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**FILED**  
MAY 22 2015  
DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**KELLY MARIE BEISSEL,**  
  
Lawyer (Bar No. 29239).

Proceeding No. 14#00079

STIPULATION TO NINE MONTH  
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 Linda B. Eide, Respondent's Counsel Kurt M. Bulmer, and Respondent lawyer Kelly Marie Beissel.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she 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 her. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the Stipulation to Discipline

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on October 13,  
4 1999.

5 **II. STIPULATED FACTS**

6 2. In early 2005, Beissel first represented Nadine Mills in a Labor & Industries (L&I)  
7 case that settled in late 2012.

8 3. Beginning in or after February 2013, Beissel failed to adequately communicate  
9 with Mills about fees and failed to promptly forward all L&I payments to Mills until L&I began  
10 sending payments directly to Mills.

11 4. On April 30, 2014, Mills filed a grievance against Beissel with ODC.

12 5. On May 8, 2014, ODC forwarded the grievance to Beissel, requesting a response  
13 within 30 days. Beissel failed to respond.

14 6. On June 26, 2014, ODC wrote Kurt Bulmer, who had appeared for Beissel. The  
15 letter required a response to the grievance within 10 days. Beissel failed to respond.

16 7. On August 20, 2014, Beissel was personally served with a deposition notice and  
17 subpoena duces tecum for a September 5, 2014 deposition.

18 8. The subpoena required Beissel to produce her complete client file relating to her  
19 representation of Mills and all financial records relating to that representation.

20 9. On September 5, 2014, Beissel did not appear for the deposition.

21 10. Mills experienced stress and frustration when she could not reach Beissel and  
22 when anticipated checks were late.

23 11. Beissel's failure to respond to Mills's grievance caused actual harm by impeding

1 ODC's investigation and by requiring additional costs and expenses.

2 12. Based on Beissel's failure to appear for her deposition or otherwise cooperate with  
3 ODC's investigation, on September 8, 2014, ODC petitioned the Supreme Court for Beissel's  
4 immediate interim suspension under ELC 7.2(a)(3). Beissel failed to respond. On October 24,  
5 2014, the Court granted the petition and suspended Beissel. After ODC filed its Formal  
6 Complaint in this matter, on March 6, 2015, Beissel provided Mills's client file.

7 13. The parties seek to resolve these proceedings with this stipulation.

### 8 III. STIPULATION TO MISCONDUCT

9 14. Beissel stipulates that she violated RPC 1.3 by failing to promptly forward funds  
10 received from L&I for her client and that she violated RPC 1.5(b) by failing to communicate  
11 adequately regarding her fees.

12 15. Beissel stipulates that she violated RPC 8.4(*l*) (through violation of ELC 5.3(f)  
13 and/or 5.5(d)) by failing to respond to written requests for a response to Mills's grievance, by  
14 failing to appear for her deposition, and by failing to produce documents as commanded by an  
15 ensuing subpoena until months later.

### 16 IV. PRIOR DISCIPLINE

17 16. Beissel was suspended for six months on August 13, 2014, for failing to  
18 communicate with clients, failing to respond to ODC's investigation, and failing to appear for  
19 her deposition.

### 20 V. APPLICATION OF ABA STANDARDS

21 17. The following American Bar Association Standards for Imposing Lawyer Sanctions  
22 (1991 ed. & Feb. 1992 Supp.) apply to the failure to diligently forward L&I payments and  
23 failure to explain fees adequately and to the failure to cooperate, respectively:

1 **4.4 Lack of Diligence**

2 4.41 Disbarment is generally appropriate when:

- 3 (a) a lawyer abandons the practice and causes serious or potentially  
4 serious injury to a client; or  
5 (b) a lawyer knowingly fails to perform services for a client and  
6 causes serious or potentially serious injury to a client; or  
7 (c) a lawyer engages in a pattern of neglect with respect to client  
8 matters and causes serious or potentially serious injury to a client.

9 **4.42 Suspension is generally appropriate when:**

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

14 4.43 Reprimand is generally appropriate when a lawyer is negligent  
15 and does not act with reasonable diligence in representing a client,  
16 and causes injury or potential injury to a client.

17 4.44 Admonition is generally appropriate when a lawyer is negligent  
18 and does not act with reasonable diligence in representing a client,  
19 and causes little or no actual or potential injury to a client.  
20

21 **7.0 Violations of Duties Owed as a Professional**

22 7.1 Disbarment is generally appropriate when a lawyer knowingly  
23 engages in conduct that is a violation of a duty owed as a  
24 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.

18. Beissel acted knowingly. Her failure to promptly forward some L&I checks and  
her failure to communicate adequately with Mills about fees caused stress for her client. Her  
failure to cooperate caused additional work for ODC and impeded its investigation.

19. The presumptive sanction is suspension.

1 20. The following aggravating factors apply under ABA Standard 9.22:

- 2 (a) prior disciplinary offenses (six month suspension effective  
3 August 13, 2014 for failing to communicate and failing to cooperate);  
4 (d) multiple offenses; and  
5 (i) substantial experience in the practice of law (admitted 1999).

