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Jan 15 2020

Disciplinary
Board

Docket # 020

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

HAROLD M. TURNER,

Lawyer (Bar No. 33341).

Proceeding No. 18#00078

ODC File No(s): 17-01400 and 19-00848

**STIPULATION TO 12-MONTH
SUSPENSION**

Following settlement conference conducted
under ELC 10.12(h)

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel M Craig Bray and Respondent lawyer Harold M. Turner.

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 Stipulation to 12-Month Suspension

1 outcome more favorable or less favorable to him. Respondent chooses to resolve this
2 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
3 avoid the risk, time, and expense attendant to further proceedings.

4 **I. ADMISSION TO PRACTICE**

5 1. Respondent was admitted to practice law in the State of Washington on January 29,
6 2003.

7 **II. STIPULATED FACTS**

8 **A. ODC File No. 17-01400 (deCeault)**

9 2. In March 2015, Justin deCeault was involved in an altercation with Michael Stroh
10 (Stroh).

11 3. In November 2015, Stroh filed a lawsuit against deCeault. deCeault was personally
12 served with the lawsuit, but did not file an answer or otherwise appear.

13 4. In January 2016, an order of default was entered against deCeault. In January 2017, a
14 non-jury trial was held in deCeault's absence and a judgment for \$31,938.00 was entered
15 against him.

16 5. On February 21, 2017, deCeault met with Respondent and paid him \$500 to
17 represent him to vacate the judgment.

18 6. There was no written fee agreement.

19 7. On March 8, 2017, Respondent filed a Notice of Appearance in the Stroh lawsuit.

20 8. Respondent contacted Stroh's attorney, Ashton Dennis, and said he was going to file
21 a motion to vacate.

22 9. Respondent obtained copies of the court documents filed in the Stroh lawsuit and
23 reviewed them.

1 10. Respondent learned that the judgement entered against deCeault was not simply a
2 default judgment.

3 11. Respondent did not thereafter file a motion to vacate or take any other action in the
4 Stroh lawsuit.

5 12. Respondent did not consult with deCeault about what he learned about the Stroh
6 lawsuit or about means by which deCeault's objectives could be accomplished.

7 13. Beginning on or about March 31, 2017, deCeault made numerous attempts to contact
8 Respondent for information about his case.

9 14. Respondent did not respond.

10 15. On May 30 and 31, 2017, deCeault texted Respondent and said he wanted to meet or
11 get his money back and would file a grievance against Respondent if he did not receive a
12 refund.

13 16. Respondent did not respond or refund any portion of the \$500 deCeault paid.

14 17. On August 23, 2017, deCeault filed a grievance against Respondent.

15 18. ODC requested a written response from Respondent the next day.

16 19. Respondent did not respond.

17 20. On September 27, 2017, ODC sent Respondent a "10-day letter," notifying him that
18 if he did not respond by October 10, 2017, he would be subpoenaed for a deposition.

19 21. Respondent did not respond.

20 22. On March 29, 2018, ODC had Respondent personally served with a subpoena for a
21 deposition. The subpoena required Respondent to appear on April 26, 2018 and to produce
22 specific client file documents relating to his representation of deCeault, including any trust
23 account information.

1 23. On April 25, 2018, the day before ODC's deposition of Respondent, Respondent
2 contacted deCeault and asked to meet so that he could provide a refund and have deCeault sign
3 a statement "confirming everything is taken care of."

4 24. deCeault agreed to meet but refused to sign a statement.

5 25. Respondent did not provide a refund.

6 26. On April 26, 2018, Respondent appeared for his deposition but did not bring any of
7 the client file documents listed in the subpoena. During the deposition, Respondent agreed to
8 produce the client file documents by May17, 2018.

9 27. Respondent did not provide client file documents by May 17, 2018.

10 28. On July 16, 2018, ODC filed a Petition for Respondent's interim suspension under
11 Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC) with the Washington
12 Supreme Court.

13 29. On July 18, 2018, the Court entered an Order to Show Cause and set a hearing for
14 September 20, 2018, giving Respondent until September 6, 2018 to file an answer to the
15 petition.

16 30. On July 30, 2018, ODC's Petition and the Order to Show Cause were served on
17 Respondent.

18 31. Respondent did not file an answer to the petition.

19 32. On September 19, 2018, Respondent delivered to ODC a packet of documents
20 relating to his representation of deCeault and ODC withdrew the petition.

21 **B. ODC File No. 19-00848 (Stanley)**

22 33. Theallen Stanley sought a lawyer to help him with child custody and support matters
23 relating to his three children.

1 34. Stanley contacted Respondent and they met on November 3, 2018.

