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FILED

NOV 02 2012

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

EUGENE C. WONG,

Lawyer (Bar No. 31957).

Proceeding No. 12#00076

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to reprimand is entered into by the Washington State Bar Association (Association), through disciplinary counsel Francesca D'Angelo, Respondent lawyer Eugene C. Wong, and Respondent's counsel, Patrick Sheldon.

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

1 **I. ADMISSION TO PRACTICE**

2 1. Respondent was admitted to practice law in the State of Washington on June 29,
3 2001.

4 **II. STIPULATED FACTS**

5 2. In November 2010, Dong Hong Ye hired Respondent to assist him in an immigration
6 matter. They agreed on a flat fee of \$10,000. Mr. Ye paid Respondent \$3,000 and promised to
7 pay him an additional \$300, up to \$10,000.

8 3. Respondent believed these funds to be his property upon receipt, however he
9 neglected to prepare a fee agreement as required by RPC 1.5(f)(2). The funds were thus
10 required to be placed into his trust account.

11 4. Respondent did not place the fee in his trust account. Instead, he deposited the funds
12 into his general business account and disbursed it.

13 5. On January 5, 2011, Mr. Ye paid Respondent an additional \$300. Respondent
14 placed these funds into his general business account and disbursed it.

15 6. On February 15, 2011, Mr. Ye paid Respondent an additional \$300. Respondent
16 deposited this money into his general business account and disbursed it.

17 7. In November 2011, Mr. Ye hired a new attorney and requested a refund. On June
18 12, 2012, Respondent refunded \$2,463.50 to Mr. Ye. On October 12, 2012, Respondent
19 refunded the remaining \$1,137.50 to Mr. Ye.

20 **III. STIPULATION TO MISCONDUCT**

21 8. By failing to place Mr. Ye's fee in his trust account, Respondent violated RPC
22 1.15A(c)(2).

23 9. By failing to promptly refund unearned fees at the termination of the representation,
24

1 Respondent violated RPC 1.15A(f) and RPC 1.16(d).

2 **IV. PRIOR DISCIPLINE**

3 10. Respondent was admonished in January 2012 for failing to place client funds in his
4 trust account and for failing to refund client fees.

5 **V. APPLICATION OF ABA STANDARDS**

6 11. The following American Bar Association Standards for Imposing Lawyer Sanctions
7 (1991 ed. & Feb. 1992 Supp.) apply to this case:

8 ***4.1 Failure to Preserve the Client's Property***

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

11 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
12 client property and causes injury or potential injury to a client.

13 4.12 Suspension is generally appropriate when a lawyer knows or should
14 know that he is dealing improperly with client property and causes injury
or potential injury to a client.

15 4.13 **Reprimand is generally appropriate when a lawyer is negligent in
16 dealing with client property and causes injury or potential injury to a
client.**

17 4.14 Admonition is generally appropriate when a lawyer is negligent in
18 dealing with client property and causes little or no actual or potential
injury to a client.

19 12. Respondent's conduct was negligent.

20 13. Mr. Ye was injured in that he was deprived of his funds for a period of time.

21 14. The presumptive sanction is reprimand.

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

- 23 (c) a pattern of misconduct [Mr. Wong was admonished in January 2012, for
24 failing to place client funds in his trust account and for failing to refund
client fees];

1 (i) substantial experience in the practice of law [Mr. Wong was admitted to
2 practice in November 2001].

3 16. It is a mitigating factor that Respondent has agreed to resolve this matter at an early
4 stage of the proceedings.

5 17. On balance, the aggravating and mitigating factors do not require a departure from
6 the presumptive sanction.

7 **VI. STIPULATED DISCIPLINE**

8 18. Respondent stipulates to the imposition of a reprimand.

9 **VII. RESTITUTION**

10 19. No restitution is required by this stipulation as Respondent has fully refunded Mr.
11 Ye's fee.

12 **VIII. COSTS AND EXPENSES**

13 20. In light of Respondent's willingness to resolve this matter by stipulation at an early
14 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$500 in
15 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)
16 if these costs are not paid within 30 days of approval of this stipulation.

17 **IX. VOLUNTARY AGREEMENT**

18 21. Respondent states that, prior to entering into this Stipulation, he has consulted
19 independent legal counsel regarding this Stipulation, that Respondent is entering into this
20 Stipulation voluntarily, and that no promises or threats have been made by the Association, nor
21 by any representative thereof, to induce the Respondent to enter into this Stipulation except as
22 provided herein.
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X. LIMITATIONS

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

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

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

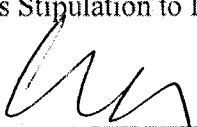
25. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for his or her review become public information on approval of the Stipulation by the Hearing Officer, unless disclosure is restricted by order or rule of law.

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

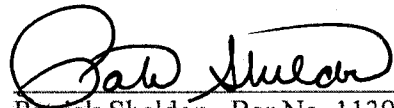
27. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have

1 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
2 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
3 or criminal action.

4 WHEREFORE the undersigned being fully advised, adopt and agree to the facts and
5 terms of this Stipulation to Discipline as set forth above.

6 
7 _____
8 Eugene C. Wong, Bar No. 31957
9 Respondent

Dated: 10/23/12

10 
11 _____
12 Patrick Sheldon, Bar No. 11398
13 Counsel for Respondent

Dated: 10/25/2012

14 
15 _____
16 Francesca D'Angelo, Bar No. 22979
17 Disciplinary Counsel

Dated: 10/29/2012