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DISCIPLINARY  
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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**NATHAN P. ALBRIGHT,**  
Lawyer (Bar No. 30511).

Proceeding No. 14#00088

ODC File No(s). 12-01233

STIPULATION TO 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 Natalea Skvir, Respondent's Counsel Leland G. Ripley and Respondent lawyer Nathan P. Albright.

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

*EW*

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on November  
4 14, 2000.

5 **II. STIPULATED FACTS**

6 2. Respondent is a solo practitioner in Moses Lake, WA.

7 3. During the period June 30, 2011 through May 31, 2013 (the audit period),  
8 Respondent maintained an IOLTA trust account (the account) ending in 3219 for client funds.

9 4. On June 15, 2012, Bank of America notified ODC that the account was overdrawn  
10 when a check for \$602.50 was presented for payment against insufficient funds. ODC opened  
11 an investigation and conducted an audit of Respondent's trust account for the period in order to  
12 determine whether Respondent was in compliance with RPC 1.15A (Safeguarding Property)  
13 and RPC 1.15B (Required Trust Account Records). The audit revealed the following:

14 5. During the audit period, Respondent did not maintain a check register for the  
15 account that identified all transactions by client, that listed the date the check was issued, the  
16 deposit was made, or other transaction occurred. Instead, he imported into an online version of  
17 QuickBooks the transactions shown on his online bank statement. This record did not identify  
18 the client for whom a transaction was made or show the balance of funds in the account after  
19 each transaction. The record did not list checks that had been issued but not yet presented for  
20 payment or show deposits in transit, and therefore did not reflect a true current balance for the  
21 account.

22 6. Since Respondent's system did not identify a client for each transaction, he could not  
23 create an individual client ledger for each client.

1           7. During the audit period, Respondent received bank statements for the account on a  
2 monthly basis but, without an independently maintained check register and client ledgers, he  
3 could not check the accuracy of the bank statement through a reconciliation process.

4           8. On a number of occasions during the audit period, Respondent disbursed funds from  
5 the account to make refunds to a client that exceeded the amount of funds the client had on  
6 deposit in the account. On other occasions during the audit period, Respondent disbursed funds  
7 from the account to pay costs or filing fees for a client in excess of the amount of funds the  
8 client had in the account. In each instance, funds belonging to other clients were used to fund  
9 the transaction, causing a shortage in the account.

10           9. During the audit period, Respondent routinely transferred advance client fees from  
11 the account to his general account without first establishing his entitlement to the funds by  
12 issuing an invoice and giving the client an opportunity to contest or question the transfer. When  
13 making these transfers, Respondent did not attribute them to work performed or costs incurred  
14 for a particular client. He simply estimated the amount he had earned and he transferred an  
15 approximation, usually in an even amount. The total of these disbursements exceeded the  
16 amount to which he was entitled for fees or reimbursement of advanced costs.

17           10. In response to ODC's investigation, Respondent retained an accountant to  
18 reconstruct his records for the account. ODC's audit of these records revealed that, at the end of  
19 the audit period, the account held \$23,330.78 less for clients than it should have.

20           11. Over the following months, Respondent deposited his own funds into the account to  
21 reduce the shortage. As of February 25, 2014, however, Respondent's reconstructed records  
22 showed that the account was still short \$6,480.99 and, in the interim, he had continued to make  
23 transfers from the account to his general account without establishing entitlement, which  
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1 increased the amount of the shortage by \$14,940.

### 2 III. STIPULATION TO MISCONDUCT

3 12. It is agreed that, by failing to keep a checkbook register as required by RPC  
4 1.15B(a)(1), Respondent violated RPC 1.15B(a)(1) and RPC 1.15A(h)(2).

5 13. It is agreed that, by failing to keep individual client ledgers as required by RPC  
6 1.15B(a)(2), Respondent violated RPC 1.15B(a)(2) and 1.15A(h)(2).

7 14. It is agreed that, by failing to reconcile his records of the account as required by RPC  
8 1.15A(h)(6), Respondent violated RPC 1.15A(h)(6), RPC 1.15B(a)(8) and RPC 1.15A(h)(2).

9 15. It is agreed that, by disbursing funds from the account in excess of the funds on  
10 deposit for the client, Respondent violated RPC 1.15A(h)(8).

11 16. It is agreed that, by disbursing funds to himself for payment of his fees without first  
12 giving reasonable advance notice to the client of his intent to do so through a billing statement  
13 or other document, Respondent violated RPC 1.15A(h)(3).

14 17. It is agreed that, by failing to hold all client funds in trust, Respondent violated RPC  
15 1.15A(c)(2).

