

**FILED**

JAN 14 2014

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**DAWN HILLER,**

Lawyer (Bar No. 32782).

Proceeding No.  
WSBA File Nos. 12-01107, 12-01347, 12-  
02003. and 13-01194

**STIPULATION TO TWO-YEAR  
SUSPENSION**

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Two-Year Suspension is entered into by the Washington State Bar Association (Association), through Senior Disciplinary Counsel Joanne S. Abelson, and Respondent lawyer Dawn Hiller.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she 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 her. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to avoid the

*WV*

1 risk, time, and expense 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,  
4 2002.

5 **II. STIPULATED FACTS**

6 **Overview**

7 2. Respondent admits that the conduct described below stemmed from her addiction to  
8 alcohol, which at the time was not being treated successfully.

9 **Multiple Misdemeanor Convictions**

10 **Kitsap County District Court No. 16793601**

11 3. On November 22, 2004, Respondent was charged in Kitsap County District Court  
12 with driving under the influence.

13 4. On November 17, 2006, Respondent agreed to a two-year diversion.

14 5. On December 17, 2008, following completion of diversion, the charge was amended  
15 to negligent driving in the first degree. The court found Respondent guilty and imposed a 90-  
16 day suspended sentence, with conditions including no criminal violations.

17 **Bremerton Municipal Court No. 50103101**

18 6. On December 14, 2009, Respondent was charged in Bremerton Municipal Court  
19 with driving under the influence.

20 7. On March 3, 2010, Respondent entered into a deferred prosecution with terms  
21 including no alcohol or drug use and no criminal violations.

22 8. On June 12, 2012, the court revoked Respondent's deferred prosecution due  
23 Respondent's new criminal law violation, among other things. It found Respondent guilty of  
24

1 | driving under the influence and sentenced her to 364 days in jail, with 319 days suspended.  
2 | Conditions of the suspended sentence included abstaining from alcohol and no criminal  
3 | violations.

4 | 9. On August 20, 2012, Respondent entered a 60-day in-patient treatment program.

5 | 10. On January 25, 2013, due to respondent's violation of the judgment and sentence,  
6 | the court imposed an additional 90 days of custody via electronic home monitoring, which  
7 | began on June 13, 2013.

8 | 11. Respondent completed her electronic home monitoring on September 12, 2013.

9 | **Kitsap County District Court No. 16793605**

10 | 12. On December 14, 2009, Respondent was charged in Kitsap County District Court  
11 | with two counts of fourth degree assault.

12 | 13. On April 9, 2010, Respondent entered into a deferred prosecution with terms  
13 | including no alcohol or drug use and no criminal violations.

14 | 14. On August 14, 2012, the court revoked Respondent's deferred prosecution due to the  
15 | Snohomish County charge discussed below, found Respondent guilty on both counts, and  
16 | sentenced her to 364 days in jail, with 256 days suspended. Conditions of the suspended  
17 | sentence included that Respondent have no criminal law violation and abstain from alcohol or  
18 | drugs.

19 | 15. On March 20, 2013, due to Respondent's new criminal violation, among other  
20 | things, the court revoked Respondent suspended sentence and imposed an additional 229 days  
21 | in jail, concurrent to other terms.

22 | **Snohomish County District Court No. C00021538**

23 | 16. On May 17, 2012 Respondent was charged in Snohomish County District Court with  
24 |

1 driving under the influence.

2 17. On August 29, 2013, Respondent pleaded guilty and was sentenced to 364 days in  
3 jail, with 334 days suspended, and 60 days of electronic home monitoring to be served  
4 concurrently with the electronic home monitoring described in ¶ 10, above. Conditions of  
5 sentence included abstaining from alcohol and no criminal violations.

6 **Seattle Municipal Court No. 583332**

7 18. On October 24, 2012, days after being released from the treatment program  
8 referenced in ¶ 9, above, Respondent was charged in Seattle Municipal Court with driving under  
9 the influence and false reporting.

10 19. On January 10, 2013, Respondent was convicted following a jury trial of false  
11 reporting, Seattle Municipal Code 12A.16.040, based on her providing a false name to a police  
12 officer.

