

**FILED**

MAR 25 2015

DISCIPLINARY  
BOARD

RECEIVED

FEB 27 2015

ESTUDILLO LAW FIRM, PLLC

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ADOLFO OJEDA-CASIMIRO,**

Lawyer (Bar No. 29946).

ODC File No. 13-01156

STIPULATION TO ADMONITION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to admonition is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Kevin Bank, Respondent's Counsel David G. Estudillo and Respondent lawyer Adolfo Ojeda-Casimiro.

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

ORIGINAL

002 ✓

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on June 2,  
4 2000.

5 **II. STIPULATED FACTS**

6 2. Respondent maintained a trust account at Bank of America.

7 3. On or about June 18, 2013, Bank of America issued an overdraft notice for  
8 Respondent's trust account.

9 4. On or about June 28, 2013, an ODC Auditor ("auditor") sent Respondent a letter  
10 requesting his account records for a two month period and an explanation of the overdraft.

11 5. On August 1, 2013, Respondent filed a response.

12 6. Respondent explained that the overdraft had occurred because he had received cash  
13 from an immigration client to cover a filing fee, but that he had neglected to deposit the funds to  
14 his trust account.

15 7. Respondent further explained that on or about June 14, 2013, he had mailed the  
16 client's application and a check for filing fees to United States Citizenship and Immigration  
17 Services (USCIS).

18 8. Because Respondent had neglected to deposit the cash received from his client in his  
19 trust account, when USCIS cashed the check, there were insufficient funds in Respondent's trust  
20 account, resulting in the overdraft.

21 9. In response to the auditor's request for records, Respondent provided copies of his  
22 two previous trust account bank statements, but failed to provide a check register, cancelled  
23 checks, deposit slips, bank statement reconciliations, client ledger reconciliations or client  
24

1 ledgers.

2 10. On or about August 5, 2013, ODC sent Respondent a letter requesting his trust  
3 account check register, client ledgers, cancelled checks, deposit slips, bank statement  
4 reconciliations and client ledger reconciliations for the two month period.

5 11. On or about August 19, 2013, Respondent delivered a client ledger, one cancelled  
6 check, and one deposit slip.

7 12. Respondent did not provide bank statement or client ledger reconciliations.

8 13. On or about October 4, 2013, the auditor sent Respondent a letter requesting a  
9 detailed response to certain questions regarding his trust account and his complete trust account  
10 records for the period September 28, 2012 through September 30, 2013.

11 14. On or about November 8 and 12, 2013, Respondent provided the requested records.

12 15. Following its review of Respondent's trust records, ODC sent Respondent a letter  
13 dated March 12, 2014 outlining specific recommendations for handling his trust account.

14 16. The March 12, 2014 letter recommended that Respondent reconstruct the account  
15 going back to its inception in September 2012 to accurately and properly identify all  
16 transactions.

17 17. On or about June 5, 2014, Respondent's counsel, David Estudillo, transmitted a  
18 detailed response to ODC that included the requested reconstruction of Respondent's trust  
19 account.

20 18. The response included a reconstructed check register, reconstructed client ledgers  
21 and letters to clients informing them of past disbursements on their behalf from the trust account.

22 19. Mr. Estudillo's letter included Mr. Estudillo's list of recommendations to  
23 Respondent regarding handling of Respondent's trust account, which Respondent was  
24

1 implementing.

2 20. Mr. Estudillo's letter acknowledged that prior to the reconstruction, Respondent had  
3 deposited personal funds in his trust account and had not maintained complete trust account  
4 records.

5 21. On August 18, 2014, the auditor completed an audit of Respondent's trust account  
6 covering the period September 28, 2012 through May 6, 2014.

7 22. The auditor reviewed both the original records provided by Respondent in response  
8 to the grievance and the reconstructed records provided by Mr. Estudillo.

9 23. During the audit period and prior to the reconstruction, Respondent was not  
10 maintaining complete records of his handling of client funds and of his trust account.

11 24. During the audit period and prior to the reconstruction, Respondent's client ledgers  
12 were often incomplete.

13 25. During the audit period and prior to the reconstruction, Respondent did not reconcile  
14 his trust account.

15 26. During the audit period and prior to the reconstruction, Respondent failed to deposit  
16 \$680 in cash received from a client causing a check written on behalf of the client to be  
17 presented against insufficient funds and causing an overdraft.

