with her.

12 32. Respondent acted negligently in failing to promptly file Ms. Stevens's petition for
13 dissolution but, after filing the petition, his failure to act was knowing.

14 33. Ms. Stevens was injured or potentially injured by the delay in obtaining the
15 dissolution.

16 34. The presumptive sanction is reprimand or suspension.

17 35. ABA Standard 4.1 is most applicable to Respondent's failure to deposit Ms.
18 Stevens's advance fee and costs into his trust account until the fees were earned and the costs
19 incurred and disbursed.

20 36. Respondent was negligent in failing to ensure that Ms. Stevens's advance fee and
21 costs were deposited into his trust account.

22 37. Ms. Stevens was potentially injured insofar as Respondent spent the advanced filing
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24 ¹ Copies of the cited Standards are attached.

1 fee months before he filed her case and might not have had funds available to pay that cost
2 when it was later incurred.

3 38. The presumptive sanction is reprimand.

4 39. The following aggravating factors apply under ABA Standards Section 9.22:

5 (d) multiple offenses; and

6 (i) substantial experience in the practice of law: Respondent was admitted to
7 practice in 1991.

8 40. The following mitigating factors apply under ABA Standards Section 9.32:

9 (a) absence of a prior disciplinary record; and

10 (c) personal or emotional problems:

11 (1) Respondent's long-term marriage ended in divorce in December
12 2010. In the fall of 2010, his mother was in hospice care for cancer and his
13 father died unexpectedly of an embolism just weeks after Respondent's divorce
14 was final. Respondent's mother died a month later.

15 (2) A woman who was both a client and friend of Respondent was
16 stabbed to death in July 2011.

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

19 42. Based on the factors set forth above, the presumptive sanction should be mitigated to
20 reprimand.

21 VI. STIPULATED DISCIPLINE

22 43. The parties stipulate that Respondent shall receive a reprimand for his conduct.

23 VII. RESTITUTION

24 44. Because Respondent eventually performed the services for which he was hired and
paid, an order of restitution is not appropriate.

VIII. COSTS AND EXPENSES

45. In light of Respondent's willingness to resolve this matter by stipulation at an early

1 stage of the proceedings, Respondent shall pay reduced attorney fees and administrative costs of
2 \$500 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
3 13.9(l) if these costs are not paid within 30 days of approval of this stipulation

4 IX. VOLUNTARY AGREEMENT

5 46. Respondent states that prior to entering into this Stipulation he has consulted
6 independent legal counsel regarding this Stipulation, that Respondent is entering into this
7 Stipulation voluntarily, and that no promises or threats have been made by the Association, nor
8 by any representative thereof, to induce the Respondent to enter into this Stipulation except as
9 provided herein.

10 X. LIMITATIONS

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

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

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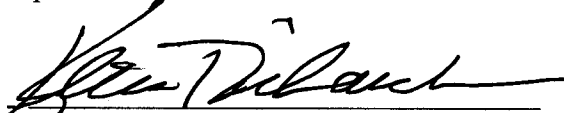
1 subsequent proceedings against Respondent to the same extent as any other approved
2 Stipulation.

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

6 51. If this Stipulation is approved by the Hearing Officer, it will be followed by the
7 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
8 Enforcement of Lawyer Conduct will be made.

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

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

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16 Kevin R. Richardson, Bar No. 21125
Respondent

Dated: 10/31/13

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

Dated: 11/7/13

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20 Natalea Skvir, Bar No. 34335
Disciplinary Counsel

Dated: 11/8/13

1 **American Bar Association Standards for Imposing Lawyer Sanctions**
2 **(1991 ed. & Feb. 1992 Supp.) (excerpts)**

3 **4.1 Failure to Preserve the Client's Property**

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

7 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client
8 property and causes injury or potential injury to a client.

9 4.12 Suspension is generally appropriate when a lawyer knows or should know that he
10 is dealing improperly with client property and causes injury or potential injury to a client.

11 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with
12 client property and causes injury or potential injury to a client.

13 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with
14 client property and causes little or no actual or potential injury to a client.

15 **4.4 Lack of Diligence**

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

19 4.41 Disbarment is generally appropriate when:

20 (a) a lawyer abandons the practice and causes serious or potentially serious injury to
21 a client; or

22 (b) a lawyer knowingly fails to perform services for a client and causes serious or
23 potentially serious injury to a client; or

24 (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.