13 20. On October 25, 2013, the verdict was affirmed on appeal. King County Superior  
14 Court No. 13-1-10677-6.

15 **Client Matters**

16 **Jennifer Hall**

17 21. In December 2011, Jennifer Hall hired Respondent to represent her in her  
18 dissolution.

19 22. Trial was set for May 31, 2012.

20 23. Respondent did not appear at trial and did not advise Ms. Hall to appear.

21 24. According to Respondent, she believed the case was settled and that the trial would  
22 be taken off calendar.

23 25. The case, however, was not settled, and Respondent did not follow up with opposing  
24

1 counsel or check the docket to see whether the trial date was stricken.

2 26. Ms. Hall's then husband and his lawyer appeared for trial on May 31, 2012. Ms.  
3 Hall's then husband obtained a default, and Ms. Hall was assessed attorneys fees of over  
4 \$9,000.

5 27. Ms. Hall hired a new lawyer who negotiated with opposing counsel to reduce the fee  
6 award to \$500.

7 28. Ms. Hall paid her new lawyer \$1,000 to correct the problems that arose from  
8 Respondent's failure to appear at trial.

9 **Robert Stringham**

10 29. In July 2011, Robert Stringham hired Respondent to modify a parenting plan.

11 30. A hearing was held on August 30, 2011. Mr. Stringham flew in from Chicago for  
12 the hearing. Respondent did not appear.

13 31. Respondent believed that she and opposing counsel had reached agreement on the  
14 issue, but that belief was not reasonable as she had not responded to opposing counsel's  
15 settlement offer.

16 32. The court assessed attorneys fees of \$490 against Mr. Stringham based on  
17 Respondent's failure to appear.

18 33. Respondent accepted responsibility for the \$490 assessment and told Mr. Stringham  
19 she would pay it, but then changed her mind when she determined Mr. Stringham owed her  
20 money.

21 34. Respondent removed \$490 from her trust account without notice to Mr. Stringham  
22 and without sending him a billing statement or providing other notice.

23 //



1 **IV. PRIOR DISCIPLINE**

2 45. Respondent has no prior discipline.

3 **V. APPLICATION OF ABA STANDARDS**

4 46. The following American Bar Association Standards for Imposing Lawyer Sanctions  
5 (1991 ed. & Feb. 1992 Supp.) apply to this case:

- 6 • ABA Standard 4.1 applies to the violation of RPC 1.15A(h)(3) (§ 44);
- 7 • ABA Standard 4.4 applies to the violations of RPC 1.3 and RPC 1.4 (§§ 42-  
8 43);
- 9 • ABA Standard 5.1 applies to the violation of RPC 8.4(c) (§ 41).<sup>1</sup>

10 47. No ABA Standard applies directly to the violation of RPC 8.4(i) (§ 40). In re  
11 Disciplinary Proceeding Against Curran, 115 Wn.2d 735, 770-71, 801 P.2d 962 (1990).

12 48. Respondent acted negligently with respect to the violation of RPC 1.15A(h)(3) and  
13 knowingly with respect to the violations of RPC 1.3, RPC 1.4, RPC 8.4(c) and RPC 8.4(i).

14 49. In addition, Respondent engaged in a pattern of neglect of client matters.

15 50. Respondent's clients suffered actual injury from her failure to attend to their legal  
16 matters. They were left without counsel at critical junctures and suffered financial injury from  
17 Respondent failure to appear.

18 51. The legal system suffered injury because the state repeatedly was forced to address  
19 Respondent's misconduct in numerous court proceedings. The legal profession also suffered  
20 injury because the spectacle of a lawyer repeatedly violating the criminal law brings disrespect  
21 to the profession.

22 52. The presumptive sanctions are as follows:

23 <sup>1</sup> Copies of the applicable ABA Standards are attached as Appendix A.