2 35. Stanley and Respondent discussed the work Stanley wanted done and Respondent
3 agreed to do it for a flat fee of \$2,500.

4 36. There was no written fee agreement.

5 37. Part of the work Respondent agreed to do was to appear for Stanley at a hearing in a
6 child support modification matter regarding Stanley's daughter BJS. At the time they met, the
7 hearing was set for November 13, 2018.

8 38. Respondent and Stanley agreed to meet again on November 9, 2018.

9 39. Prior to November 9, 2018, Stanley asked if Respondent would also draft a trust for
10 him.

11 40. Respondent agreed that he would complete a "basic" trust and do the other work
12 they had discussed for the quoted amount of \$2,500.

13 41. Stanley and Respondent met on November 9, 2018, and Stanley paid Respondent
14 \$2,500.

15 42. The November 9, 2018 BJS hearing was continued to January 4, 2019.

16 43. The BJS hearing on January 4, 2019 was held telephonically and recorded.
17 Respondent appeared on behalf of Stanley.

18 44. With consent f all parties, an administrative law judge entered an order that modified
19 the child support Stanley had to pay for BJS.

20 45. Thereafter, Respondent did not respond to email or telephone calls from Stanley,
21 who was making reasonable attempts to learn the status of the other work Respondent had
22 agreed to do.

23 46. Respondent did not work on any other child support matter for Stanley and did not

1 prepare a trust.

2 47. Stanley sent an email and a certified letter to Respondent on or about May 28, 2019,
3 terminating the representation and requesting a full refund of the \$2,500 fee.

4 48. The certified letter was returned unclaimed.

5 49. Respondent did not refund any portion of the \$2,500.

6 50. Stanley filed a grievance on June 22, 2019.

7 51. On June 25, 2019, ODC mailed a copy of the grievance to Respondent and requested
8 a response from him within 30 days.

9 52. Respondent did not respond.

10 53. On July 30, 2019, ODC sent Respondent a letter notifying him that if he did not
11 respond within 10 days (by August 12, 2019), that would be in and of itself grounds for
12 discipline, that he could be subpoenaed for a deposition, and that he could be subject to interim
13 suspension under ELC 7.2(a)(3).

14 54. Respondent did not respond.

15 III. STIPULATION TO MISCONDUCT

16 A. ODC File No. 17-01400

17 55. By failing to diligently represent deCeault in the Stroh lawsuit matter, Respondent
18 violated RPC 1.3 and RPC 3.2.

19 56. By failing to promptly comply with deCeault's reasonable requests for information
20 about his case and by failing to explain the Stroh lawsuit to the extent reasonably necessary to
21 permit deCeault to make an informed decision about the representation, Respondent violated
22 RPC 1.4.

23 57. By failing to refund any portion of the \$500 deCeault paid that had not been earned,

1 Respondent violated RPC 1.5(a) and RPC 1.16(d).

2 58. By failing to respond to ODC's requests for response to the grievance and by not
3 timely providing the documents relating to his representation of deCeault that ODC subpoenaed,
4 Respondent violated RPC 8.4(l) by failing to cooperate with a disciplinary investigation as
5 required by ELC 5.3(f), ELC 5.3(g), ELC 5.3(h)(3), and 5.5(d).

6 **B. ODC File No. 19-00848**

7 59. By failing to respond to Stanley's reasonable requests for information about the
8 status of the matters for which he hired Respondent, Respondent violated RPC 1.4(a)(4).

9 60. By failing to prepare a trust for Stanley, Respondent violated RPC 1.3.

10 61. By failing to refund any unearned portion of the \$2,500 fee after he was terminated,
11 Respondent violated RPC 1.5(a) and RPC 1.16(d).

12 62. By failing to respond to ODC requests for a response to the grievance, Respondent
13 violated RPC 8.4(l) by failing to cooperate with a disciplinary investigation as required by ELC
14 5.3(f), (g) and (h)(3).

15 **IV. PRIOR DISCIPLINE**

16 63. Respondent was admonished in 2008 for failing to file a required trust account
17 declaration.

18 64. Respondent was suspended for six months in 2014 for failing to pay outstanding
19 costs imposed on him in the 2008 admonition proceeding.