### 16 IV. PRIOR DISCIPLINE

17 18. Respondent has not been the subject of prior discipline.

### 18 V. APPLICATION OF ABA STANDARDS

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

#### 21 ***4.1 Failure to Preserve the Client's Property***

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

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

1 4.12 Suspension is generally appropriate when a lawyer knows or should  
2 know that he is dealing improperly with client property and causes injury or  
potential injury to a client.

3 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing  
with client property and causes injury or potential injury to a client.

4 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  
5 client.

6 20. As to the failure to maintain adequate records for the account, disbursing funds on  
7 behalf of a client in excess of the amount the client had on deposit, failing to give reasonable  
8 advance notice to clients before transferring their funds to himself, and failing to maintain all  
9 client funds in trust until earned, Respondent knew, or should have known, that he was dealing  
10 improperly with client funds.

11 21. Given the significant shortages in the account, there was serious potential injury to  
Respondent's clients.

12 22. The presumptive sanction under ABA Standard 4.12 is suspension.

13 23. The following aggravating factors apply under ABA Standard 9.22:

- 14 (b) dishonest or selfish motive;  
15 (d) multiple offenses; and  
16 (i) substantial experience in the practice of law (admitted in 2000).

17 24. The following mitigating factors apply under ABA Standard 9.32:

- 18 (a) absence of a prior disciplinary record;  
19 (e) full and free disclosure to disciplinary board or cooperative attitude  
toward proceedings;  
20 (g) character or reputation; and  
21 (l) remorse.

22 25. A confidential mitigating factor is discussed in Confidential Attachment A.

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

24 27. Based on the factors set forth above, the presumptive sanction should be mitigated to

1 a suspension of less than the usual six-month minimum set forth in Standard 2.3.

2 **VI. STIPULATED DISCIPLINE**

3 28. The parties stipulate that Respondent shall receive a 90-day suspension for his  
4 conduct.

5 **Reinstatement conditions**

6 29. As a condition of reinstatement from suspension, Respondent shall complete the  
7 following steps to determine whether any funds are owed to clients or third parties:

- 8 a) Respondent shall have an accountant knowledgeable in lawyer trust accounting,  
9 approved by ODC, reconstruct<sup>1</sup> his trust account records for the time period of  
10 February 1, 2014 through the month prior to the month in which he applies for  
11 reinstatement, in compliance with the requirements of RPC 1.15A and RPC 1.15B,  
12 using all available client records and financial records to assist in the identification  
13 of funds received and disbursed. Respondent shall do so at his own expense.  
14 Respondent shall not be eligible for a certification of completion of specific  
15 conditions of suspension under ELC 13.3(b)(1)(B) unless Respondent provides the  
16 complete reconstructed trust-account records to ODC at least 60 days prior to  
17 seeking certification of completion. Respondent shall promptly provide additional  
18 records and information to ODC if requested to facilitate ODC's assessment of the  
19 completeness and accuracy of the reconstruction.<sup>2</sup>
- 20 b) The reconstruction may, or may not, reveal that one or more clients have not  
21 received all funds to which they are entitled. If the reconstructed trust-account  
22 records for the time period of February 1, 2014 through the end of the month prior  
23 to the month in which he applies for reinstatement indicate that any client is owed  
24 funds, then Respondent shall provide each client, in writing, with a complete  
updated accounting of his receipt and disbursement of all funds. The accounting  
shall identify the source, date and amount of all funds received, and the recipient,  
purpose, date and amount of all funds disbursed. Respondent shall not be eligible  
for a certification of completion of specific conditions of suspension under ELC  
13.3(b)(1)(B) unless Respondent provides ODC with proof that he/she has done so,

20 <sup>1</sup> "Reconstruction" involves the preparation, for all funds put into and removed from the trust account,  
21 of complete and accurate client ledgers, check register, reconciliations between the check register  
22 balances and the balances of the bank statements, and reconciliations between the check register  
balances and the combined total of all the client ledger balances.

23 <sup>2</sup> Respondent acknowledges and agrees that if information in reconstructed trust account records or in  
24 other information or records provided to ODC under paragraph 31 reveals any acts of misconduct not  
specifically identified in this Stipulation, ODC may investigate and/or prosecute such additional  
misconduct to the extent otherwise authorized by the ELC.

1 and with copies of the accountings, at least 60 days prior to seeking certification of  
2 completion.

