

FILED
MAY 12 2015
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

ARTIS C. GRANT JR.,
Lawyer (Bar No. 26204).

Proceeding No. 13#00018
ODC File No. 13-02282

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 Erica Temple, Respondent's Counsel Anne I. Seidel, and Respondent lawyer Artis C. Grant 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 proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk, time, expense attendant to further proceedings.

1 I. ADMISSION TO PRACTICE

2 1. Respondent was admitted to practice law in the State of Washington on November
3 15, 1996.

4 II. STIPULATED FACTS

5 2. As of January 1, 2011, Respondent maintained a trust account, #5972, at First
6 Citizens Bank.

7 3. In or around January 2012, due to the closure of Venture bank, Respondent opened
8 a second trust account at First Citizens Bank, #9823, and used it to deposit newly received
9 settlement funds.

10 4. Respondent was the only authorized signer on his trust accounts, and he personally
11 made all, or nearly all, of the deposits.

12 5. Respondent or his legal assistant prepared all of the checks drawn on his trust
13 accounts.

14 Making Disbursements in Excess of the Funds Clients Had on Deposit

15 KK:

16 6. On May 23, 2011, Respondent issued check #1544 in the amount of \$8,333.33 to
17 his office for fees.

18 7. Check #1544 bears the notation, "[KK] – attorney fees – 3d party – case."

19 8. On May 24, 2011, check #1544 was presented against insufficient funds in
20 Respondent's account #5972.

21 9. Because of the overdraft, ODC received a notice from Respondent's bank.

22 10. On May 26, 2011, Respondent deposited a \$25,000 settlement into his trust
23 account for client KK.

1 11. On June 7, 2011, ODC requested Respondent's response to the May 2011
2 overdraft notice.

3 12. Respondent submitted a response dated July 7, 2011.

4 13. Respondent wrote that the overdraft occurred because he mistakenly disbursed
5 \$8,333.33 [check #1544] to his office, but delayed depositing the related \$25,000 settlement
6 check.

7 TS:

8 14. On May 11, 2011, Respondent issued check #1557 in the amount of \$4,729.45 to
9 his office for legal fees for client TS.

10 15. At the time check #1557 cleared the bank on May 11, 2011, Respondent did not
11 have any funds for TS in his trust account.

12 16. The check was paid using other clients' funds.

13 17. On May 17, 2011, Respondent deposited a settlement check for client TS in the
14 amount of \$11,832.63.

15 18. The settlement statement signed by TS on or about May 20, 2011 indicates that
16 Respondent was entitled to attorney's fees of \$4,729.45.

17 19. In addition to check #1557 noted above, on May 17, 2011, Respondent disbursed
18 \$4,729.45 to his office (check #1539) for legal fees in TS's case.

19 20. And again on May 19, 2011, Respondent disbursed \$4,729.45 to his office for
20 legal fees in TS's case (check #1561).

21 21. Respondent withdrew a total of \$14,188.35 for fees in TS's case.

22 22. Respondent was not entitled to all of these funds.

23 23. The settlement statement signed by TS indicates that Respondent was entitled to
24



1 costs of \$502.50.

2 24. On or about May 19, 2011, Respondent disbursed \$303.00 (check #1562) to his
3 office for costs related to TS's case.

4 25. On or about May 20, 2011, Respondent disbursed \$502.50 (check #1540) for costs
5 advanced in TS's case.

6 26. Respondent was not entitled to all of these funds.

7 SF:

8 27. On October 17, 2011, Respondent issued check #1617 in the amount of \$695 to
9 WAMS to pay mediation costs on behalf of SF.

10 28. At the time check #1617 cleared the bank on October 18, 2011, Respondent did not
11 have any funds for SF in his trust account.

12 29. Check #1617 was paid using other clients' funds.

13 30. Respondent has since reimbursed his IOLTA account for the shortages described
14 above.

15 J.H.

16 31. In November 2013, Respondent received a settlement on behalf of his client, J.H.