20 **V. APPLICATION OF ABA STANDARDS**

21 65. The following American Bar Association Standards for Imposing Lawyer Sanctions
22 (1991 ed. & Feb. 1992 Supp.) apply to this case:

23 ***4.4 Lack of Diligence***

24 4.41 Disbarment is generally appropriate when:

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- 1 (a) a lawyer abandons the practice and causes serious or potentially
2 serious injury to a client; or
3 (b) a lawyer knowingly fails to perform services for a client and
4 causes serious or potentially serious injury to a client; or
5 (c) a lawyer engages in a pattern of neglect with respect to client
6 matters and causes serious or potentially serious injury to a client.
7 4.42 Suspension is generally appropriate when:
8 (a) a lawyer knowingly fails to perform services for a client and
9 causes injury or potential injury to a client, or
10 (b) a lawyer engages in a pattern of neglect and causes injury or
11 potential injury to a client.
12 4.43 Reprimand is generally appropriate when a lawyer is negligent and does
13 not act with reasonable diligence in representing a client, and causes
14 injury or potential injury to a client.
15 4.44 Admonition is generally appropriate when a lawyer is negligent and does
16 not act with reasonable diligence in representing a client, and causes little
17 or no actual or potential injury to a client.

18 **7.0 Violations of Duties Owed as a Professional**

- 19 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
20 conduct that is a violation of a duty owed as a professional with the intent
21 to obtain a benefit for the lawyer or another, and causes serious or
22 potentially serious injury to a client, the public, or the legal system.
23 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
24 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.

66. Respondent acted knowingly.

67. Respondent's misconduct injured deCeault, who suffered delay and loss of funds
paid.

68. Respondent's misconduct injured Stanley, who suffered delay and loss of funds paid.

69. Respondent's misconduct injured ODC, in the form of increased effort and costs and
inability to fully investigate the matters without Respondent's cooperation.

1 70. The presumptive sanction is suspension.

2 71. The following aggravating factors apply under ABA Standard 9.22:

- 3 (a) prior disciplinary offenses;
4 (d) multiple offenses; and
5 (i) substantial experience in the practice of law.

6 None of the mitigating factors under ABA Standard 9.32 apply.

7 72. It is a mitigating factor that Respondent has agreed to resolve this matter at an early
8 stage of the proceedings.

9 73. On balance the aggravating and mitigating factors do not require a departure from
10 the presumptive sanction.

11 VI. STIPULATED DISCIPLINE

12 74. The parties stipulate that Respondent shall receive a 12-month suspension for his
13 conduct.

14 75. The Respondent requests that the effective date of the suspension be April 1, 2020.
15 ODC does not object to this request.

16 76. Respondent will be subject to probation for a period of two years beginning when
17 Respondent is reinstated to the practice of law and shall comply with the specific probation
18 terms set forth below. Respondent's compliance with these conditions will be monitored by the
19 Probation Administrator of the Office of Disciplinary Counsel ("Probation Administrator").
20 Failure to comply with a condition of probation listed herein may be grounds for further
21 disciplinary action under ELC 13.8(b).

22 A. Practice Monitor

- 23 a) During the period of probation, Respondent's practice will be supervised by a
24 practice monitor. The practice monitor must be a WSBA member with no record of
public discipline and who is not the subject of a pending public disciplinary
proceeding.

- 1 b) The role of the practice monitor is to consult with and provide guidance to
2 Respondent regarding case management, office management, and avoiding
3 violations of the Rules of Professional Conduct, and to provide reports and
4 information to the Probation Administrator regarding Respondent's compliance
5 with the terms of probation and the RPC. The practice monitor does not represent
6 the Respondent.
- 7 c) At the beginning of the probation period, the Probation Administrator will select a
8 lawyer to serve as practice monitor for the period of Respondent's probation.
- 9 i) Initial Challenge: If, within 15 days of the written notice of the selection of
10 a practice monitor, Respondent sends a written request to the Probation
11 Administrator that another practice monitor be selected, the Probation
12 Administrator will select another practice monitor. Respondent need not
13 identify any basis for this initial request.
- 14 ii) Subsequent Challenges: If, after selection of a second (or subsequent)
15 practice monitor, Respondent believes there is good cause why that
16 individual should not serve as practice monitor, Respondent may, within 15
17 days of notice of the selected practice monitor, send a written request to the
18 Probation Administrator asking that another practice monitor be selected.
19 That request must articulate good cause to support the request. If the
20 Probation Administrator agrees, another practice monitor will be selected.
21 If the Probation Administrator disagrees, the Office of Disciplinary Counsel
22 will submit its proposed selection for practice monitor to the Chair of the
23 Disciplinary Board for appointment pursuant to ELC 13.8(a)(2), and will
24 also provide the Chair with the Respondent's written request that another
practice monitor be selected.
- d) In the event the practice monitor is no longer able to perform his or her duties, the
Probation Administrator will select a new practice monitor at his or her discretion.
- e) During the period of probation, Respondent must cooperate with the named practice
monitor. Respondent must meet with the practice monitor at least once per month.
Respondent must communicate with the practice monitor to schedule all required
meetings.
- f) The Respondent must bring to each meeting a current, complete written list of all
pending client legal matters being handled by the Respondent. The list must
identify the current status of each client matter and any problematic issues regarding
each client matter. The list may identify clients by using the client's initials rather
than the client's name.
- g) At each meeting, the practice monitor will discuss with Respondent practice issues
that have arisen or are anticipated. In light of the conduct giving rise to the
imposition of probation, ODC recommends that the practice monitor and
Respondent discuss whether Respondent is diligently making progress on each

