

FILED

MAR 15 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

JOHN C. SIEGEL,

Lawyer (Bar No. 29866).

Proceeding No. 11#00086, and WSBA File
Nos. 11-00324, 11-00364, and 11-00718

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 disciplinary counsel Jonathan Burke and respondent lawyer John C. Siegel (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, if any, and sanction, if any, 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.

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1 Respondent chooses to stipulate to disbarment without admitting the facts and
2 misconduct contained herein rather than proceed to a public hearing. Respondent agrees that if
3 this matter were to proceed to a public hearing, there is a substantial likelihood that the
4 Association would be able to prove, by a clear preponderance of the evidence, the facts and
5 misconduct contained herein, notwithstanding that he disputes certain facts contained herein.

6 I. ADMISSION TO PRACTICE

7 1. Respondent was admitted to practice law in the State of Washington on April 13,
8 2000. Respondent is currently suspended on an interim basis under ELC 7.1(e)(1).

9 II. STIPULATED FACTS

10 Criminal Convictions¹

11 2. On December 23, 2010, the King County Superior Court issued an Order for
12 Protection protecting Respondent's ex-spouse Natasha Natalevna (Natalevna) from Respondent.
13 The order was served on Respondent. This order was due to expire on December 23, 2011.

14 3. On March 10, 2011, Respondent was arrested for allegedly violating the Order of
15 Protection.

16 4. At a March 10, 2011 bail hearing, Judge Kimi Kondo raised Respondent's bail to
17 \$75,000.

18 5. On March 15, 2011, Respondent was charged with willfully violating the Order for
19 Protection on February 16, 2011 and February 17, 2011 and for harassment for threatening to
20 cause bodily harm to Judge Kondo on March 10, 2011.

21 6. On May 20, 2011, Respondent pleaded guilty and the court convicted Respondent of
22

23 ¹ The conviction matters are covered by Public Proceeding No. 11#00086 and the grievance filed by
24 William Livingston (WSBA File No. 11-00718).

1 three misdemeanors: two counts of violation of a court order and one count of harassment in
2 connection with the above-described charges.

3 7. In his guilty plea, Respondent admitted that he willfully contacted Natalevna on
4 February 16, 2011 and February 17, 2011 knowing that she had a valid no contact order and that
5 he “knowingly threatened to cause bodily contact to Judge Kimi Kondo” and that his “words did
6 place her in reasonable fear that [he] would carry out the threat.”

7 8. On May 20, 2011, the court found Respondent guilty of three misdemeanor counts:
8 two counts of violating the no contact order and one count of harassment.

9 9. On May 20, 2011, the King County Superior Court issued a no contact order to
10 Respondent making it unlawful for him to have willful contact with Natalevna. The no contact
11 order is due to expire on May 20, 2013.

12 10. On July 1, 2011, Respondent was charged with criminal conduct. On October 28,
13 2011, the King County Prosecutor filed an Amended Information in the case charging
14 Respondent with four criminal counts for the same conduct.

15 11. Count 1 of the Amended Information charged Respondent with Felony Arson in the
16 Second Degree for “knowingly and maliciously” causing a fire on or about June 28, 2011 that
17 damaged a home owed by Respondent and Natalevna.

18 12. Count 2 of the Amended Information charged Respondent with Domestic Violence
19 Felony Violation of a court order for knowingly and willfully violating the May 20, 2011 court
20 order by contacting Natalevna on or about June 28, 2011.

21 13. Count 3 of the Amended Information charged Respondent with Domestic Violence
22 Felony Violation of a court order for knowingly and willfully violating the May 20, 2011 court
23 order by contacting Natalevna “during the time period between May 20, 2011 and June 28,
24

1 2011.”

2 14. Count 4 of the Amended Information charged Respondent with Domestic Violence
3 Felony Violation of a court order for knowingly and willfully violating the May 20, 2011 court
4 order by contacting Natalevna “during the time period between May 20, 2011 and June 28,
5 2011.”

