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May 21 2019

Disciplinary
Board

Docket # 016

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

DALLAS WILLIAM JOLLEY, JR.,

Lawyer (Bar No. 22957).

Proceeding No. 18#00046

ODC File No(s). 16-01512

STIPULATION TO SUSPENSION

Under Rule 9.1 of the Washington Supreme Court's 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 Managing Disciplinary Counsel Kathy Jo Blake, Respondent's Counsel Brett Andrews Purtzer and Respondent lawyer Dallas William Jolley, Jr.

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

1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
2 avoid the risk, time, and expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on November 3,
5 1993.

6 **II. STIPULATED FACTS**

7 2. At all relevant times, Respondent maintained a trust account, ending in 0944, at US
8 Bank for the deposit of client funds.

9 3. Respondent was the only authorized signer on the account and personally
10 maintained records for his trust account, including a check register and client ledgers in Excel.

11 4. An ODC auditor conducted an examination of Respondent's trust account under
12 Rule 15.1 of the Rules for Enforcement of Lawyer Conduct (ELC) (random examination) for
13 the period of August 1, 2015 through February 29, 2016 (the examination period).

14 5. During the examination period, Respondent made cash withdrawals from his trust
15 account.

16 6. During the examination period, Respondent did not maintain a current check register
17 or client ledgers for his trust account.

18 7. Some of the client ledgers provided during the random examination did not have
19 check numbers listed for disbursements.

20 8. In recording check transactions, Respondent sometimes used the dates reported on
21 the bank statements rather than the dates the checks were issued.

22 9. During the examination period, Respondent did not reconcile his check register to
23 the bank statements or his check register to the client ledgers for his trust account.

1 10. On July 31, 2015, Respondent deposited \$47,284.12 into his trust account for client
2 V.¹

3 11. The entire \$47,284.12 belonged to Respondent and represented earned fees and
4 reimbursed costs.

5 12. Respondent deposited the \$47,284.12 into his trust account to prevent the Internal
6 Revenue Service (IRS) from seizing his funds for unpaid taxes.

7 13. Respondent withdrew the funds in six disbursements over a three-month period.

8 14. Two of the disbursements were by cash withdrawal.

9 15. On July 1, 2015, Respondent deposited \$40,750 in settlement funds to his trust
10 account for client K.

11 16. Of this amount, \$9,000 was Respondent's earned fee.

12 17. On or about September 15, 2015, Respondent disbursed settlement funds to client K.

13 18. Respondent did not promptly disburse his earned fee of \$9,000 from the trust
14 account.

15 19. Instead, Respondent disbursed \$9,000 to himself over three installments between
16 October 20, 2015 and January 31, 2016.

17 20. One of the disbursements was made by cash withdrawal.

18 21. Respondent kept his own funds in his trust account to prevent the IRS from seizing
19 his funds for back taxes. Respondent did this during the timeframe that he was making efforts
20 to satisfy the IRS liens.

21 22. Respondent mistakenly believed he was allowed to maintain his own funds in his
22 trust account because he was treating himself as his own client as it related to the IRS liens.

23

¹ Because none of the clients are grievants, ODC is using initials to protect their identities.

1 23. During the course of the investigation into this grievance, Respondent filed tax
2 returns listing his previously unreported income from clients K and V.

3 24. After the random examination and during the investigation of this grievance,
4 Respondent made improvements to his trust account practices and began keeping current and
5 complete trust account check registers and client ledgers. However, after being examined and
6 until September 30, 2017, Respondent did not reconcile his trust account check register to his
7 bank statements or his check register to his client ledgers monthly as required.

8 25. Respondent is currently performing the required monthly reconciliations.

9 III. STIPULATION TO MISCONDUCT

10 26. By failing to maintain complete and current trust account records, Respondent
11 violated RPC 1.15A(h)(2) and/or RPC 1.15B(a).

12 27. By failing to reconcile his trust account records, Respondent violated RPC
13 1.15A(h)(6) and RPC 1.15B(a)(8).

14 28. By making cash withdrawals from his trust account, Respondent violated RPC
15 1.15A(h)(5).

