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DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

BRANT L. STEVENS,
Lawyer (Bar No. 27249).

Proceeding No. 14#00048

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 Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Natalea Skvir and respondent lawyer Brant L. Stevens (Respondent).

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

Stipulation to Reprimand
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dlw

1 avoid the risk, time, and expense attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to the practice of law in the State of Washington on
4 November 5, 1997.

5 **II. STIPULATED FACTS**

6 2. Respondent maintained two trust accounts at Bank of America, ending in 5417 and
7 2207, for the deposit of client funds.

8 3. In November 2012, an Association auditor conducted a random examination of
9 Respondent's trust accounts for the period November 1, 2011 through October 31, 2012. Based
10 on the random examination, the auditor determined that Respondent failed to maintain a
11 complete check register, failed to maintain client ledgers, and failed to reconcile his trust
12 account records, among other issues. The auditor provided Respondent with a copy of her
13 Random Examination Report, dated December 11, 2012, which set forth her findings.

14 4. Based on the random examination, ODC opened a grievance investigation
15 regarding Respondent's handling of client funds and his trust account. The investigation
16 included a reconstruction and audit of Respondent's trust account records for the period January
17 1, 2013 through August 31, 2013.

18 5. During the period January 1, 2013 through August 31, 2013, Respondent did not
19 maintain a complete and accurate check register for trust account 5417. The manual check
20 register that Respondent maintained did not contain an entry for every transaction and did not
21 consistently show a running balance. In some instances where there was a running balance, the
22 balance was inaccurate.

23 6. During the period January 1, 2013 through August 31, 2013, Respondent did not

1 maintain complete and accurate client ledgers for trust account 5417. Although Respondent
2 maintained "worksheets," these documents did not show each individual transaction, the
3 purpose of the transaction, the date, check number, payor or payee, or the running balance after
4 each transaction.

5 7. During the period January 1, 2013 through August 31, 2013, Respondent did not
6 properly reconcile his check register to the bank statements for account 5417. Respondent
7 attempted to prepare bank statement reconciliations, but his failure to maintain a complete and
8 accurate check register and the method he used to perform the reconciliations precluded him
9 from detecting errors that the bank may have made.

10 8. During the period January 1, 2013 through August 31, 2013, Respondent did not
11 properly reconcile his check register to his client ledgers for trust account 5417. Although
12 Respondent attempted to compare the total of client funds that should be in the account with the
13 funds that actually were in the account, the numbers did not always reconcile and Respondent
14 maintained a shortage or excess of funds in the account he could not explain and did not
15 promptly correct.

16 9. During the period January 1, 2013 through August 31, 2013, Respondent did not
17 properly reconcile his check register to his client ledgers for trust account 2207. Throughout the
18 audit period, Respondent's trust account 2207 balance included \$1,123.93 for which he could
19 not determine the owner.

20 III. STIPULATION TO MISCONDUCT

21 10. By failing to maintain a complete and accurate check register for his trust account,
22 Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a)(1).

23 11. By failing to maintain complete and accurate client ledgers for his trust account,

1 Respondent violated RPC 1.15A(h)(2) and RPC 1.15B(a)(2).

2 12. By failing to properly reconcile his trust account check register to his bank
3 statements, Respondent violated RPC 1.15A(h)(6).

4 13. By failing to properly reconcile his trust account check registers to his client
5 ledgers, Respondent violated RPC 1.15A(h)(6) and RPC 1.15B(1)(8).

6 **IV. PRIOR DISCIPLINE**

7 14. Respondent does not have a record of prior disciplinary action.

8 **V. APPLICATION OF ABA STANDARDS**

9 15. The following provision of the American Bar Association Standards for Imposing
10 Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.) applies to this case:

11 ***4.1 Failure to Preserve the Client's Property***

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

15 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
16 client property and causes injury or potential injury to a client.

17 4.12 Suspension is generally appropriate when a lawyer knows or should
18 know that he is dealing improperly with client property and causes injury
19 or potential injury to a client.

20 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
21 with client property and causes injury or potential injury to a client.

22 4.14 Admonition is generally appropriate when a lawyer is negligent in
23 dealing with client property and causes little or no actual or potential
24 injury to a client.

16. Respondent's failure to maintain complete and accurate trust account records and to
properly reconcile his trust account was knowing.

17. Although it appears there was no actual injury, Respondent's conduct caused
potential injury to clients and third parties who had funds in Respondent's possession.

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

19. The following aggravating factor applies under ABA Standard 9.22:

1 (i) substantial experience in the practice of law (Respondent was admitted to
2 practice law in 1997).

