



BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

HEATH MICHAEL IRVINE,
Lawyer (Bar No. 32237).

Proceeding No. *15#00075*
ODC File No. 14-02072

RESIGNATION FORM OF HEATH
MICHAEL IRVINE (ELC 9.3(b))

I, Heath Michael Irvine, declares as following:

1. I am over the age of eighteen years and am competent. I make the statements in this declaration from personal knowledge.

2. I was admitted to practice law in the State of Washington on June 3, 2002.

3. I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Rules for Enforcement of Lawyer Conduct (ELC).

4. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in disciplinary counsel's statement but, rather than defend against the allegations, I wish to

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1 permanently resign from membership in the Association.

2 5. I am submitting with this declaration payment to the Washington State Bar
3 Association in the amount of \$1,000 for expenses and costs.

4 6. I agree to pay any additional costs or restitution that may be ordered by a Review
5 Committee under ELC 9.3(g).

6 7. I understand that my resignation is permanent and that any future application by
7 me for reinstatement as a member of the Association is currently barred. If the Supreme Court
8 changes this rule or an application is otherwise permitted in the future, it will be treated as an
9 application by one who has been disbarred for ethical misconduct, and that, if I file an
10 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,
11 allegations, or instances of alleged misconduct on which this resignation was based.

12 8. I agree to (a) notify all other states and jurisdictions in which I am admitted, of this
13 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in any
14 other state or jurisdiction in which I am admitted; and (c) provide disciplinary counsel with
15 copies of this notification and any response(s). I acknowledge that this resignation could be
16 treated as a disbarment by all other jurisdictions.

17 9. I agree to (a) notify all other professional licensing agencies in any jurisdiction
18 from which I have a professional license that is predicated on my admission to practice law of
19 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and
20 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

21 10. I agree that when applying for any employment, I will disclose the resignation in
22 lieu of discipline in response to any question regarding disciplinary action or the status of my
23 license to practice law.

1 11. I understand that my resignation becomes effective on disciplinary counsel's
2 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) disciplinary
3 counsel must do so promptly following receipt of this document and payment of costs and
4 expenses.

5 12. When my resignation becomes effective, I agree to be subject to all restrictions that
6 apply to a disbarred lawyer.

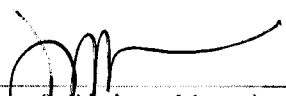
7 13. Upon filing of my resignation, I agree to comply with the same duties as a
8 disbarred lawyer under ELC 14.1 through ELC 14.4.

9 14. I understand that, after my resignation becomes effective, it is permanent. I will
10 never be eligible to apply and will not be considered for admission or reinstatement to the
11 practice of law nor will I be eligible for admission for any limited practice of law.

12 I declare under penalty of perjury under the laws of the State of Washington that
13 the foregoing is true and correct.

14
15 9-3-15 Pasco, Oreille Ct 
16 Date and Place Heath Michael Irvine, Bar No. 32237

17 ENDORSED BY:

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19 Joanne S. Abelson, Managing Disciplinary Counsel
20 Bar No. 24877

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STATEMENT OF ALLEGED
MISCONDUCT UNDER ELC 9.3(b)(1)

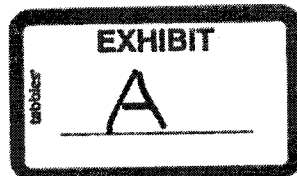
The following constitutes a Statement of Alleged Misconduct under Rule 9.3(b)(1) of the Rules for Enforcement of Lawyer Conduct (ELC).

I. ADMISSION TO PRACTICE

1. Respondent Heath Michael Irvine was admitted to the practice of law in the State of Washington on June 3, 2002.

II. ALLEGED FACTS

2. In July of 2009, Delbert and Sonya Abbott were in a car accident in Spokane and Mr. Abbott sustained injuries. Mr. Abbott hired Respondent to represent him in a lawsuit against the driver of the other vehicle. The Department of Labor and Industries (L&I) held a subrogated interest in any recovery.