- 1 • Reprimand under ABA Standard 4.13 for violating RPC 1.15A(h)(3) (§ 44);
- 2 • Suspension under Standard 4.42(a) and 4.42(b) for violating RPC 1.3 and 1.4
- 3 ( §§ 42-43);
- 4 • Suspension under ABA Standard 5.12 for violating RPC 8.4(c) (§ 41);
- 5 • Reprimand under Curran, 115 Wn.2d at 772, for violating RPC 8.4(i) (§ 40).

6 53. The following aggravating factor applies under ABA Standards Section 9.22:

- 7 (b) dishonest or selfish motive (RPC 8.4(c) violation);
- 8 (c) a pattern of misconduct;
- 9 (d) multiple offenses.

10 54. The following mitigating factors apply under ABA Standards Section 9.32:

- 11 (a) absence of a prior disciplinary record;
- 12 (c) personal or emotional problems (substance abuse and mental health
- 13 problems);<sup>2</sup>
- 14 (l) remorse.

15 55. It is an additional mitigating factor that Respondent has agreed to resolve this matter

16 at an early stage of the proceedings, thereby saving resources that would have been required to

17 litigate this matter.

18 56. Where there are multiple ethical violations, the “ultimate sanction imposed should at

19 least be consistent with the sanction for the most serious instance of misconduct among a

20 number of violations.” In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854,

21 846 P.2d 1330 (1993).

22 57. On balance, the aggravating and mitigating factors do not warrant deviation from the

23 presumptive sanction of suspension.

24 <sup>2</sup> Although Respondent suffered from alcohol addiction during the time period at issue in this stipulation, the mitigating factor set forth in ABA Standard 9.32(i) does not apply because the medical evidence does not support subsections 9.32(i)(3) and (4).



1 **VI. STIPULATED DISCIPLINE**

2 58. The parties stipulate that Respondent shall be suspended from the practice of law for  
3 two years.

4 59. Before Respondent is eligible for reinstatement she must have a one-year period of  
5 sobriety as demonstrated by clean urinalysis examinations (UAs), to be obtained at her own  
6 expense. Respondent may submit UA results obtained in connection with her criminal  
7 probation. Respondent shall execute any necessary releases to allow disciplinary counsel full  
8 access to the results of the UAs to monitor compliance with this stipulation.

9 60. As a further condition of reinstatement, Respondent shall, at least 30 days prior to a  
10 request for reinstatement, undergo an independent examination by a licensed clinical  
11 psychologist or psychiatrist to be approved by disciplinary counsel. Respondent shall execute  
12 all the necessary releases to permit this evaluator to obtain all necessary treatment records and  
13 make a report to disciplinary counsel addressing the following issues:

- 14 • Whether Respondent has recovered from her alcohol abuse;
- 15 • Whether Respondent has recovered from any other issues identified by the  
16 evaluator as influencing Respondent's performance as a lawyer;
- 17 • Whether Respondent's condition has been sufficiently stabilized such that  
she is currently fit to practice law.

18 61. If the evaluator concludes that Respondent is not currently fit to practice law, the  
19 report shall recommend a course of treatment necessary to enable Respondent to return to the  
20 practice of law.

21 62. Respondent agrees to execute any necessary releases to allow disciplinary counsel  
22 and the evaluator full access to all health and treatment records and reports.

23 63. If the evaluator concludes that Respondent is not currently fit to practice law,  
24

1 Respondent (or Respondent's counsel, if Respondent is then represented) and disciplinary  
2 counsel shall meet to discuss the evaluator's report and what steps can be taken to address the  
3 evaluator's concerns. If Respondent and disciplinary counsel cannot reach an agreement, both  
4 parties shall present written materials and arguments to the Disciplinary Board. The  
5 Disciplinary Board shall decide whether and the conditions under which Respondent shall  
6 return to the active practice of law.

7 64. Following her reinstatement to the active practice of law, Respondent shall be on  
8 probation under ELC 13.8 for a period of two years.