6 15. On October 28, 2011, Respondent entered an Alford plea and the court convicted
7 Respondent of the four felony counts in the Amended Information.

8 **Summit Construction (Burke Grievance)**

9 16. On or about April 27, 2010, Respondent was hired to represent Summit Construction
10 & Roofing Company (Summit). Principal Gerald Burke hired Respondent to defend Summit in
11 a lawsuit filed by Geoff and Nora Kenway (the Kenways) regarding services provided by
12 Summit.

13 17. Trial was scheduled to commence on February 7, 2011.

14 18. Months before trial, Respondent informed Summit in writing and orally that it must
15 pay its delinquent account and advance fees for trial or Respondent would withdraw.

16 19. Several days before the scheduled trial, Summit still had not paid Respondent, and
17 Respondent withdrew because he was unpaid.

18 20. On or about February 2, 2011, Summit’s insurer agreed to defend Summit at trial.

19 21. Melissa Carter (Carter), the lawyer assigned by the insurer to represent Summit, filed
20 a motion to continue the trial. The court continued the trial to March 21, 2011.

21 22. When Carter asked Respondent to turn over Summit’s client file, Respondent
22 refused to do so until Summit paid all outstanding fees.

23 23. On February 23, 2011, Burke received an email sent from Respondent’s email
24

1 address threatening to physically injure him if Summit did not pay the outstanding fees owed.

2 24. Unbeknownst to Respondent, on February 28, 2011, Burke obtained an order of
3 protection against Respondent.

4 25. On March 2, 2011, Respondent sued Summit and Burke but on August 13, 2012, the
5 court dismissed the collection case for failure to prosecute.

6 26. Meanwhile, on March 4, 2011, the court entered an order for Respondent to turn
7 over Summit's client file by March 9, 2011. Carter received a return receipt reflecting that
8 Respondent received the order by certified mail. When he failed to do so, the court held him in
9 contempt. Respondent denies reading the contents of the mail delivery and was subsequently
10 incarcerated on March 10, 2011.

11 27. Incarcerated on the criminal charges discussed above, Respondent did not have
12 access to Summit's client file.

13 28. When Respondent was released from incarceration on May 20, 2011, all of his client
14 files and all other office property were gone. Consequently, Respondent was unable to turn
15 over Summit's client file, which contained original receipts, daily job logs, pictures and other
16 evidence that Summit claims it needed for its defense and counterclaims against the Kenways.
17 Summit's defenses were dismissed and the Kenways prevailed.

18 **Carlisle Creek (Jackman Grievance)**

19 29. In October, 2010, Carlisle Creek Condominium Association (Carlisle Creek) hired
20 Respondent to represent them in an encroachment dispute against Star Produce and Coronado
21 Corporation.

22 30. In November, 2010, Respondent sent a demand letter to Grande Property
23 Corporation (Grande Property), also known as Star Produce and Coronado Corporation.

1 31. On January 26, 2011, Grande Property sued Carlisle Creek.

2 32. On February 8, 2011, Respondent sent an email to the insurance carrier for Carlisle
3 Creek tendering the defense of the lawsuit.

4 33. Respondent's email to the insurer stated "it is my client's desire that I remain as
5 defense counsel and that the carrier take over payment for my services."

6 34. On February 15, 2011, the insurer sent an email to Respondent stating that the carrier
7 was in the process of determining whether coverage applied.

8 35. On February 16, 2011, Respondent sent an email in response stating that "if the
9 carrier fails to defend and a default is taken, my next step will be drafting a bad faith and breach
10 of the insurance contract lawsuit against it."

11 36. On February 17, 2011, Alisha Jackman (Jackman), president of Carlisle Creek, sent
12 an email to Respondent terminating his legal services. Jackman believed that Respondent had
13 sent the emails to the insurance carrier without authority.

14 37. On February 17, 2011, Respondent sent a billing statement to Carlisle Creek for
15 \$3,948.50 for outstanding legal fees.