- 3 c) If the aforementioned trust account records indicate any shortages in the trust  
4 account, Respondent shall deposit his own funds in an amount sufficient to cure  
5 such shortages and provide proof thereof in the form of a cancelled check[s] and  
6 proof of deposit into the trust account, or an accounting showing that earned fees  
7 previously transferred into his general account have been redeposited into the trust  
8 account.

9 30. Prior to reinstatement, Respondent shall submit to an evaluation of his fitness to  
10 practice, performed by a licensed mental health professional approved by ODC, and to follow  
11 recommendations made by the evaluator.

12 31. Respondent will be subject to probation for a period of two years commencing upon  
13 Respondent's reinstatement to the practice of law, with periodic reviews under ELC 13.8 of his  
14 trust account practices, and shall comply with the specific probation terms set forth below:

- 15 d) Respondent shall carefully review and fully comply with RPC 1.15A and RPC  
16 1.15B, and shall carefully review the current version of the publication, Managing  
17 Client Trust Accounts: Rules, Regulations, and Common Sense.
- 18 e) For all client matters, Respondent shall have a written fee agreement signed by the  
19 client, which agreements are to be maintained for least seven years (see RPC  
20 1.15B(a)(3)).
- 21 f) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-  
22 account records for the time period to be reviewed by ODC's audit staff and  
23 disciplinary counsel for compliance with the RPC:
- 24 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 commencement of probation 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  
records from the end of the previously provided quarter through the end of  
month six.
  - iii) Months 7 – 9. By no later than the 30<sup>th</sup> day of the tenth 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 nine.

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

7 v) Months 13– 15. By no later than the 30<sup>th</sup> day of the sixteenth 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 fifteen.

11 vi) Months 16 – 18. By no later than the 30<sup>th</sup> day of the nineteenth month after  
12 the commencement of probation, Respondent shall provide the trust  
13 account records from the end of the previously provided quarter through  
14 the end of month eighteen.

15 vii) Months 19 – 21. By no later than the 30<sup>th</sup> day of the twenty-second month  
16 after the commencement of probation, Respondent shall provide the trust  
17 account records from the end of the previously provided quarter through  
18 the end of month twenty-one.

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

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

h) 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.



1 i) Respondent will reimburse the Association for time spent by ODC's Audit Manager  
2 or designee in reviewing and reporting on Respondent's records to determine his  
3 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.

#### 4 VII. RESTITUTION

5 32. If the reconstructed trust-account records, for the time period of February 1, 2014  
6 through the end of the month prior to the month in which Respondent applies for reinstatement,  
7 indicate that any client is owed funds, then Respondent is required to make full restitution to  
8 each client of all funds owed. Respondent shall pay to the client interest on those funds, at a  
9 rate of 12%, calculated from the date on which the client (or third party as directed by the client)  
10 was first entitled to receive the funds to the date on which repayment is made.

11 33. Reinstatement is conditioned on full payment of restitution, with interest.

#### 12 VIII. COSTS AND EXPENSES

13 34. In light of Respondent's willingness to resolve this matter by stipulation at an early  
14 stage of the proceedings, Respondent shall pay reduced attorney fees and administrative costs of  
15 \$1,000 in accordance with ELC 13.9(i).

16 35. In addition, Respondent shall pay auditor costs of \$1,530.

17 36. The Association will seek a money judgment under ELC 13.9(l) if these costs are not  
18 paid within 30 days of approval of this stipulation.

19 37. Reinstatement from suspension is conditioned on payment of costs or Respondent's  
20 compliance with an agreed periodic payment plan as provided in ELC 13.9(i).

#### 21 IX. VOLUNTARY AGREEMENT

22 38. Respondent states that prior to entering into this Stipulation he has consulted  
23 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
24

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

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

#### 6 X. LIMITATIONS

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

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

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

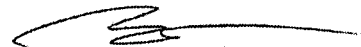
22 43. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on  
23 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record  
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1 before the Board for its review become public information on approval of the Stipulation by the  
2 Board, unless disclosure is restricted by order or rule of law.

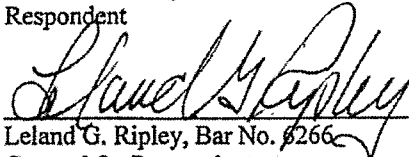
3 44. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will  
4 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
5 Rules for Enforcement of Lawyer Conduct will be made.

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


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

12   
13 Nathan P. Albright, Bar No. 30511  
14 Respondent

Dated: 2/15/2017

15   
16 Leland G. Ripley, Bar No. 8266  
17 Counsel for Respondent

Dated: 2/15/17

18   
19 Natalea Skvir, Bar No. 34335  
20 Disciplinary Counsel

Dated: 2/15/17