9 65. During the period of probation Respondent must maintain sobriety as demonstrated  
10 by clean UAs, to be obtained at her own expense. Respondent must undergo random UA tests  
11 on at least a monthly basis, with reports of the UAs submitted to the Office of Disciplinary  
12 Counsel's Probation Administrator. Respondent may submit UA results obtained in connection  
13 with her criminal probation or may arrange to have random UAs conducted by a private facility,  
14 to be approved by the Probation Administrator. Respondent shall execute any necessary releases  
15 to allow the Probation Administrator full access to the results of the UAs to monitor compliance  
16 with this stipulation.

17 66. In addition, during the period of probation, Respondent shall comply with any  
18 treatment recommendations arising out of the evaluation process described in ¶ 60, above, such  
19 as chemical dependency treatment or participation in Alcoholics Anonymous or a similar group.

20 67. Respondent shall execute an authorization to allow any chemical dependency  
21 treatment provider to release information to Probation Administrator, including but not limited  
22 to: dates of attendance; reports of progress on treatment; incidences of relapse; results of urine  
23 toxicology reports; and reports of any further violations of the RPC. The failure to have a  
24

1 current, valid authorization for release of information to Probation Administrator on file with  
2 the chemical dependency treatment provider may constitute a material violation of probation  
3 terms.

4 68. Respondent shall provide the Probation Administrator with the name and contact  
5 information of any chemical dependency treatment provider.

6 69. If Respondent fails to comply with any of the terms or conditions of this stipulation,  
7 the Office of Disciplinary Counsel may seek appropriate relief under the relevant disciplinary  
8 rules.

9 70. Respondent shall bear all costs associated with compliance with the terms and  
10 conditions of the stipulated discipline, reinstatement and probation set forth herein.

#### 11 **VII. RESTITUTION**

12 71. Respondent agrees to pay restitution as follows:

- 13 • to Jennifer Hall in the amount of \$1,500, plus interest at a rate of 12% per annum  
14 from the date this stipulation is final, and
- 15 • to Robert Stringham in the amount of \$490, plus interest at a rate of 12% per  
16 annum from the date this stipulation is final.

17 72. Restitution must be paid within 30 days of approval of this stipulation unless  
18 Respondent has entered into a payment plan under ELC 13.7(b).

19 73. Reinstatement from suspension is dependent on Respondent having paid this  
20 restitution or being current with any payment plan.

#### 21 **VIII. COSTS AND EXPENSES**

22 74. 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 \$500.  
24 The Association will seek a money judgment under ELC 13.9(l) if these costs are not paid

1 within 30 days of approval of this stipulation unless Respondent has entered into a payment plan  
2 under ELC 13.9(i).

3 75. Reinstatement from suspension is dependent on Respondent having paid these costs  
4 or being current with any payment plan.

### 5 IX. VOLUNTARY AGREEMENT

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

### 11 X. LIMITATIONS

12 77. 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 the Association. Both the  
15 Respondent lawyer and the Association acknowledge that the result after further proceedings in  
16 this matter might differ from the result agreed to herein.

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

20 79. 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  
24

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  
3 Stipulation.

4 80. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary  
5 Board shall have available to it for consideration all documents that the parties agree to submit  
6 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that  
7 form the record before the Board for its review become public information on approval of the  
8 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

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


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

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

18 

19 Dawn Hiller, Bar No. 32782  
20 Respondent

21 Dated: 12/5/13

22   
23 Joanne S. Abelson, Bar No. 24877  
24 Senior Disciplinary Counsel

Dated: 12/5/13

APPENDIX A  
SELECTED ABA STANDARDS

Standard 4.1 -- Failure to Preserve the Client's Property

- 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.
- 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.
- 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.
- 4.14 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.

Standard 4.4 -- Lack of Diligence

- 4.41 Disbarment is generally appropriate when:
  - (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
  - (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
  - (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
- 4.42 Suspension is generally appropriate when:
  - (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
  - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.
- 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.
- 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

Standard 5.1 -- Failure to Maintain Personal Integrity

- 5.11 Disbarment is generally appropriate when:
- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
  - (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.
- 5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.
- 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.
- 5.14 Admonition is generally appropriate when a lawyer engages in any other conduct that reflects adversely on the lawyer's fitness to practice law.