

**FILED**  
MAY 14 2013  
**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

CLARENCE C. JONES,

Lawyer (Bar No. 27678).

Proceeding No. 11#00015

STIPULATION TO DISBARMENT

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Disbarment is entered into by the Washington State Bar Association (Association), through Special Disciplinary Counsel Christopher Keay, and Respondent lawyer Clarence C. Jones.

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 and publicity attendant to further proceedings.

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1 Respondent wishes to stipulate affirmatively admitting the facts and misconduct in ¶¶  
2 14-20 and 23-24, rather than proceed to a public hearing. Respondent agrees that if this matter  
3 were to proceed to a public hearing, there is a substantial likelihood that the Association would  
4 be able to prove, by a clear preponderance of the evidence, the facts and misconduct in ¶¶ 14-20  
5 and 23-24.

### 6 I. ADMISSION TO PRACTICE

7 1. Respondent was admitted to practice law in the State of Washington on November  
8 24, 1997.

### 9 II. STIPULATED FACTS

10 2. At all times relevant to this stipulation, Respondent practiced law with the firm  
11 Gierke, Curwen, Dynan and Jones, P.S. in Tacoma, WA, which has eight or more employees.  
12 Respondent became a shareholder at the firm in approximately January 2008 and became  
13 president of the firm in approximately January 2009.

14 Facts relevant to Christi Goeller, Elizabeth Thompson, Jeanine Garduno, and Ginger Bagley

15 3. Between 2008 and February 2010, Respondent engaged in a pattern of sexually  
16 exploiting office staff over whom he had supervisory authority, including associates Christi  
17 Goeller and Elizabeth Thompson, legal assistant Jeanine Garduno, and assistant office manager  
18 Ginger Bagley.

19 4. Among other things, Respondent subjected his victims to sexual groping, embraces,  
20 kisses, touching of their private parts, and sexually explicit conversation and demands.

21 5. Respondent's conduct was unsolicited, unwelcome, offensive, and occurred because  
22 of his victims' sex.

23 6. In committing this misconduct, Respondent abused a position of trust.  
24

1 7. Respondent's victims reasonably feared that their jobs would be in jeopardy if they  
2 resisted him or told others in a position of authority about his conduct.

3 8. Respondent committed these acts in connection with his professional activities.

4 9. Respondent engaged in sex discrimination prohibited by the Washington Law  
5 Against Discrimination (WLAD), RCW 49.60.180, by creating a hostile work environment  
6 through the sexual harassment of these female employees.

7 10. On November 23, 2011, the Pierce County Prosecuting Attorney charged  
8 Respondent with four counts of Assault in the Fourth Degree with Sexual Motivation, RCW  
9 9A.36.041 and 9.94A.030, based on his conduct with respect to Ms. Bagley, Ms. Goeller, Ms.  
10 Garduno, and Ms. Thompson. State v. Jones, Pierce County District Court No. 1ZC005233.

11 11. Assault in the Fourth Degree is a gross misdemeanor. RCW 9A.36.041(2).

12 12. On September 10, 2012, Respondent entered guilty pleas to all four counts in  
13 accordance with North Carolina v. Alford, 400 U.S. 25 (1970) and State v. Newton, 87 Wn.2d  
14 363. 552 P.2d 682 (1976).

15 13. Respondent was sentenced on November 9, 2012.

16 Facts relevant to Brandy Lange

17 14. Between 2009 and 2010 February, Respondent engaged in a pattern of sexually  
18 exploiting file clerk Brandy Lange, an employee over whom he had supervisory authority.

19 15. Among other things, Respondent subjected Ms. Lange to sexual groping, embraces,  
20 kisses, touching of her private parts, and sexually explicit conversation and demands.

21 16. Respondent's conduct was unsolicited, unwelcome, offensive, and occurred because  
22 of Ms. Lange's sex.

23 17. In committing this misconduct, Respondent abused a position of trust.  
24

1 18. Ms. Lange reasonably feared that her job would be in jeopardy if she resisted him or  
2 told others in a position of authority about his conduct.

3 19. Respondent committed these acts in connection with his professional activities.

4 20. Respondent engaged in sex discrimination prohibited by the Washington Law  
5 Against Discrimination (WLAD), RCW 49.60.180, by creating a hostile work environment  
6 through the sexual harassment of Ms. Lange.

### 7 III. STIPULATION TO MISCONDUCT

8 21. By committing discriminatory acts towards Ms. Bagley, Ms. Goeller, Ms. Garduno,  
9 and Ms. Thompson prohibited by state law in connection with his professional activities,  
10 Respondent violated RPC 8.4(g).

11 22. By committing the acts that resulted in the convictions set forth above, Respondent  
12 violated RPC 8.4(b) (fourth degree assault) and RPC 8.4(i) (conduct involving moral turpitude).