1 client matter, whether Respondent is in communication with each client, whether
2 Respondent has promptly billed each client, whether Respondent's fee agreements
3 are consistent with the RPC and are understandable to the client, whether
4 Respondent needs to consider withdrawing from any client matters.] Meetings may
5 be in person or by telephone at the practice monitor's discretion. The practice
6 monitor uses discretion in determining the length of each meeting.

- 7
- 8 h) The practice monitor will provide the Probation Administrator with quarterly
9 written reports regarding Respondent's compliance with probation terms and the
10 RPC. Each report must include the date of each meeting with Respondent, a brief
11 synopsis of the discussion topics, and a brief description of any concerns the
12 practice monitor has regarding the Respondent's compliance with the RPC. The
13 report must be signed by the practice monitor. Each report is due within 30 days of
14 the completion of the quarter.
- 15 i) If the practice monitor believes that Respondent is not complying with any of
16 [his/her] ethical duties under the RPC or if Respondent fails to schedule or attend a
17 monthly meeting, the practice monitor will promptly communicate that to the
18 Probation Administrator.
- 19 j) Respondent must make payments totaling \$1,000 to the Washington State Bar
20 Association to defray the costs and expenses of administering the probation, as
21 follows:
- 22 i) \$250 due within 30 days of the start of the probation;
 - 23 ii) \$250 due within 6 months of the start of the probation period;
 - 24 iii) \$250 due within 12 months of the start of the probation period; and
 - iv) \$250 due within 18 months of the start of the probation period.
- All payments should be provided to the Probation Administrator for processing.

15 **B. Law Office Management**

- 16 k) Respondent shall participate in the Association's Practice Management Assistance
17 Program. Respondent shall participate in two 30-minute office management
18 consultations with the Practice Management Advisor or her designee. The Practice
19 Management Advisor is currently Destinee Evers. Ms. Evers can be reached at
20 www.wsba.org/consult
- 21 k) Respondent shall consult with a Practice Management Advisor to discuss and
22 implement procedures concerning some or all of the following issues:
- 23 • Dealing with clients and managing their expectations
 - 24 • Fee agreements
 - Staff communication and supervision
 - Calendaring/Docketing
 - Time management
 - Office layout and organization

1 • Other issues as appropriate.

- 2 l) Respondent shall contact the Advisor to schedule a consultation by 60 days from
reinstatement. The consultation shall take place no later than 60 days thereafter.
- 3 m) Respondent understands that the Advisor may establish dates by which Respondent
4 must comply with recommendations made and for follow-up communication.
Respondent agrees to strictly comply with these dates. These subsequent contacts
5 may be in person, email, or telephone, at the sole discretion of the Advisor.
- 6 n) Respondent authorizes the Advisor to report immediately to the Probation
Administrator and/or ODC if Respondent fails to comply with any requirements or
7 terms.
- 8 o) Respondent agrees to respond promptly to all inquiries from the Advisor and the
Probation Administrator regarding Respondent's compliance with the practice
9 management requirements described herein.

10 VII. RESTITUTION

11 77. Respondent is required to pay \$500 to deCeault, plus interest accruing annually at 12
percent beginning the date this stipulation is approved.

13 78. Respondent is required to pay \$1,250 to Stanley, plus interest accruing annually at
14 12 percent beginning the date this stipulation is approved.

15 79. Reinstatement from suspension is conditioned on payment of restitution to deCeault
16 and Stanley.

17 VIII. COSTS AND EXPENSES

18 80. In light of Respondent's willingness to resolve this matter by stipulation at an early
19 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,664
20 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
21 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.

22 81. Reinstatement from suspension or disbarment is conditioned on payment of costs.

1 **IX. VOLUNTARY AGREEMENT**

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

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

9 **X. LIMITATIONS**

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

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

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


1 Stipulation.

2 87. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
3 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record before
4 the Board for its review become public information on approval of the Stipulation by the Board,
5 unless disclosure is restricted by order or rule of law.


6 88. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
7 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
8 Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition
9 to Washington, Respondent also is not admitted to practice law in any other jurisdiction.

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

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

16 
17 _____
18 Harold M. Turner, Bar No. 33341
19 Respondent

Dated: 12/05/19

19 
20 _____
21 M Craig Bray, Bar No. 20821
22 Disciplinary Counsel

Dated: 12/5/2019