16 38. Carlisle Creek refused to pay the fees owed. After researching and preparing a fee
17 collection related lawsuit, on February 25, 2011, Respondent sent an email to Jackman stating
18 that "If I don't receive full payment of the current demand of \$10,000 by close of business next
19 Friday [February 28, 2011], it will get much, much worse for this Association. If payment is
20 not received in my office by 5:00 p.m. next Friday the attached Complaint will be filed the
21 following Monday."

22 39. The complaint attached to Respondent's email represented that he was currently
23 owed \$10,000, which included fees and costs related to his collection efforts, and claimed that
24

1 his firm expected to incur an additional \$20,000 in collection fees and costs within the next
2 thirty days. Respondent's complaint prayed for liens to be recorded and maintained against the
3 condominium and each and every unit until the amount owed is paid in full.

4 40. On February 28, 2011, Respondent sent an email to Carlisle Creek threatening to file
5 a lawsuit if Carlisle Creek did not pay \$10,000 by February 28, 2011. Respondent's claim for
6 \$10,000 included the outstanding bill for \$3,948.50 plus the value of the estimated time
7 Respondent spent preparing to pursue a collection action against Carlisle Creek.

8 41. For purposes of this stipulation, the parties agree that the \$10,000 demand was
9 objectively excessive and unreasonable under the circumstances.

10 **Meadow Valley Grievance**

11 42. Meadow Valley, a 78-unit condominium project in Auburn, Washington, hired Levin
12 & Stein (L&S) to represent Meadow Valley Homeowners Association (MVHA) to pursue
13 claims against the developer for water intrusion.

14 43. L&S assigned Respondent as the lead lawyer on the case. One technique to
15 facilitate settlement is the so-called "ER 408 Agreement."

16 44. On June 7, 2004, Respondent, negligently signed an "ER 408 Agreement" on behalf
17 of MVHA without the authority of the MVHA. Respondent asserts that the former Association
18 President authorized him to sign the agreement on behalf of the Association.

19 **Baughman Grievance**

20 45. On November 30, 2009, Laurie Baughman (Baughman) hired Respondent to
21 represent her in connection with a dispute she had with her homeowners' association.

22 46. On July 15, 2010, Baughman issued a check to Respondent in the amount of \$3,000.
23 Of that check, \$2,000 represented outstanding fees.

1 47. Respondent applied the fees before providing an accounting and before the new fees
2 were earned.

3 48. During the late summer and Fall of 2010, Respondent represented Baughman on a
4 pro bono basis.

5 **STIPULATION TO MISCONDUCT**

6 49. By committing a crime for violating the no contact order on February 16, 2011 and
7 February 17, 2011, Respondent violated RPC 8.4(i), and RPC 8.4(j).

8 50. By committing the crime of misdemeanor harassment in connection with
9 Respondent's threat against Judge Kondo, Respondent violated RPC 8.4(i).

10 51. By committing the crime of Arson in the Second Degree - Domestic Violence, a
11 felony, Respondent violated RPC 8.4(b).

12 52. By committing the crime of Felony Violation of a No Contact Order – Domestic
13 Violence on three separate occasions as described above, Respondent violated RPC 8.4(i), and
14 RPC 8.4(j).

15 53. By withdrawing several days before the trial in the Summit case, Respondent
16 violated RPC 1.16(d).

17 54. By sending a threatening email to Burke, Respondent violated RPC 8.4(b) by
18 extortion, and RPC 8.4(i).

19 55. By failing to turn over Summit's client file before trial, Respondent violated RPC
20 1.16(d) and RPC 8.4(d).

21 56. By seeking payment of unreasonable fees, Respondent violated RPC 1.5(a).

22 57. By entering in an "ER 408 Agreement" without the appropriate authority of Meadow
23 Valley, Respondent violated RPC 1.2(a).