13 23. By committing discriminatory acts towards Ms. Lange prohibited by state law in  
14 connection with his professional activities, Respondent violated RPC 8.4(g).

15 24. By committing the acts set forth in ¶¶ 15-16, above, Respondent violated RPC 8.4(b)  
16 (fourth degree assault) and RPC 8.4(i) (conduct involving moral turpitude).

### 17 IV. PRIOR DISCIPLINE

18 25. Respondent has no record of prior discipline.

### 19 V. APPLICATION OF ABA STANDARDS

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

- 22 • ABA Standard 7.0 applies to the violations of RPC 8.4(g);

- ABA Standard 5.1 applies to the violations of RPC 8.4(b).<sup>1</sup>

27. The ABA Standards do not apply to the violations of RPC 8.4(i) because the ABA Model Rules of Professional Conduct do not address acts of moral turpitude. In re Disciplinary Proceeding Against Day, 162 Wn.2d 527, 547, 173 P.3d 915 (2007).

28. Respondent pleaded guilty to fourth degree assault with sexual motivation. Fourth degree assault includes the element of intent. State v. Davis, 119 Wn.2d 657, 662-663, 835 P.2d 1039 (1992). “‘Sexual motivation’ means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.” RCW 9.94A.030(47). Under ELC 10.14(c), these elements are established for purposes of this disciplinary proceeding.

29. Respondent’s victims suffered serious injury.

30. By abusing his status as a lawyer and a partner in law firm for purposes of his sexual gratification, Respondent’s conduct caused serious injury to the legal profession in the eyes of the public.

31. The overall presumptive sanction is disbarment.

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

- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (i) substantial experience in the practice of law.

33. The following mitigating factor applies under ABA Standards Section 9.32:

- (a) absence of a prior disciplinary record.

34. It is an additional mitigating factor that Respondent has agreed to resolve this matter

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<sup>1</sup> Copies of the ABA Standards are attached to this Stipulation as Appendix A.

1 at an early stage of the proceedings.

2 35. The aggravating and mitigating factors do not cause the sanction to vary from  
3 disbarment.

#### 4 VI. STIPULATED DISCIPLINE

5 36. The parties stipulate to disbarment.

6 37. If Respondent seeks to be reinstated to practice law, his reinstatement will be  
7 conditioned upon the payment of the restitution and costs referenced below.

#### 8 VII. RESTITUTION

9 38. Respondent shall make restitution as required by the court in State v. Jones, Pierce  
10 County District Court No. 1ZC005233.

#### 11 VIII. COSTS AND EXPENSES

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

#### 17 IX. VOLUNTARY AGREEMENT

18 40. Respondent states that prior to entering into this Stipulation he has consulted  
19 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
20 Stipulation voluntarily, and that no promises or threats have been made by the Association, nor  
21 by any representative thereof, to induce the Respondent to enter into this Stipulation except as  
22 provided herein.

**X. LIMITATIONS**

1  
2       41. This Stipulation is a compromise agreement intended to resolve this matter in  
3 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
4 expenditure of additional resources by the Respondent and the Association. Both the  
5 Respondent lawyer and the Association acknowledge that the result after further proceedings in  
6 this matter might differ from the result agreed to herein.

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

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

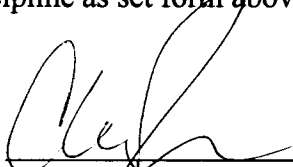
17       44. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary  
18 Board shall have available to it for consideration all documents that the parties agree to submit  
19 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that  
20 form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

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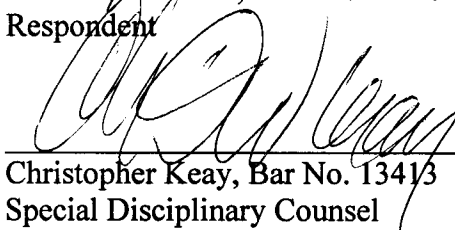
1 Rules for Enforcement of Lawyer Conduct will be made.

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

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

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9 \_\_\_\_\_  
10 Clarence C. Jones, Bar No. 27678  
11 Respondent

Dated: 3-22-13

12   
13 \_\_\_\_\_  
14 Christopher Keay, Bar No. 13413  
15 Special Disciplinary Counsel

Dated: 3-22-13



# APPENDIX A

## SELECTED ABA STANDARDS

### ABA Standard 5.1 -- Failure to Maintain Personal Integrity

- 5.11 Disbarment is generally appropriate when:
- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
  - (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.
- 5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.
- 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.
- 5.14 Admonition is generally appropriate when a lawyer engages in any other conduct that reflects adversely on the lawyer's fitness to practice law.

### ABA Standard 7.0 -- Violations of Duties Owed as a Professional

- 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.
- 7.2 Suspension is generally appropriate when a lawyer knowingly engages in 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.

- 7.3 Reprimand is generally appropriate when a lawyer negligently engages in 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.
- 7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.