17 32. J.H. received some settlement funds directly from her employer and another
18 settlement was deposited directly into Respondent's IOLTA account.

19 33. Based upon the written fee agreement, Respondent was entitled to fees totaling
20 \$5,472.64. Respondent actually took fees totaling \$7,650.00.

21 34. Because of the structure of the settlement and his oral agreement with J.H. about the
22 amount of his fee, Respondent was confused about the amount of money owed to J.H.

23 35. In August 2014, Respondent refunded \$1,100 to J.H.



1 36. Based upon the written fee agreement, Respondent still owes J.H. \$1,077.36.

2 Trust Account Records

3 37. For the period of January 1, 2011 through March 31, 2014, for accounts #5972 and
4 #9823:

- 5 • Respondent did not maintain complete and accurate check registers.
- 6 • Respondent did not maintain complete and accurate client ledgers.
- 7 • Respondent did not prepare bank statement or client ledger reconciliations.
- 8 • Respondent did not maintain all required bank records.

9 38. During the course of ODC's investigation, Respondent arranged for a contract
10 bookkeeper to reconstruct his trust account records for account #5972.

11 39. After having the bookkeeper perform the reconstruction, the bookkeeper took
12 another full time position and was no longer available to assist with Respondent's records.
13 Respondent then failed to maintain trust account records in compliance with the RPC.

14 40. As of December 10, 2013, Respondent's trust account was again overdrawn.

15 41. The overdraft occurred because Respondent made mistakes in distributing a
16 settlement to a client.

17 42. As of April 24, 2014, Respondent's trust account was again overdrawn.

18 43. The overdraft occurred because Respondent made mistakes in distributing a
19 settlement to J.H.

20 Shortages - Failure to Maintain Client Funds in a Trust Account

21 44. At a minimum, Respondent's trust account was short client funds on the last day of
22 every month from February 28, 2011 through June 30, 2011 and August 1, 2011 through
23 February 29, 2012.

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1 45. The shortages ranged from \$.02 to more than \$11,000.

2 The McHugh grievance

3 46. Around February 2009, Geraldine McHugh hired Respondent to represent her in an
4 employment law dispute against the City of Tacoma (City).

5 47. On June 25, 2010, Respondent filed a complaint in the United States District Court
6 for the Western District of Washington against the City and some individual City employees.

7 48. On April 7, 2011, lawyers for the City filed a motion for partial summary
8 judgment.

9 49. On May 2, 2011, Respondent filed a response.

10 50. On June 16, 2011, the court entered an order granting in part and denying in part
11 the motion for partial summary judgment. The order stated that the City could ultimately
12 prevail on summary judgment on the remaining claims.

13 51. On August 8, 2011, the City and the individual employees filed a motion for
14 summary judgment to dismiss the remaining claims (Motion).

15 52. Any response to the Motion was due by August 29, 2011.

16 53. Respondent knew of the Motion and the deadline to respond.

17 54. Respondent did not file any documents in response to the Motion.

18 55. On September 23, 2011, the court entered an order granting the Motion, noting that
19 the City had demonstrated the absence of genuine issues of material fact.

20 56. On September 26, 2011, the court entered a judgment dismissing the case.

21 57. On January 23, 2013, Ms. McHugh filed her grievance with ODC.

22 The Lundeen Grievance

23 58. In November 2011, Sheri Lundeen (now Durgarian) hired Respondent represent her
24 in an employment law dispute.

1 59. She paid a flat fee of \$7,500. Respondent deposited this fee into his general account.

2 60. The written fee agreement between Ms. Lundeen and Respondent, dated November
3 1, 2013, did not state that that the fee is the lawyer's property immediately on receipt and will
4 not be placed into a trust account.

5 **III. STIPULATION TO MISCONDUCT**

6 61. By failing to maintain complete and accurate trust account records, Respondent
7 violated RPC 1.15A(h)(2) and RPC 1.15B(a).

