

May 21 2019

Disciplinary Board

Docket # 107

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re
JOHN CAMERON BOLLIGER,
Lawyer (Bar No. 26378).

Proceeding No. 16#00108
STIPULATION TO A TWENTY FOUR
MONTH SUSPENSION

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to a twenty four-month suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Francesca D'Angelo and Respondent lawyer John Cameron Bolliger.

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. Pursuant to the retirement plan he formulated nearly seven

1 | years earlier, effective December 31, 2018 the Respondent has sold his law practice, changed his
2 | licensing status to inactive, and effectively retired from the practice of law. Respondent chooses
3 | to resolve this proceeding now by entering into the following stipulation to facts, misconduct and
4 | sanction to avoid the risk, time, and expense attendant to further proceedings.

5 | **I. ADMISSION TO PRACTICE**

6 | 1. Respondent was admitted to the practice of law in the State of Washington on
7 | November 22, 1996.

8 | **II. STIPULATED FACTS**

9 | 2. In the fall of 2013, James C. Cudmore suffered from dementia and lived in an assisted
10 | living home.

11 | 3. In 2013, lawyer Shea Meehan represented Mr. Cudmore's stepson, Timothy
12 | Lamberson. Since at least 2008, Mr. Lamberson had been Mr. Cudmore's power of attorney for
13 | financial and medical matters.

14 | 4. In July 2013, Donna Belt, a longtime friend of Mr. Cudmore, took Mr. Cudmore to
15 | Respondent's office in order to draft new estate planning documents.

16 | 5. Respondent prepared, and Mr. Cudmore signed, a General Durable Power of Attorney
17 | for Financial Decision Making appointing himself as the attorney-in-fact for financial decision
18 | making for Mr. Cudmore, effective July 8, 2013.

19 | 6. Respondent also prepared, and Mr. Cudmore signed, a General Durable Power of
20 | Attorney for Health Care Decision Making and a Health Care Directive, that, as of July 8, 2013,
21 | appointed himself as the attorney-in-fact for health care decision making for Mr. Cudmore.

22 | 7. Donna Belt's son is Gregg Belt.

23 | 8. On July 11, 2013, Mr. Meehan, on behalf of Mr. Lamberson, filed a Petition for

1 Vulnerable Adult Order for Protection in Benton County Superior Court No. 13-2-01697-1 (the
2 VAPO action against Mr. Belt), seeking to prohibit Gregg Belt from interfering with Mr.
3 Cudmore's legal and financial matters. Respondent filed a notice of appearance on behalf of both
4 Mr. Cudmore and Mr. Belt in the VAPO action against Mr. Belt.

5 9. On July 12, 2013, Mr. Meehan, on behalf of Mr. Lamberson, filed a Petition for
6 Guardianship for Mr. Cudmore in Benton County Superior Court No 13-4-00260-9 (the
7 Guardianship action).

8 10. Mr. Meehan requested that the Superior Court issue a declaration that the estate
9 planning documents signed by Mr. Cudmore at Respondent's office on July 8, 2013 were void
10 due to his lack of capacity to execute them.

11 11. On that same date, Benton County Superior Court Judge Bruce Spanner entered an
12 order appointing C. Wayne May as the guardian ad litem (GAL) for Mr. Cudmore, and set a July
13 19, 2013 hearing date.

14 12. On July 18, 2013, Mr. May filed a motion to have lawyer Rachel Woodard appointed
15 as Mr. Cudmore's counsel in the Guardianship action.

16 13. On July 18, 2013, Respondent filed a competing motion to be appointed as Mr.
17 Cudmore's counsel.

18 14. On July 19, 2013, in the Guardianship action, the Superior Court appointed Ms.
19 Woodard as counsel for Mr. Cudmore. The Superior Court denied Respondent's motion for
20 appointment as Mr. Cudmore's counsel.

21 15. On that same date, in the VAPO action against Mr. Belt, the Superior Court issued an
22 Order for Protection prohibiting Mr. Belt from having contact with Mr. Cudmore for one year.

23 16. On July 22, 2013, in the VAPO action against Mr. Belt, Respondent filed a motion for

1 reconsideration of the Order for Protection against Mr. Belt, identifying himself as the attorney
2 for Mr. Cudmore. The Superior Court denied the motion for reconsideration.

