

FILED

May 14 2020

Disciplinary
Board

Docket # 003

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

In re

DONNA MARIE GIBSON,

Lawyer (Bar No. 33583).

Proceeding No. 20#00028

ODC File No. 19-00554

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Debra Slater, Respondent's Counsel Jeffrey T. Kestle and Respondent lawyer Donna Marie Gibson.

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

Stipulation to Discipline
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OFFICE OF DISCIPLINARY COUNSEL OF THE
WASHINGTON STATE BAR ASSOCIATION
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1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the
2 risk, time, expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on June 9,
5 2003.

6 **II. STIPULATED FACTS**

7 Washington Department of Labor & Industries Matters

8 2. Bryan Brickson owns an automobile repair shop in Kent, Washington.

9 3. At some point he terminated two employees whom he suspected of stealing from his
10 business.

11 4. The Washington Department of Labor & Industries (L& I) opened a file, based on
12 allegations made by the two terminated employees that they were owed wages.

13 5. Mr. Brickson hired Respondent on October 25, 2018 to represent him in the L & I
14 proceedings.

15 6. Respondent had cars in need of repair. Respondent and Mr. Brickson agreed that
16 Mr. Brickson would repair Respondent's cars in exchange for payment of Respondent's legal
17 fees.

18 7. On March 8, 2019, L & I issued a Citation and Notice of Assessment for Wage
19 Payment and/or Minimum Wage Act Violation related to the two employees.

20 8. L & I ordered Mr. Brickson to pay the former employees a total of \$1,623.78 in
21 unpaid wages and assessed a \$2,000 penalty.

22 9. L & I advised that the deadline to appeal the Citation and Notice of Assessment was
23 April 7, 2019.

1 10. Respondent received the Citation and Notice of Assessment for Wage Payment
2 and/or Minimum Wage Act Violation on March 12, 2019.

3 11. Respondent was on vacation from February 26 through March 12, and she states that
4 she became ill at the end of March 2019 and was unable to work on the appeals before the
5 deadlines.

6 12. On several occasions before Respondent went on vacation, she asked Mr. Brickson
7 to provide a clear narrative of what happened with the two employees. Over the next few days,
8 Mr. Brickson sent Respondent several emails and over a hundred pages of documents which, in
9 Respondent's mind, did not clarify the issues.

10 13. Respondent performed work on Mr. Brickson's behalf, but failed to timely file the
11 appeals.

12 14. Mr. Brickson lost both cases because Respondent did not timely file the appeals.

13 SK Matter

14 15. In February 2019 Mr. Brickson terminated employee SK for poor attendance at
15 work.

16 16. The Washington Department of Employment Security (DES) approved SK's
17 unemployment benefits.

18 17. Mr. Brickson hired Respondent on February 13, 2019 to represent him in filing an
19 appeal of the DES decision.

20 18. Respondent agreed to represent Mr. Brickson under the same payment arrangement
21 as in the prior matter— repair work on her cars in exchange for legal services.

22 19. The deadline to file the appeal of the DES decision was March 4, 2019.

23 20. Respondent was on vacation from February 26, 2019 through March 12, 2019 and

1 failed to timely file the appeal.

2 21. Mr. Brickson lost the opportunity to appeal the DES decision because Respondent
3 did not timely file the appeal.

4 22. Mr. Brickson estimates that he did about \$10,000 worth of repair on Respondent's
5 cars. Respondent disputes the value of the work Mr. Brickson performed.

6 23. Respondent did not provide all of the legal services to Mr. Brickson as she had
7 agreed to.

8 24. Respondent and Mr. Brickson have settled their disputes.

9 **III. STIPULATION TO MISCONDUCT**

10 25. By missing appeals deadlines in the above matters, Respondent violated RPC 1.3.

11 **IV. PRIOR DISCIPLINE**

12 26. Respondent received an admonition in February 2017 for failing to communicate
13 with a client (RPC 1.4) and failing to properly supervise non-lawyer staff (RPC 5.3).

14 **V. APPLICATION OF ABA STANDARDS**

15 27. The following American Bar Association Standards for Imposing Lawyer Sanctions
16 (1991 ed. & Feb. 1992 Supp.) apply to this case: ABA Standards 4.4 is most applicable to the
17 duty to act with reasonable diligence in representing a client. A copy of ABA Standard 4.4 is
18 enclosed.

19 28. Respondent acted negligently.

20 29. Mr. Brickson was injured because he missed the opportunity to appeal the adverse L
21 & I and DES decisions. He performed work on Respondent's cars and did not receive all of the
22 legal services he anticipated in exchange.

23 30. The presumptive sanction is reprimand under ABA Standard 4.43.

1 31. The following aggravating factors apply under ABA Standard 9.22:

2 (a) Prior disciplinary offense (February 2017 admonition)

3 (b) Substantial experience in the practice of law (Respondent was admitted to
4 practice law in Washington in 2003.

5 32. It is a mitigating factor that Respondent has agreed to resolve this matter at an early
6 stage of the proceedings.

7 33. On balance the aggravating and mitigating factors do not require a departure from
8 the presumptive sanction.

9 **VI. STIPULATED DISCIPLINE**

10 34. The parties stipulate that Respondent shall receive a reprimand for her conduct.

11 **VII. RESTITUTION**

12 35. Additional restitution is not required.

13 **VIII. COSTS AND EXPENSES**

14 36. Respondent shall pay attorney fees and administrative costs of \$1,500 in accordance
15 with ELC 13.9(c)(2). The Association will seek a money judgment under ELC 13.9(l) if these
16 costs are not paid within 180 days of approval of this stipulation.

17 **IX. VOLUNTARY AGREEMENT**

18 37. Respondent states that before entering into this Stipulation, she 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 ODC, the
21 Association, nor by any representative thereof, to induce the Respondent to enter into this
22 Stipulation except as provided herein.

23 38. Once fully executed, this stipulation is a contract governed by the legal principles

1 applicable to contracts, and may not be unilaterally revoked or modified by either party.

2 **X. LIMITATIONS**

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

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

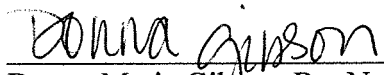
11 41. This Stipulation results from the consideration of various factors by both parties,
12 including the benefits to both by promptly resolving this matter without the time and expense of
13 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
14 such, approval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

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


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

1 44. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have
2 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in
3 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
4 or criminal action.


5 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
6 to Reprimand as set forth above.

7 
8 _____
9 Donna Marie Gibson, Bar No. 33583
10 Respondent

Dated: 4/22/2020

11 
12 _____
13 Jeffrey T. Kestle, Bar No. 29648
14 Counsel for Respondent

Dated: April 22, 2020

15 
16 _____
17 Debra Slater, Bar No. 18346
18 Disciplinary Counsel

Dated: April 22, 2020