18 27. During the audit period and prior to the reconstruction, on at least three separate  
19 occasions, Respondent disbursed funds on behalf of clients who did not have funds in the trust  
20 account.

21 **III. STIPULATION TO MISCONDUCT**

22 28. By failing to maintain complete trust account records, Respondent violated RPC  
23 1.15B.

1 29. By failing to reconcile trust account records monthly and by failing to maintain  
2 copies of trust account reconciliations, Respondent violated RPC 1.15A(h)(6) and RPC  
3 1.15B(a)(8).

4 30. By failing to deposit and hold client funds in a trust account, Respondent violated  
5 RPC 1.15A(c)(1).

6 31. By disbursing funds on behalf of a client in excess of funds on deposit for that client  
7 and/or by disbursing funds of one client on behalf of another client, Respondent violated RPC  
8 1.15A(h)(8).

#### 9 IV. APPLICATION OF ABA STANDARDS

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

##### 12 ***4.1 Failure to Preserve the Client's Property***

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

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

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

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

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

33. Respondent was negligent in his handling of client funds.

34. There was injury as some clients' funds were disbursed on behalf of other clients.

35. The presumptive sanction is reprimand.

36. 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 in 2000].

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

- 4 (a) absence of a prior disciplinary record;  
5 (l) remorse (Respondent has admitted to the misconduct and has expressed  
6 remorse for not paying closer attention to his trust account).

7 38. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
8 at an early stage of the proceedings.

9 39. Based on the factors set forth above, the presumptive sanction should be mitigated to  
10 admonition.

#### 11 V. STIPULATED DISCIPLINE

12 40. The parties stipulate that Respondent shall receive an admonition for his conduct.

13 41. Respondent will be subject to probation for a period of one year commencing upon  
14 final approval of this stipulation with periodic reviews under ELC 13.8 of his trust account  
15 practices, and shall comply with the specific probation terms set forth below:

- 16 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC  
17 1.15B, and shall carefully review the current version of the publication, Managing  
18 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 19 b) For all client matters, Respondent shall have a written fee agreement signed by the  
20 client, which agreements are to be maintained for least seven years (see RPC  
21 1.15B(a)(3)).
- 22 c) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-  
23 account records for the time period to be reviewed by ODC's audit staff and  
24 disciplinary counsel for compliance with the RPC:
- i) Months 1 – 3. By no later than the 30<sup>th</sup> day of the fourth month after the  
commencement of probation, Respondent shall provide the trust account  
records from the date of his/her reinstatement to the end of the third full  
month.
  - ii) Months 4 – 6. By no later than the 30<sup>th</sup> day of the seventh month after the  
commencement of probation, Respondent shall provide the trust account

1 records from the end of the previously provided quarter through the end of  
2 month six.

3 iii) Months 7 – 9. By no later than the 30<sup>th</sup> day of the tenth month after the  
4 commencement of probation, Respondent shall provide the trust account  
5 records from the end of the previously provided quarter through the end of  
6 month nine.

7 iv) Months 10 – 12. By no later than the 30<sup>th</sup> day of the thirteenth month after  
8 the commencement of probation, Respondent shall provide the trust  
9 account records from the end of the previously provided quarter through  
10 the end of month twelve.

11 The trust account records Respondent provides to ODC for each quarterly review of  
12 his trust account will include: (a) a complete checkbook register for his/her trust  
13 account covering the period being reviewed, (b) complete individual client ledger  
14 records for any client with funds in Respondent's trust account during all or part of  
15 the period being reviewed, as well as for Respondent's own funds in the account (if  
16 any), (c) copies of all trust-account bank statements, deposit slips, and cancelled  
17 checks covering the period being reviewed, (d) copies of all trust account client  
18 ledger reconciliations for the period being reviewed, and (e) copies of  
19 reconciliations of Respondent's trust account check register covering the period  
20 being reviewed. The ODC's Audit Manager or designee will review Respondent's  
21 trust account records for each period.

22 d) On the same quarterly time schedule set forth in the preceding paragraph,  
23 Respondent will provide ODC's Audit Manager or designee with copies of any and  
24 all fee agreements entered into within the time period at issue.

e) The ODC's Audit Manager or designee may request additional financial or client  
records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.  
Within twenty days of a request from ODC's Audit Manager or designee for  
additional records needed to verify Respondent's compliance with RPC 1.15A  
and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the  
additional records requested.