16 29. By commingling his own funds with client funds in his trust account, Respondent
17 violated RPC 1.15A(c) and RPC 1.15A(h)(1).

18 IV. PRIOR DISCIPLINE

19 30. Respondent has no prior discipline.

20 V. APPLICATION OF ABA STANDARDS

21 31. The following American Bar Association Standards for Imposing Lawyer Sanctions
22 (1991 ed. & Feb. 1992 Supp.) apply to this case:
23
24

1 4.1 *Failure to Preserve the Client's Property*

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

5 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client
6 property and causes injury or potential injury to a client.

7 4.12 Suspension is generally appropriate when a lawyer knows or should know that he
8 is dealing improperly with client property and causes injury or potential injury to
9 a client.

10 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with
11 client property and causes injury or potential injury to a client.

12 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with
13 client property and causes little or no actual or potential injury to a client.

14 32. "Knowledge" is the conscious awareness of the nature or attendant circumstances of
15 the conduct but without the conscious objective or purpose to accomplish a particular result.

16 ABA Standards at 7.

17 33. Respondent should have known that he was not keeping current and accurate trust
18 account records.

19 34. Respondent knowingly made cash withdrawals from his trust account.

20 35. Respondent's conduct caused potential injury because funds were not properly
21 tracked.

22 36. Respondent knowingly deposited and held his own funds in trust to protect them
23 from his creditor.

24 37. Respondent's conduct caused potential injury in that client funds were made
vulnerable to Respondent's creditors by being commingled with Respondent's funds.

 38. The presumptive sanction is suspension under ABA Standard 4.12.

 39. The following aggravating factors apply under ABA Standard 9.22:

 (d) multiple offenses;

 (i) substantial experience in the practice of law (admitted to practice
law in 1993).

1 40. The following mitigating factors apply under ABA Standard 9.32:

- 2 (a) absence of a prior disciplinary record;
3 (l) remorse.

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

6 42. It is also an additional mitigating factor that Respondent took steps to bring his trust
7 account practices into compliance before this matter was ordered to hearing and has
8 demonstrated a continued compliance with the trust accounting rules since October 1, 2017.

9 43. On balance the aggravating and mitigating factors do not require a departure from
10 the presumptive sanction of suspension but do justify a suspension of 30 days.

11 **VI. STIPULATED DISCIPLINE**

12 44. The parties stipulate that Respondent shall receive a 30-day suspension for his
13 conduct.

14 45. Respondent will be subject to probation for a period of two years commencing upon
15 Respondent's reinstatement to the practice of law, with periodic reviews under ELC 13.8 of
16 his/her trust account practices, and must comply with the specific probation terms set forth
17 below:

- 18 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
19 1.15B, and shall carefully review the current version of the publication, Managing
20 Client Trust Accounts: Rules, Regulations, and Common Sense.
21 b) For all client matters, Respondent shall have a written fee agreement signed by the
22 client, which agreements are to be maintained for least seven years (see RPC
23 1.15B(a)(3)).
24 c) On a monthly basis, using ODC's form report entitled "Monthly Reconciliation and
Review Report," Respondent shall review the trust-account records detailed on the
form report, review the completed report, and sign and date the completed report.

1 d) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-
2 account records for the time period to be reviewed by ODC's audit staff and
disciplinary counsel for compliance with the RPC:

3 i) Months 1 – 3. By no later than the 30th day of the fourth month after the
4 commencement of probation, Respondent shall provide the trust account
5 records from the date of commencement of probation to the end of the third
6 full month.

7 ii) Months 4 – 6. By no later than the 30th day of the seventh month after the
8 commencement of probation, Respondent shall provide the trust account
9 records from the end of the previously provided quarter through the end of
10 month six.

11 iii) Months 7 – 9. By no later than the 30th day of the tenth month after the
12 commencement of probation, Respondent shall provide the trust account
13 records from the end of the previously provided quarter through the end of
14 month nine.

15 iv) Months 10 – 12. By no later than the 30th day of the thirteenth month after
16 the commencement of probation, Respondent shall provide the trust
17 account records from the end of the previously provided quarter through
18 the end of month twelve.

