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DISCIPLINARY BOARD  
WASHINGTON STATE BAR ASSOCIATION

In re

**MICHAEL JOHN KELLY,**

Lawyer (Bar No. 31816).

ODC File No. 21-01392

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Erica Temple, Respondent’s Counsel Christopher Ray Hardman and Respondent lawyer Michael John Kelly.

Respondent understands that they are entitled under the ELC to a hearing, to present exhibits and witnesses on their behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that they are 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 them. Respondent chooses to resolve this proceeding

1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk,  
2 time, and expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on November 27,  
5 2001.

6 **II. STIPULATED FACTS**

7 2. Lawyer Stanley Davis (Davis) is not licensed in Washington. Beginning May 31,  
8 2017, Davis's Wisconsin license was suspended for failure to complete continuing legal education  
9 (CLE) requirements.

10 3. In August 2017, Davis contacted Respondent about serving as local counsel in a case  
11 filed in United States District Court, Western District of Washington (District Court) on behalf of  
12 Davis's client J.K.

13 4. At that time, Davis did not tell Respondent about Davis's suspension from practice.  
14 With J.K.'s consent, Respondent agreed to act as local counsel, and completed an application to  
15 have Davis admitted pro hac vice.

16 5. After Respondent sent the document to Davis, Davis told Respondent that Davis's  
17 license was suspended temporarily, because Davis had fallen behind on CLE requirements.

18 6. Because of this, instead of Davis appearing pro hac vice, Respondent entered a Notice  
19 of Appearance in the District Court case on September 11, 2017.

20 7. Respondent told J.K. that Davis had failed to complete the requisite number of CLE  
21 credits to keep Davis's law license current.

22 8. Respondent charged J.K. an hourly rate and did not share fees with Davis.

23 9. Respondent and Davis acted as co-counsel during the course of the litigation in District

1 Court even though Davis's license to practice law was suspended.

2 10. On March 2, 2018, Davis's license was reinstated.

3 11. On March 13, 2018, Davis notified Respondent that Davis was admitted in good  
4 standing.

5 12. On June 25, 2018, Davis filed an Application for Leave to Appear Pro Hac Vice in the  
6 District Court, which Respondent signed, agreeing to act as local counsel.

7 13. On July 5, 2018, the opposing party in the District Court case filed a Motion for  
8 Summary Judgment.

9 14. On August 15, 2018, Davis's license was again suspended for reasons related to  
10 disciplinary investigations in Wisconsin. Davis has not been licensed since then.

11 15. Respondent was not aware that Davis's license was suspended again.

12 16. Respondent and Davis continued to work together on J.K.'s case, including conducting  
13 discovery.

14 17. On September 19, 2018, the District Court issued an Order Granting Defendant's  
15 Motion for Summary Judgment, closing J.K.'s case.

16 18. On October 19, 2018, Respondent and Davis filed a Notice of Civil Appeal, with  
17 electronic signatures from both lawyers.

18 19. J.K. engaged a new appellate attorney, who informed Respondent of Davis's  
19 suspension.

20 20. On July 9, 2019, Respondent and Davis filed a Notice of Withdrawal.

21 21. On July 3, 2019, represented by new counsel, J.K. filed a Motion For Relief From  
22 Judgment, arguing that Davis had committed gross negligence while representing J.K. and that  
23 Davis had misled J.K. about the status of Davis's license and the status of J.K.'s case.

1 22. On December 16, 2019, the District Court issued an Order Denying Plaintiff's Motion  
2 for Relief from Judgment. The District Court found that Respondent represented J.K. while  
3 allowing Davis, who was not admitted to practice, to perform substantive legal work for J.K.

4 **III. STIPULATION TO MISCONDUCT**

5 23. From September 2017 until March 2018, Respondent knew that Davis's license to  
6 practice law was suspended but continued to practice law with Davis as co-counsel and allowed  
7 Davis to use Respondent's name to practice law. By practicing law in cooperation with Davis  
8 and by permitting Davis to use Respondent's name for the practice of law, Respondent violated  
9 RPC 5.8(b)(1) and RPC 5.8(b)(3).

10 **IV. PRIOR DISCIPLINE**

11 24. Respondent has no prior discipline.

12 **V. APPLICATION OF ABA STANDARDS**

13 25. The following American Bar Association Standards for Imposing Lawyer Sanctions  
14 (1991 ed. & Feb. 1992 Supp.) applies to this case:

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 system.

23 26. Respondent acted knowingly.

24 27. There was injury to the legal profession because Respondent enabled the unlicensed

1 practice of law. In addition, there was injury to the District Court, which expended time and  
2 resources to address the adverse effects on J.K.'s legal proceeding.

3 28. The presumptive sanction is suspension.

4 29. The following aggravating factor applies under ABA Standard 9.22:

5 (i) substantial experience in the practice of law.

6 30. The following mitigating factors apply under ABA Standard 9.32:

7 (a) absence of a prior disciplinary record;

8 (g) character or reputation;

(l) remorse.

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

11 32. A significant mitigating factor is the contribution this stipulation makes to the efficient  
12 and effective operation of the lawyer discipline system considering the effect the COVID-19  
13 public health emergency has had on disciplinary resources and the orderly processing of  
14 disciplinary matters.

15 33. Based on the factors set forth above, the presumptive sanction should be mitigated to  
16 Reprimand.

## 17 VI. STIPULATED DISCIPLINE

18 34. The parties stipulate that Respondent shall receive a reprimand.

## 19 VII. RESTITUTION

20 35. Restitution is not applicable in this matter.

## 21 VIII. COSTS AND EXPENSES

22 36. In light of Respondent's willingness to resolve this matter by stipulation at an early  
23 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in

1 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if  
2 these costs are not paid within 30 days of approval of this stipulation.

### 3 **IX. VOLUNTARY AGREEMENT**

4 37. Respondent states that prior to entering into this Stipulation they have consulted  
5 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
6 Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,  
7 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except  
8 as provided herein.

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

### 11 **X. LIMITATIONS**

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

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

20 41. This Stipulation results from the consideration of various factors by both parties,  
21 including the benefits to both by promptly resolving this matter without the time and expense of  
22 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As  
23 such, approval of this Stipulation will not constitute precedent in determining the appropriate

1 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in  
2 subsequent proceedings against Respondent to the same extent as any other approved Stipulation.

3 42. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for  
4 his or her review become public information on approval of the Stipulation by the Hearing  
5 Officer, unless disclosure is restricted by order or rule of law.


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

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


13 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to  
14 Reprimand as set forth above.

15   
16 Michael John Kelly, Bar No. 31816  
Respondent

Dated: 6/9/2022

17   
18 Christopher Ray Hardman, Bar No. 21237  
19 Counsel for Respondent

Dated: June 9, 2022

20   
21 Erica Temple, Bar No. 28458  
22 Senior Disciplinary Counsel

Dated: June 10, 2022