Respondent will reimburse the Association for time spent by ODC's Audit Manager or  
designee in reviewing and reporting on Respondent's records to determine his/her compliance  
with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour. Respondent will make payment  
within thirty days of each written invoice setting forth the auditor's time and payment due.

1 **VI. COSTS AND EXPENSES**

2 In light of Respondent's willingness to resolve this matter by stipulation at an early stage  
3 of the proceedings, Respondent shall pay attorney fees and administrative costs of \$375 in  
4 accordance with ELC 13.9(i). In addition, Respondent shall pay costs of \$1,096.50 for time  
5 spent on the audit of his trust account. The Association will seek a money judgment under  
6 ELC 13.9(l) if these costs are not paid within <sup>90</sup>~~30~~ days of approval of this stipulation. RS

7 **VII. VOLUNTARY AGREEMENT**

8 42. Respondent states that prior to entering into this Stipulation he has consulted an  
9 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
10 Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
11 Association, nor by any representative thereof, to induce the Respondent to enter into this  
12 Stipulation except as provided herein.

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

15 **VIII. LIMITATIONS**

16 44. This Stipulation is a compromise agreement intended to resolve this matter in  
17 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
18 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer  
19 and ODC acknowledge that the result after further proceedings in this matter might differ from  
20 the result agreed to herein.

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




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


8 47. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by  
9 the disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
10 Enforcement of Lawyer Conduct will be made.

11 48. If this Stipulation is not approved by the Chief Hearing Officer, this Stipulation will  
12 have no force or effect, and neither it nor the fact of its execution will be admissible as evidence  
13 in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any  
14 civil or criminal action.


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

17   
18 Adolfo Ojeda-Casimiro, Bar No. 29946  
19 Respondent

Dated: 2-25-15

20   
21 David G. Estudillo, Bar No. 29375  
22 Counsel for Respondent

Dated: 3/2/2015

23   
24 Kevin Bank, Bar No. 28935  
Managing Disciplinary Counsel

Dated: 3/12/2015

**DRAFT**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ADOLFO OJEDA-CASIMIRO,**

Lawyer (Bar No. 29946).

Proceeding No.

ADMONITION

Pursuant to Rule 13.5 of the Rules for Enforcement of Lawyer Conduct, the following Admonition was issued by the Disciplinary Board.

**I. ADMISSION TO PRACTICE**

At all times material to the complaint, you were licensed to practice in the state of Washington.

**II. FACTS**

1. From September 2012 onwards, you maintained a trust account at Bank of America.
2. On or about June 18, 2013, Bank of America issued an overdraft notice for your trust account.
3. On August 18, 2014, ODC completed an audit of your trust account covering the period September 28, 2012 through May 6, 2014.
4. During the audit period, you did not maintain complete trust account records.

1 5. During the audit period, you disbursed funds on behalf of clients who did not have  
2 funds in the trust account.

3 6. During the audit period, you did not reconcile your trust account.

4 7. In June 2013, you failed to deposit \$680 in cash received from a client causing a  
5 check written on behalf of the client to be presented against insufficient funds and causing an  
6 overdraft.

### 7 III. MISCONDUCT

8 8. By failing to maintain complete trust account records, you violated RPC 1.15B.

9 9. By failing to reconcile trust account records monthly and by failing to maintain  
10 copies of trust account reconciliations, you violated RPC 1.15A(h)(6) and RPC 1.15B(a)(8).

11 10. By failing to deposit and hold client funds in a trust account, you violated RPC  
12 1.15A(c)(1).

13 11. By disbursing funds on behalf of a client in excess of funds on deposit for that client  
14 and by disbursing funds of one client on behalf of another client, you violated RPC 1.15A(h)(8).

### 15 IV. ADMONITION

16 YOU ARE HEREBY ADMONISHED FOR THIS MISCONDUCT. This admonition is  
17 not a disciplinary sanction, but is a disciplinary action, and shall be admissible in evidence in  
18 subsequent discipline or disability proceedings involving you.

19 Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

20  
21 \_\_\_\_\_  
22 Chairperson  
23 Disciplinary Board  
24