3 17. Respondent did not request discretionary review of this decision.

4 18. On July 25, 2013, the Superior Court entered an order confirming Mr. Lamberson's
5 Durable Power of Attorney for Health Care over Mr. Cudmore. In the same order, the court
6 authorized and directed Mr. May to immediately take control over Mr. Cudmore's finances.

7 19. On July 26, 2013, Mr. Cudmore signed a new Last Will and Testament that
8 Respondent had drafted, naming Respondent as Personal Representative (PR) of the estate.

9 20. On August 16, 2013, Respondent filed a Motion for Protective Order, arguing that the
10 information in Mr. Cudmore's client file was protected by the attorney client privilege.

11 21. On August 29, 2013, in the Guardianship Action, Respondent filed a motion seeking
12 to have Mr. Cudmore testify about who he wanted to have represent him, to strike the appointment
13 of Ms. Woodard as Mr. Cudmore's attorney, or to certify the matter for immediate appeal. In the
14 motion, Respondent identified himself as the attorney for Mr. Cudmore.

15 22. On or about August 30, 2013, Respondent wrote a letter to Judge Spanner, who had
16 previously entered the order appointing Mr. May as the GAL.

17 23. Respondent wrote to express his view that GALs should not be involved in the process
18 of the Superior Court's appointment of an attorney for alleged incapacitated persons. In the letter,
19 Respondent referenced Mr. Cudmore's case. The letter was not copied to any other person.

20 24. Judge Spanner provided copies of Respondent's letter to the attorneys involved in the
21 Cudmore case and took no further action.

22 25. Meanwhile, on August 30, 2013, the Superior Court denied Respondent's August 16,
23 2013, Motion for Protective Order, orally ruling that Respondent must provide Mr. Cudmore's

1 file and billing records to Ms. Woodard and Mr. May before September 6, 2013.

2 26. Respondent was present at this hearing. Respondent did not provide the will and estate
3 planning documents to Ms. Woodard until October 15, 2013. Respondent did not provide any
4 other documents from his file.

5 27. On September 9, 2013, Respondent served subpoenas duces tecum on Edward Jones
6 and HAPO Community Credit Union (both financial institutions), demanding that they send
7 copies of Mr. Cudmore's account records to Respondent's law office.

8 28. The subpoenas were dated September 9, 2013, and Respondent signed the subpoenas
9 as "Attorney for Mr. Cudmore."

10 29. On September 12, 2013, Mr. Meehan moved to quash the subpoenas. The Court
11 granted the motion.

12 30. On September 13, 2013, Mr. Meehan filed a petition for a Vulnerable Adult Protection
13 Order (the VAPO action against Respondent) in Benton County Superior Court No. 13-2-02321-
14 8, seeking to prohibit Respondent from having contact with Mr. Cudmore.

15 31. On that same date, the Superior Court issued a Temporary Order for Protection,
16 prohibiting Respondent from contacting Mr. Cudmore, and restraining Respondent from
17 interfering with the healthcare, financial and legal matters of Mr. Cudmore.

18 32. On September 20, 2013, the Superior Court entered an order quashing the subpoenas
19 issued by Respondent.

20 33. On September 27, 2013, in the VAPO action against Respondent, the Superior Court
21 entered an Order for Protection prohibiting Respondent from contacting Mr. Cudmore for five
22 years and restraining Respondent from interfering with the healthcare, financial and legal matters
23 of Mr. Cudmore. Respondent was also restrained from filing any motions on behalf of himself

1 or Mr. Cudmore in the guardianship action or exercising the power of attorney he prepared for
2 Mr. Cudmore and had Mr. Cudmore sign.

3 34. Respondent received a copy of this order.

4 35. On October 15, 2013, Respondent provided Ms. Woodard with Mr. Cudmore's Will
5 and other estate planning documents.

6 36. On December 27, 2013, a hearing in the Guardianship action was held, and all parties,
7 including Respondent, were present. The Superior Court found Mr. Cudmore to be incapable of
8 handling his personal and financial affairs and appointed Mr. Lamberson as full guardian of Mr.
9 Cudmore's person and estate.

