

**FILED**  
NOV 13 2014  
**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**DAWN M. HILLER,**  
Lawyer (Bar No. 32782).

Proceeding No. 14#00045  
STIPULATION TO THREE-MONTH  
SUSPENSION

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

STIPULATION TO THREE-MONTH SUSPENSION

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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 2. Effective February 12, 2014, Respondent's license to practice law was suspended for  
6 two years.

## 7 II. STIPULATED FACTS

8 3. In 2012, Elaine Wolfe paid Respondent \$1,500 to represent her in her dissolution.

9 4. Respondent filed the initial papers on March 28, 2012.

10 5. After a couple months Ms. Wolfe was no longer able to reach Respondent, who,  
11 unbeknownst to Ms. Wolfe, had become incarcerated.

12 6. Eventually, Ms. Wolfe was able to reach Respondent's former assistant who told her  
13 that that Respondent's former law partner, Katheryn Abele, had agreed to consult with Ms.  
14 Wolfe about taking over her case.

15 7. Ms. Wolfe eventually hired Ms. Abele and paid her another \$1,500.

16 8. Ms. Abele completed the dissolution.

17 9. According to Ms. Abele, she would have charged Ms. Wolfe \$700 for the initial  
18 pleadings that Respondent prepared and \$300 for the initial consultation.

19 10. Ms. Hiller has produced no accounting of Ms. Wolfe's funds.

## 20 III. STIPULATION TO MISCONDUCT

21 11. By failing to represent Ms. Wolfe diligently, Respondent violated RPC 1.3 (duty to  
22 provide diligent representation).

23 12. By failing to remain in communication with Ms. Wolfe during the representation,

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1 Respondent violated RPC 1.4 (duty to communicate).

2 13. By failing to refund unearned fees to Ms. Wolfe, Respondent violated RPC 1.15(a)  
3 (duty to charge reasonable fee) and RPC 1.16(d) (duty to protect client interests on termination).

4 14. By failing to provide Ms. Wolfe with a written accounting of how her funds were  
5 spent, Respondent violated RPC 1.15A(e) (duty to provide accounting).

#### 6 IV. PRIOR DISCIPLINE

7 15. In February 2014, the Washington Supreme Court ordered Respondent suspended  
8 for two years for violating RPC 1.3, 1.4, 1.15(A)(h)(3), 8.4(c), and 8.4(i) based on a stipulation  
9 arising from some similar misconduct during the same time period as that at issue in this matter.

10 In re Hiller, Proceeding No. 14#00004, Supreme Court No. 201,283-3.

#### 11 V. APPLICATION OF ABA STANDARDS

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

- 14 • ABA Standard 4.1 applies to the violation of RPC 1.15A(e);
- 15 • ABA Standard 4.4 applies to the violations of RPC 1.3 and 1.4;
- 16 • ABA Standard 7.0 applies to the violation of RPC 1.5(a) and 1.16(d).<sup>1</sup>

17 17. Respondent acted knowingly.

18 18. Ms. Wolfe was injured because she was unable to contact the lawyer she had hired to  
19 represent her interests and lost the use of the unearned fees. In addition, Ms. Hiller's failure to  
20 account to Ms. Wolfe after distributing the advance fees has made it impossible for Ms. Wolfe  
21 to ascertain what happened to her funds.

22  
23 <sup>1</sup> Copies of the applicable ABA Standards are attached as Appendix A.

1 19. The presumptive sanctions are suspension:

- 2 • ABA Standard 4.12 for the violation of RPC 1.15A(e);
- 3 • ABA Standard 4.42 for the violations of RPC 1.3 and 1.4;
- 4 • ABA Standard 7.2 for the violation of RPC 1.5(a) and 1.16(d).

5 20. The following aggravating factors apply under ABA Standard 9.22:

- 6 (c) a pattern of misconduct;<sup>2</sup>
- 7 (d) multiple offenses;
- 8 (i) substantial experience in the practice of law [admitted 2002].

9 21. The following mitigating factors apply under ABA Standard 9.32:

- 10 (b) absence of a dishonest or selfish motive;
- 11 (c) personal or emotional problems;<sup>3</sup>
- 12 (l) remorse.

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

15 23. On balance the aggravating and mitigating factors do not require a departure from  
16 the presumptive sanction.

## 17 VI. STIPULATED DISCIPLINE

18 24. The parties stipulate that Respondent shall receive a three-month suspension in this  
19 matter.

20 25. The current misconduct is contemporaneous with the misconduct for which  
21 Respondent currently is suspended and would have been included in the prior stipulation had

22 <sup>2</sup> Because the February 2014 suspension was based on misconduct contemporaneous with conduct at  
23 issue here we believe it constitutes a pattern of misconduct rather than a prior disciplinary offense.

24 <sup>3</sup> As set forth in in the stipulation in Proceeding No. 14#00004, Respondent suffered from substance  
abuse and mental health problems during the time period at issue here. But 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 the grievance been filed earlier. Due to these unique circumstances, the parties agree that the  
2 three-month suspension agreed to in this stipulation should run concurrent to the two-year  
3 suspension that Respondent currently is serving. The parties recognize that imposition of a  
4 concurrent as opposed to a consecutive suspension is subject to approval by the Disciplinary  
5 Board and Supreme Court.

6 26. Because the stipulation in Proceeding No. 14#00004 provides for a one-year period  
7 of sobriety as demonstrated by clean urinalysis examinations (UAs) and for a fitness to practice  
8 evaluation before Respondent may be reinstated to the practice of law, such conditions are not  
9 part of this stipulation.

10 27. Because the stipulation in Proceeding No. 14#00004 provides for a two-year period  
11 of probation following Respondent's return to the active practice of law, probation terms are not  
12 part of this stipulation.

### 13 **VII. RESTITUTION**

14 28. Respondent agrees to pay restitution as follows: to Elaine Wolfe in the amount of  
15 \$500, plus interest at a rate of 12% per annum from the date this stipulation is final.

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

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

### 20 **VIII. COSTS AND EXPENSES**

21 31. In light of Respondent's willingness to resolve this matter by stipulation at an early  
22 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$250 in  
23 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)

1 if these costs are not paid within 30 days of approval of this stipulation.

2 32. Reinstatement from suspension is dependent on payment of costs.

3 **IX. VOLUNTARY AGREEMENT**

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

9 34. 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 35. 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 36. 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 37. 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  
3 Stipulation.

4 38. 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 39. 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.

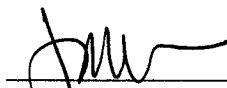
12 40. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this  
13 Stipulation will have no force or effect, and neither it nor the fact of its execution will be  
14 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary  
15 proceeding,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

20 Dawn M. Hiller, Bar No. 32782  
Respondent

Dated: 7/31/14

21  
22 

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

Dated: 9/4/14

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.

ABA Standard 7.0 -- Violations of Duties Owed as a Professional

- 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in 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.
- 7.2 Suspension is generally appropriate when a lawyer knowingly engages in 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.
- 7.3 Reprimand is generally appropriate when a lawyer negligently engages in 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.
- 7.4 Admonition is generally appropriate when a lawyer engages in an isolated 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.