1 58. By failing to provide an accounting to Baughman, Respondent violated RPC
2 1.15A(h)(3).

3 III. PRIOR DISCIPLINE

4 59. Respondent has no prior discipline.

5 IV. APPLICATION OF ABA STANDARDS

6 60. The American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed.
7 & Feb. 1992 Supp.) (ABA Standard) apply to lawyer discipline cases.

8 61. **Violation of RPC 8.4(i)**. The ABA Standards do not apply to violations of RPC
9 8.4(i) involving acts of moral turpitude. In re Disciplinary Proceeding Against Day, 162 Wn.2d
10 527, 547, 173 P.3d 915 (2007). Disbarment is the presumptive sanction for lawyer acts of
11 moral turpitude when there is some nexus between the lawyer's conduct and those
12 characteristics relevant to the practice of law. Id. at 546-547.

13 62. Disbarment is the presumptive sanction for Respondent's violations of RPC 8.4(i),
14 including his criminal convictions for threatening a judge, his repeated convictions for violating
15 protective orders, and his email threatening Burke if he did not pay outstanding fees.

16 63. The following American Bar Association Standards for Imposing Lawyer Sanctions
17 (1991 ed. & Feb. 1992 Supp.) apply to this case.

18 64. **Violation of RPC 8.4(j)**. ABA Standard 6.2 applies to Respondent's violations of
19 RPC 8.4(j) for violating court orders:

20 6.2 Abuse of the Legal Process

21 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a
22 court order or rule with the intent to obtain a benefit for the lawyer or another, and
23 causes serious injury or potentially serious injury to a party or causes serious or
24 potentially serious interference with a legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or

1 she is violating a court order or rule, and causes injury or potential injury to
2 a client or a party, or causes interference or potential interference with a legal
proceeding.

3 6.23 Reprimand is generally appropriate when a lawyer negligently fails to
4 comply with a court order or rule, and causes injury or potential injury to a client
5 or other party, or causes interference or potential interference with a legal
proceeding.

6 6.24 Admonition is generally appropriate when a lawyer engages in an isolated
7 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.

8 65. Criminal Convictions. Respondent knowingly violated protection orders causing
9 potential interference with the legal proceeding.

10 66. Suspension is the presumptive sanction for Respondent's violation of RPC 8.4(j)
11 under ABA Standard 6.22.

12 67. Violations of RPC 8.4(b). ABA Standard 5.1 applies to Respondent's violations of
13 RPC 8.4(b), which provides as follows:

14 **5.1 Failure to Maintain Personal Integrity**

15 5.11 Disbarment is generally appropriate when:

16 (a) a lawyer engages in serious criminal conduct, a necessary element of which
17 includes intentional interference with the administration of justice, false swearing,
18 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

19 (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud,
20 deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness
to practice.

21 5.12 **Suspension is generally appropriate when a lawyer knowingly engages
22 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.**

23 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in
24 any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and

1 that adversely reflects on the lawyer's fitness to practice law.

2 5.14 Admonition is generally appropriate when a lawyer engages in any other
3 conduct that reflects adversely on the lawyer's fitness to practice law.

4 68. Criminal Convictions. Suspension is the presumptive sanction under ABA Standard
5 5.2 for Respondent's violation of RPC 8.4(b) in connection with his conviction for 2nd degree
6 arson.

7 69. Summit. Respondent's email threat to physically injure Burke if he not pay him
8 constitutes extortion. Disbarment is the presumptive sanction for extortion under ABA Standard
9 5.1(a).

10 70. Violations of RPC 1.2(a), RPC 1.5(a), RPC 1.15A(h)(3), RPC 1.16(d), RPC
11 8.4(c), and RPC 8.4(d). ABA Standard 7.0 applies to Respondent's violation of his duties,
12 including his violations of RPC 1.2(a), RPC 1.5(a), RPC 1.15A(h)(3), RPC 1.16(d), RPC 8.4(c),
13 and RPC 8.4(d). ABA Standard 7.0 provides as follows:

14 **7.0 Violations of Duties Owed as a Professional**

15 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
16 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.