10 37. The Superior Court also ordered that the will Mr. Cudmore had executed in 2008 was
11 valid, and that the will drafted by Respondent, dated July 26, 2013, was invalid.

12 38. On January 24, 2014, Respondent filed a notice of appeal to the Court of Appeals in
13 the Guardianship action, seeking review of the Superior Court Guardianship orders.

14 39. On January 27, 2014, Respondent filed a notice of his intent to withdraw from
15 representing Mr. Cudmore in the VAPO action against Mr. Belt.

16 40. That same day, Respondent, now representing only Mr. Belt, filed and sent a letter to
17 the Superior Court seeking a special setting for an evidentiary hearing on Mr. Cudmore's capacity.

18 41. The Superior Court declined to hold a hearing, as Mr. Cudmore had already been
19 deemed incapacitated in the Guardianship proceedings.

20 42. Respondent moved for reconsideration, and on February 20, 2014, the Superior Court
21 denied his motion. On March 13, 2014, Respondent, representing Mr. Belt, filed a notice of
22 appeal in the VAPO action against Mr. Belt, seeking review of the Order of Protection prohibiting
23 Mr. Belt from contacting Mr. Cudmore.

1 43. Mr. Cudmore never gave informed consent, confirmed in writing, to Respondent's
2 representation of Mr. Belt in the VAPO action against Mr. Belt.

3 44. Mr. Lamberson, acting as Mr. Cudmore's guardian, never consented to Respondent's
4 representation of Mr. Belt in the VAPO action against Mr. Belt.

5 45. On January 21, 2015, the Superior Court disqualified Respondent from representing
6 Mr. Belt in the VAPO action against Mr. Belt.

7 46. On November 5, 2015, Mr. Cudmore died.

8 47. On December 30, 2015, the Superior Court transferred the Guardianship action to a
9 probate action, and in January 2016, the court entered orders admitting Mr. Cudmore's 2008 will
10 to probate and appointing a PR.

11 48. Respondent had knowledge of this action.

12 49. On May 9, 2016, Respondent filed a petition in Benton County Superior Court No.
13 16-4-00196-8 for an order establishing probate, requesting that the Superior Court appoint him
14 PR of Mr. Cudmore's estate. He attached a copy of the July 26, 2013 will that he had drafted.

15 50. Respondent did not disclose that in December 2013, the Superior Court had
16 specifically invalidated this will.

17 51. Respondent did not disclose that on September 27, 2013, in the VAPO action against
18 Respondent, the Superior Court had entered an order for protection that restrained Respondent
19 from interfering with the healthcare, financial and legal matters of Mr. Cudmore for five years.
20 On May 9, 2016, the Superior Court, unaware that the 2013 will had been invalidated, entered an
21 order appointing Respondent as PR of the Estate of James Cudmore.

22 52. By letter dated May 16, 2016, Mr. Meehan notified the Superior Court that Mr.
23 Cudmore's estate was already being administered, and that the 2013 will was invalidated.

1 53. On May 17, 2016, the Superior Court issued an Order Vacating Court's Prior Order
2 Establishing Probate for the 2013 will drafted by Respondent.

3 54. On July 12, 2016, the Court of Appeals issued two unpublished decisions relating to
4 Respondent's actions.

5 55. In In the Matter of the Welfare of James Donald Cudmore v. John Bolliger, No. 32024-
6 3-II, the court, considering the appeal of the VAPO action against Respondent, affirmed the trial
7 court's finding that Mr. Cudmore was a vulnerable adult and that Respondent had committed acts
8 of abandonment, abuse, neglect, and/or financial exploitation.

9 56. In In the Matter of James Donald Cudmore and Gregg L. Belt, John Bolliger v. James
10 Donald Cudmore, No. 33193-8-III, the court, considering the VAPO action against Mr. Belt,
11 affirmed the trial court's January 2015 "implicit finding" that Respondent had violated RPC 1.9
12 by representing Mr. Belt without Mr. Lamberson's informed consent, finding that, "no reasonable
13 attorney could conclude that he could represent Mr. Belt without first obtaining the informed
14 consent of Mr. Cudmore's guardian, confirmed in writing."