3 20. The following mitigating factors apply under ABA Standard 9.32:

- 4 (a) absence of a prior disciplinary record;
5 (b) absence of a dishonest or selfish motive;
6 (d) timely good faith effort to rectify consequences of misconduct
(Respondent states that he hired an accountant to assist with his trust account
7 records and that he started maintaining electronic check registers, client ledgers,
8 and reconciliations);
(l) remorse (Respondent acknowledges that he has not been in full
9 compliance with the trust account recordkeeping requirements in the past, but is
10 willing to take responsibility for the time and costs involved in the audit and to
11 maintain compliant records in the future).

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

14 22. Based on the factors set forth above, the presumptive sanction should be mitigated to
15 a reprimand.

16 VI. STIPULATED DISCIPLINE

17 23. The parties stipulate that Respondent shall receive a reprimand for his conduct.

18 24. Respondent will be subject to probation for a period of two years commencing upon
19 the date of final approval of this stipulation, with periodic reviews under ELC 13.8 of his trust
20 account practices, and shall comply with the specific probation terms set forth below:

- 21 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC
22 1.15B, and shall carefully review the current version of the publication, Managing
23 Client Trust Accounts: Rules, Regulations, and Common Sense.
- b) For all client matters, Respondent shall have a written fee agreement signed by the
client, which agreements are to be maintained for least seven years (see RPC
1.15B(a)(3)).
- c) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-
account records for any and all trust accounts for the time period to be reviewed by
ODC's audit staff and disciplinary counsel for compliance with the RPC:

- 1 i) Months 1 – 3. By no later than the 30th day of the fourth month after the
2 commencement of probation, Respondent shall provide the trust account
3 records from the commencement of probation to the end of the third full
4 month.
- 5 ii) Months 4 – 6. By no later than the 30th day of the seventh month after the
6 commencement of probation, Respondent shall provide the trust account
7 records from the end of the previously provided quarter through the end of
8 month six.
- 9 iii) Months 7 – 9. By no later than the 30th day of the tenth month after the
10 commencement of probation, Respondent shall provide the trust account
11 records from the end of the previously provided quarter through the end of
12 month nine.
- 13 iv) Months 10 – 12. By no later than the 30th day of the thirteenth 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 twelve.
- 17 v) Months 13– 15. By no later than the 30th day of the sixteenth month after
18 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 fifteen.
- 21 vi) Months 16 – 18. By no later than the 30th day of the nineteenth month after
22 the commencement of probation, Respondent shall provide the trust
23 account records from the end of the previously provided quarter through
24 the end of month eighteen.
- 25 vii) Months 19 – 21. By no later than the 30th day of the twenty-second month
26 after the commencement of probation, Respondent shall provide the trust
27 account records from the end of the previously provided quarter through
28 the end of month twenty-one.

29 The trust account records Respondent provides to ODC for each quarterly review of
30 each trust account will include: (a) a complete checkbook register for his trust
31 account covering the period being reviewed, (b) complete individual client ledger
32 records for any client with funds in Respondent's trust account during all or part of
33 the period being reviewed, as well as for Respondent's own funds in the account (if
34 any), (c) copies of all trust-account bank statements, deposit slips, and cancelled
35 checks covering the period being reviewed, (d) copies of all trust account client
36 ledger reconciliations for the period being reviewed, and (e) copies of
37 reconciliations of Respondent's trust account check register covering the period
38 being reviewed. The ODC's Audit Manager or designee will review Respondent's
39 trust account records for each period.

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

15 VII. RESTITUTION

16 25. Restitution is not appropriate in this matter.

17 VIII. COSTS AND EXPENSES

18 26. In light of Respondent's willingness to resolve this matter by stipulation at an early
19 stage of the proceedings, Respondent shall pay auditor costs of \$2,295 and attorney fees and
20 administrative costs of \$750 in accordance with ELC 13.9(i). The Association will seek a
21 money judgment under ELC 13.9(j) if these costs are not paid within 30 days of approval of this
22 stipulation.

23 IX. VOLUNTARY AGREEMENT

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

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

3 **X. LIMITATIONS**

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

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

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

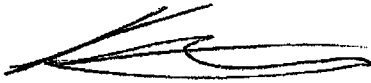
19 32. Under ELC 3.1(b), all documents that form the record before the Hearing Officer
20 for her review become public information on approval of the Stipulation by the Hearing Officer,
21 unless disclosure is restricted by order or rule of law.

22 33. If this Stipulation is approved by the Hearing Officer, it will be followed by the
23 disciplinary action agreed to in this Stipulation. All notices required in the Rules for

1 Enforcement of Lawyer Conduct will be made.

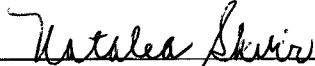
2 34. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
3 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
4 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
5 or criminal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

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

8 

9 _____
10 Brant L. Stevens, Bar No. 27249
Respondent

Dated: 2/27/15

11 

12 _____
13 Natalea Skvir, Bar No. 34335
Disciplinary Counsel

Dated: 2/27/15