8 62. By failing to reconcile his check register to his bank statements and his check
9 register to his client ledgers, Respondent violated RPC 1.15A(h)(6) and RPC 1.15B(a)(8).

10 63. By using one client's funds on behalf of another and by disbursing funds in excess
11 of the amounts clients had on deposit, Respondent violated RPC 1.15A(h)(8).

12 64. By failing to maintain all client funds in a trust account, Respondent violated RPC
13 1.15A(c)(1).

14 65. By failing to respond to the Motion, Respondent violated RPC 1.3.

15 66. By accepting a flat fee, then depositing the fee into his general account, without a
16 proper fee agreement, Respondent violated RPC 1.5(f)(2).

17 **IV. PRIOR DISCIPLINE**

18 67. Respondent has no prior discipline.

19 **V. APPLICATION OF ABA STANDARDS**

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

22 69. ABA Standard 4.1 is most applicable to the duty to safeguard client property:

23 4.12 Suspension is generally appropriate when a lawyer knows or should know that he
24 is dealing improperly with client property and causes injury or potential injury to

1 a client.

2 70. Respondent knew or should have known that he was dealing improperly with client
3 property.

4 71. Although he partially reconstructed his records and deposited his own funds to the
5 trust account to cure the shortage, Respondent did not identify a client matter for all funds in the
6 trust account, properly disburse all funds in the trust account, or bring his recordkeeping into
7 full compliance with the RPC for years following the start of ODC's investigation.

8 72. His conduct caused at least potential injury to clients.

9 73. The presumptive sanction is suspension.

10 74. ABA Standard 4.4 is most applicable to the duty to act with diligence:

11 4.42 Suspension is generally appropriate when:

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

14 75. Respondent acted knowingly in failing to file a response to Tacoma's Motion. The
15 actual injury is that Ms. McHugh lost her day in court, although it is unclear whether she could
16 have prevailed even if Respondent had filed a response.

17 76. The presumptive sanction is suspension.

18 77. ABA Standard 7.0 is most applicable to the duty to use proper fee agreements:

19 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
20 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.

21 78. Respondent acted negligently in regards to his fee agreement in the Lundeen matter.

22 79. The presumptive sanction is reprimand.

23 80. The following aggravating factors apply under ABA Standard 9.22:

- 1 (c) a pattern of misconduct;
- 2 (d) multiple offenses;
- 3 (i) substantial experience in the practice of law (Respondent was admitted to practice in California in 1974 and in Washington in 1996).

4 81. The following mitigating factors apply under ABA Standard 9.32:

- 5 (a) absence of a prior disciplinary record;
- 6 (g) character or reputation.

7 82. It is also a mitigating factor that during the time period of the conduct described above, Respondent experienced significant health conditions.

8 83. On balance the aggravating and mitigating factors do not require a departure from the presumptive sanction of suspension.

9
10 **VI. STIPULATED DISCIPLINE**

11 84. The parties stipulate that Respondent shall receive a 12 month suspension for his conduct. The parties join in a request that the period of suspension begin on July 15, 2015.

12
13 85. As a condition of reinstatement, Respondent shall, at least 30 days prior to a request for reinstatement, undergo an independent examination by a physician to be approved by disciplinary counsel. Respondent shall execute all the necessary releases to permit this evaluator to obtain all necessary treatment records and make a report to disciplinary counsel addressing the following issues:

- 18 • Whether Respondent's medical and psychological condition is such that he is currently fit to practice law.
- 19
- 20 • If the evaluator concludes that Respondent is not currently fit to practice law, the report shall recommend a course of treatment necessary to enable Respondent to return to the practice of law.
- 21
- 22

23 86. Respondent agrees to execute any necessary releases to allow disciplinary counsel

24



1 and the evaluator full access to all relevant health and treatment records and reports.