15 III. STIPULATION TO MISCONDUCT

16 57. By acting as Mr. Cudmore's lawyer after the court had appointed Ms. Woodard as Mr.
17 Cudmore's lawyer and after the court had denied his motion for reconsideration, Respondent
18 violated RPC 3.4(c) and RPC 8.4(j).

19 58. By failing to promptly provide Ms. Woodard with the client file after the Superior
20 Court ordered him to do so, Respondent violated RPC 3.4(c), RPC 8.4(j), and RPC 1.16(d).

21 59. By writing directly about his case to the judge who had entered an order appointing a
22 GAL for Mr. Cudmore, without providing a copy to Mr. Meehan and/or Ms. Woodard, and
23 without authorization to do so by law or court order, Respondent violated RPC 3.5(b).

1 60. By filing a petition to have himself appointed as PR in order to administer a will that
2 the Superior Court had previously invalidated, without disclosing that the Superior Court had
3 invalidated the will and that another will had been admitted to probate, Respondent violated RPC
4 3.3, RPC 8.4(c) and RPC 8.4(d).

5 61. By representing Gregg Belt in the VAPO action against Mr. Belt, without his former
6 client, Mr. Cudmore, or Mr. Lamberson's informed consent to the representation confirmed in
7 writing, Respondent violated RPC 1.9(a).

8 IV. PRIOR DISCIPLINE

9 62. Respondent has no prior discipline.

10 V. APPLICATION OF ABA STANDARDS

11 63. The following American Bar Association Standards for Imposing Lawyer Sanctions
12 (1991 ed. & Feb. 1992 Supp.) apply to this case:

13 4.3 *Failure to Avoid Conflicts of Interest*

14 4.31 Disbarment is generally appropriate when a lawyer, without the informed consent
of client(s):

- 15 (a) engages in representation of a client knowing that the lawyer's interests are
adverse to the client's with the intent to benefit the lawyer or another, and
causes serious or potentially serious injury to the client; or
- 16 (b) simultaneously represents clients that the lawyer knows have adverse
interests with the intent to benefit the lawyer or another, and causes serious
or potentially serious injury to a client; or
- 17 (c) represents a client in a matter substantially related to a matter in which the
interests of a present or former client are materially adverse, and knowingly
18 uses information relating to the representation of a client with the intent to
benefit the lawyer or another and causes serious or potentially serious
19 injury to a client.

20 4.32 Suspension is generally appropriate when a lawyer knows of a conflict of interest
and does not fully disclose to a client the possible effect of that conflict, and causes
21 injury or potential injury to a client.

22 4.33 Reprimand is generally appropriate when a lawyer is negligent in determining
whether the representation of a client may be materially affected by the lawyer's
own interests, or whether the representation will adversely affect another client,
23 and causes injury or potential injury to a client.

1 4.34 Admonition is generally appropriate when a lawyer engages in an isolated instance
2 of negligence in determining whether the representation of a client may be
3 materially affected by the lawyer's own interests, or whether the representation
will adversely affect another client, and causes little or no actual or potential injury
to a client.

4 **6.1 False Statements, Fraud, and Misrepresentation**

5 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the
6 court, makes a false statement, submits a false document, or improperly withholds
7 material information, and causes serious or potentially serious injury to a party, or
8 causes a significant or potentially significant adverse effect on the legal
9 proceeding.

10 6.12 Suspension is generally appropriate when a lawyer knows that false statements or
11 documents are being submitted to the court or that material information is
12 improperly being withheld, and takes no remedial action, and causes injury or
13 potential injury to a party to the legal proceeding, or causes an adverse or
14 potentially adverse effect on the legal proceeding.

15 6.13 Reprimand is generally appropriate when a lawyer is negligent either in
16 determining whether statements or documents are false or in taking remedial
17 action when material information is being withheld, and causes injury or potential
18 injury to a party to the legal proceeding, or causes an adverse or potentially adverse
19 effect on the legal proceeding.