1 3. On December 9, 2009, Mr. Abbott signed a contingent fee agreement providing
2 that Respondent would receive a one-third percentage of the recovery if the case were resolved
3 through settlement.

4 4. On January 3, 2014, the case settled after mediation. The CR2A agreement with
5 the defendants provided that Mr. Abbott would receive a lump sum payment of \$17,500. A
6 compromise agreement with L&I split the \$17,500 among Mr. Abbott, Respondent, and L&I in
7 equal thirds (\$5,833.33 each). According to the agreement, Respondent was to place the funds
8 into trust and then disburse L&I's share within 30 days of receipt.

9 5. On March 11, 2014, Respondent deposited the settlement funds into his trust
10 account. That same day, he issued a \$5,000 check from trust with the memo "Abbott attorney
11 fees" and a separate check for \$2,292 to with the memo "Abbott Costs/Final Fees." The amount
12 Respondent disbursed from trust, \$7,292, included \$1,458.67 over and above the one-third
13 settlement amount and apparently was for costs.

14 6. Respondent did not notify Mr. Abbott that he had received the settlement funds or
15 had disbursed funds to himself from trust.

16 7. At that point, Respondent should have been holding \$10,208 in his trust account to
17 pay L&I and Mr. Abbott (\$5,833.33 for L&I and \$4,374.66 for Mr. Abbott).

18 8. Instead of paying either party, on March 22, 2014, and June 25, 2014, Respondent
19 wrote checks to himself from trust for \$908 and \$1,500, respectively. At that time, there were
20 no client funds in the account except those belonging to Mr. Abbott. The balance in the trust
21 account after those checks cleared was \$7,808.75, which was \$2,399.25 less than he should
22 have been holding from the Abbott settlement.

23 9. Respondent made no disbursements to Mr. Abbott or L&I over the next eight

1 months.

2 10. On September 29, 2014, opposing counsel filed a Motion to Enforce Settlement in
3 Spokane County Superior Court because he could not confirm that L&I's subrogated interest
4 had been satisfied. The court ordered Respondent to supply opposing counsel with proof of
5 satisfaction of L&I's interest by October 31, 2014. On October 28, 2014, L&I received a check
6 for its portion of the settlement. The parties subsequently filed a Stipulated Order of Dismissal.

7 11. Respondent did not inform Mr. Abbott about the motion, hearing, or order relating
8 to court enforcement of the settlement.

9 12. On November 13, 2014, Mr. Abbott filed a grievance with the Office of
10 Disciplinary Counsel (ODC) because he still had not received his settlement funds and had had
11 almost no contact with Respondent in the nearly eleven months since his case settled.

12 13. On January 6, 2015, the balance in Respondent's trust account fell to \$292.42. At
13 that time, he still owed Mr. Abbott at least \$4,374.67.

14 14. On February 20, 2014, Respondent reinitiated contact with the Abbotts. He made
15 false statements to Ms. Abbott regarding the whereabouts of Mr. Abbott's funds.

16 15. On April 16, 2015, Respondent issued a check from his trust account to Mr. Abbott
17 for \$5,833.33, the full third of the settlement.

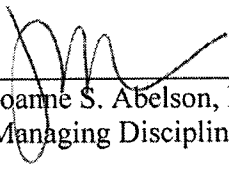
18 16. In response to this grievance, Respondent made false statements to ODC's
19 investigator regarding the whereabouts of Mr. Abbott's funds.

20 III. ALLEGED MISCONDUCT.

21 17. By taking over \$4,000 of Mr. Abbott's funds for his own use without entitlement
22 or client authorization, Respondent violated RPC 1.15A(b), RPC 8.4(b), and RPC 8.4(c).

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DATED this 27th day of August 2015.



Joanne S. Abelson, Bar No. 24877
Managing Disciplinary Counsel