2 87. If the evaluator concludes that Respondent is not currently fit to practice law,
3 Respondent (or Respondent's counsel, if Respondent is then represented) and disciplinary
4 counsel shall meet to discuss the evaluator's report and what steps can be taken to address the
5 evaluator's concerns. If Respondent and disciplinary counsel cannot reach an agreement, both
6 parties shall present written materials and arguments to the Disciplinary Board. The
7 Disciplinary Board shall decide whether and the conditions under which Respondent shall
8 return to the active practice of law.

9 88. Respondent shall bear all costs associated with compliance with the terms and
10 conditions of the stipulated discipline and reinstatement set forth herein.

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

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



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

21 The trust account records Respondent provides to ODC for each quarterly review of
22 his trust account will include: (a) a complete checkbook register for his trust
23 account covering the period being reviewed, (b) complete individual client ledger
24 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), (c) copies of all trust-account bank statements, deposit slips, and cancelled
checks covering the period being reviewed, (d) copies of all trust account client
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.

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



1 f) Respondent will reimburse the Association for time spent by ODC's Audit Manager
2 or designee in reviewing and reporting on Respondent's records to determine
3 his/her compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour.
Respondent will make payment within thirty days of each written invoice setting
forth the auditor's time and payment due.

4 **VII. RESTITUTION**

5 90. Respondent shall pay J.H. \$1,077.36 within 30 days of approval of this stipulation.

6 Reinstatement from suspension is conditioned upon payment of restitution.

7 **VIII. COSTS AND EXPENSES**

8 91. In light of Respondent's willingness to resolve this matter by stipulation at an early
9 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$2,500
10 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
11 13.9(l) if these costs are not paid within 30 days of approval of this stipulation. Reinstatement
12 from suspension is conditioned on payment of costs.

13 **IX. VOLUNTARY AGREEMENT**

14 92. Respondent states that prior to entering into this Stipulation he has consulted
15 independent legal counsel regarding this Stipulation, that Respondent is entering into this
16 Stipulation voluntarily, and that no promises or threats have been made by ODC, the
17 Association, nor by any representative thereof, to induce the Respondent to enter into this
18 Stipulation except as provided herein.

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

21 **X. LIMITATIONS**

22 94. This Stipulation is a compromise agreement intended to resolve this matter in
23 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
24 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer



1 and ODC acknowledge that the result after further proceedings in this matter might differ from
2 the result agreed to herein.

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

6 96. This Stipulation results from the consideration of various factors by both parties,
7 including the benefits to both by promptly resolving this matter without the time and expense of
8 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
9 such, approval of this Stipulation will not constitute precedent in determining the appropriate
10 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
11 subsequent proceedings against Respondent to the same extent as any other approved
12 Stipulation.

13 97. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary
14 Board shall have available to it for consideration all documents that the parties agree to submit
15 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that
16 form the record before the Board for its review become public information on approval of the
17 Stipulation by the Board, unless disclosure is restricted by order or rule of law.


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

21 99. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this
22 Stipulation will have no force or effect, and neither it nor the fact of its execution will be
23 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
24

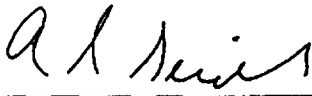
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1 proceeding, or in any civil or criminal action.

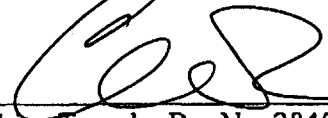
2 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
3 to Discipline as set forth above.

4 
5 _____
6 Artis C. Grant JR, Bar No. 26204
7 Respondent

Dated: 2/3/15

8 
9 _____
10 Anne I. Seidel, Bar No. 22742
11 Counsel for Respondent

Dated: 2/4/15

12 
13 _____
14 Erica Temple, Bar No. 28458
15 Disciplinary Counsel

Dated: 2/5/15

Allison Sato

From: Erica Temple
Sent: Tuesday, May 12, 2015 9:04 AM
To: Allison Sato
Subject: Emailing: Stipulation to Suspension.PDF
Attachments: Stipulation to Suspension.PDF

Please file. Thank you.

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