20 6.14 Admonition is generally appropriate when a lawyer engages in an isolated instance
21 of neglect in determining whether submitted statements or documents are false or
22 in failing to disclose material information upon learning of its falsity, and causes
23 little or no actual or potential injury to a party, or causes little or no adverse or
24 potentially adverse effect on the legal proceeding.

25 **6.2 Abuse of the Legal Process**

26 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court
27 order or rule with the intent to obtain a benefit for the lawyer or another, and causes
28 serious injury or potentially serious injury to a party or causes serious or
29 potentially serious interference with a legal proceeding.

30 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
31 violating a court order or rule, and causes injury or potential injury to a client or a
32 party, or causes interference or potential interference with a legal proceeding.

33 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with
34 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.

35 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.

36 **6.3 Improper Communications with Individuals in the Legal System**

37 6.31 Disbarment is generally appropriate when a lawyer:

- 1 (a) intentionally tampers with a witness and causes serious or potentially
2 serious injury to a party, or causes significant or potentially significant
3 interference with the outcome of the legal proceeding; or
- 4 (b) makes an ex parte communication with a judge or juror with intent to affect
5 the outcome of the proceeding, and causes serious or potentially serious
6 injury to a party, or causes significant or potentially significant interference
7 with the outcome of the legal proceeding; or
- 8 (c) improperly communicates with someone in the legal system other than a
9 witness, judge, or juror with the intent to influence or affect the outcome
10 of the proceeding, and causes significant or potentially significant
11 interference with the outcome of the legal proceeding.

12 6.32 Suspension is generally appropriate when a lawyer engages in communication
13 with an individual in the legal system when the lawyer knows that such
14 communication is improper, and causes injury or potential injury to a party or
15 causes interference or potential interference with the outcome of the legal
16 proceeding.

17 6.33 Reprimand is generally appropriate when a lawyer is negligent in determining
18 whether it is proper to engage in communication with an individual in the legal
19 system, and causes injury or potential injury to a party or interference or potential
20 interference with the outcome of the legal proceeding.

21 6.34 Admonition is generally appropriate when a lawyer engages in an isolated instance
22 of negligence in improperly communicating with an individual in the legal system,
23 and causes little or no actual or potential injury to a party, or causes little or no
24 actual or potential interference with the outcome of the legal proceeding.

64. Respondent acted knowingly in committing the above misconduct.

65. There was injury to Mr. Lamberson, Mr. May, Mr. Cudmore, and Ms. Woodard, and
to the legal system.

66. The presumptive sanction is suspension under ABA Standards 4.32, 6.12, 6.22 and
6.32.

67. The following aggravating factors apply under ABA Standard 9.22:
(d) multiple offenses;
(h) vulnerability of victim;
(i) substantial experience in the practice of law (Respondent was admitted to practice in
California and Idaho in 1992, and admitted to Washington in 1996).

68. The following mitigating factor applies under ABA Standard 9.32:

- (a) absence of a prior disciplinary record.

1 69. Based on the factors set forth above, the sanction should be a twenty four-month
2 suspension.

3 **VI. STIPULATED DISCIPLINE**

4 70. The parties stipulate that Respondent shall receive a twenty four-month suspension for
5 his conduct.

6 **VII. RESTITUTION**

7 71. Respondent has paid the court ordered fees assessed against him. There is no
8 restitution required by this Stipulation.

9 **VIII. COSTS AND EXPENSES**

10 72. Respondent shall pay attorney fees and administrative costs of \$1,000 in accordance
11 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these costs
12 are not paid within 30 days of approval of this Stipulation. Reinstatement from suspension is
13 conditioned on payment of costs.

14 **IX. VOLUNTARY AGREEMENT**

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

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

22 **X. LIMITATIONS**

23 75. This Stipulation is a compromise agreement intended to resolve this matter in

1 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
2 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer
3 and ODC acknowledge that the result after further proceedings in this matter might differ from
4 the result agreed to herein.

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

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


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

18 79. 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 80. 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

1 proceeding, or in any civil or criminal action.

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

4 
5 _____
6 John Cameron Bolliger, Bar No. 26378
7 Respondent

Dated: 4-11-19

8 
9 _____
10 Francesca D'Angelo, Bar No. 22979
11 Senior Disciplinary Counsel

Dated: 4-12-2019

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