19 v) Months 13– 15. By no later than the 30th day of the sixteenth month after
20 the commencement of probation, Respondent shall provide the trust
21 account records from the end of the previously provided quarter through
22 the end of month fifteen.

23 vi) Months 16 – 18. By no later than the 30th day of the nineteenth month after
24 the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month eighteen.

vii) Months 19 – 21. By no later than the 30th day of the twenty-second month
after the commencement of probation, Respondent shall provide the trust
account records from the end of the previously provided quarter through
the end of month twenty-one.

The trust account records Respondent provides to ODC for each quarterly review of
his trust account will include: (a) copies of each completed "Monthly
Reconciliation and Review Report" referenced in sub-paragraph(c) above, (b) a
complete checkbook register for his/her trust account covering the period being
reviewed, (c) complete individual client ledger records for any client with funds in
Respondent's trust account during all or part of the period being reviewed, as well
as for Respondent's own funds in the account (if any), and (d) copies of all trust-
account bank statements, deposit slips, and cancelled checks covering the period

1 being reviewed. The ODC's Audit Manager or designee will review Respondent's
2 trust account records for each period.

- 3 e) On the same quarterly time schedule set forth in the preceding paragraph,
4 Respondent will provide ODC's Audit Manager or designee with copies of any and
5 all fee agreements entered into within the time period at issue.
- 6 f) The ODC's Audit Manager or designee may request additional financial or client
7 records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.
8 Within twenty days of a request from ODC's Audit Manager or designee for
9 additional records needed to verify Respondent's compliance with RPC 1.15A
10 and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the
11 additional records requested.
- 12 g) Respondent will reimburse the Association for time spent by ODC's Audit Manager
13 or designee in reviewing and reporting on Respondent's records to determine
14 his/her compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour.
15 Respondent will make payment within thirty days of each written invoice setting
16 forth the auditor's time and payment due.

11 VII. RESTITUTION

12 46. No restitution is required.

13 VIII. COSTS AND EXPENSES

14 47. In light of Respondent's willingness to resolve this matter by stipulation at an early
15 stage of the proceedings, Respondent shall pay actual costs of \$114.99 and reduced attorney
16 fees and administrative costs of \$1,000 in accordance with ELC 13.9(i) for a total of \$1,114.99.
17 The Association will seek a money judgment under ELC 13.9(l) if these costs are not paid
18 within 30 days of approval of this stipulation. Reinstatement from suspension is conditioned on
19 payment of costs.

20 IX. VOLUNTARY AGREEMENT

21 48. 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 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
24 Association, nor by any representative thereof, to induce the Respondent to enter into this

1 Stipulation except as provided herein.

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

4 **X. LIMITATIONS**

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

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

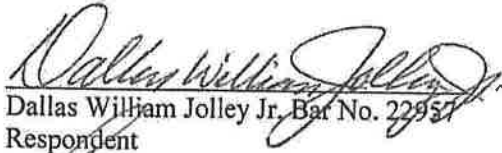
13 52. This Stipulation results from the consideration of various factors by both parties,
14 including the benefits to both by promptly resolving this matter without the time and expense of
15 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
16 such, approval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

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

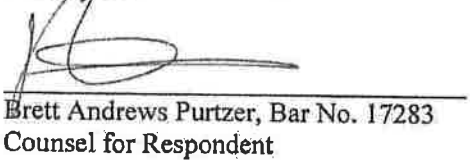
1 54. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
2 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
3 Rules for Enforcement of Lawyer Conduct will be made.

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

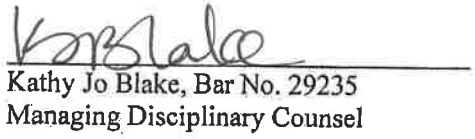
8 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
9 to Discipline as set forth above.

10 
11 Dallas William Jolley Jr., Bar No. 22957
12 Respondent

Dated: 2/6/2019

13 
14 Brett Andrews Purtzer, Bar No. 17283
15 Counsel for Respondent

Dated: 2/6/2019

16 
17 Kathy Jo Blake, Bar No. 29235
18 Managing Disciplinary Counsel

Dated: 2/7/2019