6 21. The following mitigating factor applies under ABA Standard 9.32:

- 7 (a) personal or emotional problems (applies to failure to cooperate only).

8 22. Given that the aggravating factors outweigh the lone mitigating factor, a nine month  
9 suspension is appropriate.

10 **VI. STIPULATED DISCIPLINE**

11 23. The parties stipulate that Beissel shall receive a nine month suspension for her  
12 conduct.

13 24. Reinstatement from suspension is conditioned on payment of costs.

14 25. Reinstatement is also conditioned on an evaluation by a licensed psychologist or  
15 psychiatrist finding Beissel fit to practice. Beissel may propose an evaluator, subject to ODC's  
16 approval. Beissel shall execute an authorization allowing the evaluator to release information  
17 regarding the evaluation to ODC, to include a written report of the evaluator's findings,  
18 diagnosis, and recommended treatment plan, if any. Beissel shall provide ODC with a copy of  
19 the authorization. Beissel is responsible for paying any and all fees, costs, and/or expenses of  
20 mental health evaluation and treatment.

21 26. In addition, Beissel will be subject to probation for a period of six months  
22 beginning when she is reinstated to the practice of law. The conditions of probation are set  
23 forth below. Respondent's compliance with these conditions shall be monitored by the

1 Probation Administrator of the Office of Disciplinary Counsel (Probation Administrator).  
2 Failure to comply with a condition of probation listed herein may be grounds for further  
3 disciplinary action under ELC 13.8(b).

4 a) During the period of probation, Respondent's practice shall be supervised  
5 by a practice monitor. The practice monitor must be a WSBA member with no  
6 record of public discipline and who is not the subject of a pending public  
7 disciplinary proceeding.

8 b) No later than 30 days before probation begins, Respondent shall provide  
9 to the Probation Administrator, in writing, the name and contact information of a  
10 proposed practice monitor, who must be approved by the Probation  
11 Administrator. If Respondent fails to propose a practice monitor, or if the  
12 Probation Administrator does not approve the proposed practice monitor, the  
13 Probation Administrator will request that a practice monitor be appointed by the  
14 Chair of the Disciplinary Board. See ELC 13.8(a)(2). Respondent shall  
15 cooperate with the appointed practice monitor.

16 c) During the period of probation, Respondent shall meet with the practice  
17 monitor at least once per month, for a total of six meetings. At each meeting, the  
18 practice monitor will discuss with Respondent: each of Respondent's client  
19 matters, the status of each client matter, Respondent's communication with each  
20 client, upcoming deadlines, and Respondent's intended course of action.  
21 Meetings may be in person or by telephone at the practice monitor's discretion.

22 d) The practice monitor will provide the Probation Administrator with  
23 monthly reports regarding Respondent's performance on probation.

1 e) If the practice monitor believes that Respondent is not complying with  
2 any of her ethical duties under the RPC or if Respondent fails to attend a monthly  
3 meeting, the practice monitor shall promptly report that to the Probation  
4 Administrator.

5 f) Respondent shall be responsible for paying any and all fees, costs and/or  
6 expenses charged by the practice monitor for supervision.

7 27. The parties stipulate that while Beissel must pay costs of both this proceeding and  
8 her prior discipline as a reinstatement condition, only one fitness to practice evaluation will be  
9 required and the six month probation terms can run concurrently for this matter and for  
10 Proceeding No. 14#00007 (the prior discipline noted above).

11 **VII. RESTITUTION**

12 28. No restitution is required.

13 **VIII. COSTS AND EXPENSES**

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

19 **IX. VOLUNTARY AGREEMENT**

20 30. Respondent states that prior to entering into this Stipulation she has consulted  
21 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
22 Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
23 Association, nor by any representative thereof, to induce the Respondent to enter into this

1 Stipulation except as provided herein.

2 **X. LIMITATIONS**

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

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

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

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

23 35. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will

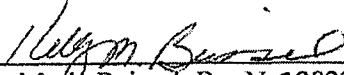


1 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
2 Rules for Enforcement of Lawyer Conduct will be made.

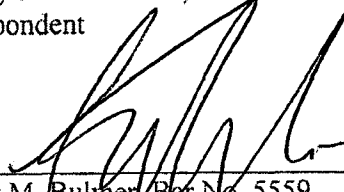
3 36. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this  
4 Stipulation will have no force or effect, and neither it nor the fact of its execution will be  
5 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary  
6 proceeding,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

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


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Kelly Marie Beissel, Bar No. 29239  
Respondent

Dated: 4/17/15

  
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Kurt M. Bulmer, Bar No. 5559  
Counsel for Respondent

Dated: 4/17/15

  
\_\_\_\_\_  
Linda B. Eide, Bar No. 10637  
Managing Disciplinary Counsel

Dated: 4/17/15