17 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
18 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.

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 7.4 Admonition is generally appropriate when a lawyer engages in an isolated
22 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
23 system.

24 71. Summit Case. Respondent negligently withdrew from representing Summit without

1 reasonable notice causing potential harm to the legal system. Reprimand is the presumptive
2 sanction under ABA Standard 7.3.

3 72. Respondent knowingly refused to return client documentation and materials to
4 Summit causing serious injury. Suspension is the presumptive sanction of suspension under
5 ABA Standard 7.2.

6 73. Carlisle Creek. Respondent negligently charged Carlisle Creek unreasonable fees
7 when he demanded payment of approximately \$6,000 for preparing to file a collection lawsuit
8 against Carlisle Creek. Under the circumstances, these fees were objectively unreasonable.
9 Reprimand is the presumptive sanction under ABA Standard 7.3.

10 74. Methow Valley. Respondent negligently entered into an "ER 408 Agreement"
11 without the authority of the client causing potential harm. Reprimand is the presumptive
12 sanction under ABA Standard 7.3.

13 75. Baughman. Respondent negligently failed to provide an accounting to Baughman
14 causing little actual or potential harm to Baughman. Admonition is the presumptive sanction
15 under ABA Standard 7.4.

16 76. The Supreme Court has found that, where there are multiple ethical violations, the
17 "ultimate sanction imposed should at least be consistent with the sanction for the most serious
18 instance of misconduct among a number of violations." In re Disciplinary Proceeding Against
19 Petersen, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

20 77. Disbarment is the most serious sanction for Respondent's misconduct. Accordingly,
21 disbarment is the presumptive sanction.

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

23 (b) Selfish motive [Respondent's misconduct related to his attempts to collect
24 fees was motivated by financial motive];

1 (c) Pattern of misconduct [Respondent engaged in a pattern of violating
2 protective orders]; and

3 (d) Multiple offenses [As described above, Respondent engaged in multiple
4 offenses and violated a number of RPCs].

5 79. The following mitigating factors apply under ABA Standards Section 9.32:

6 (a) Absence of prior disciplinary record; and

7 (b) Personal or emotional problems [during material times, Respondent was
8 experiencing personal and emotional problems].

9 80. On balance the aggravating and mitigating factors do not require a departure from
10 the presumptive sanction of disbarment.

11 **V. STIPULATED DISCIPLINE**

12 81. Respondent shall be disbarred for his misconduct.

13 **VI. RESTITUTION**

14 82. Respondent shall pay any restitution ordered in the criminal proceedings.

15 Reinstatement from disbarment is conditioned on payment of said restitution.

16 **VII. COSTS AND EXPENSES**

17 83. In light of Respondent's willingness to resolve this matter by stipulation at an early
18 stage of the proceedings, Respondent shall pay attorney fees of \$500 and administrative costs of
19 \$123.70 for a total of \$623.70 in accordance with ELC 13.9(i). The Association will seek a
20 money judgment under ELC 13.9(l) if these costs are not paid within 30 days of approval of this
21 stipulation. Reinstatement from disbarment is conditioned on payment of costs.

22 **VIII. VOLUNTARY AGREEMENT**

23 84. Respondent states that prior to entering into this Stipulation he had an opportunity to
24 consult independent legal counsel regarding this Stipulation, that Respondent is entering into

1 this Stipulation voluntarily, and that no promises or threats have been made by the Association,
2 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
3 as provided herein.

4 IX. LIMITATIONS

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

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

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

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

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

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

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

10 *John C. Siegel*

Dated: January 15, 2013

11 _____
12 John C. Siegel, Bar No. 29866
Respondent

13 *Jonathan Burke*
14 _____
15 Jonathan Burke, Bar No. 20910
Disciplinary Counsel

Dated: 1/15/2013