

FILED

Mar 19, 2024

Disciplinary
Board

Docket # 021

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

STEVEN ERIK TURNER,
Lawyer (Bar No. 33840).

Proceeding No. 22#00048

ODC File Nos. 18-01864, 20-00924

STIPULATION TO REPRIMAND

*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 reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Briana Gieri, Respondent's Counsel Kevin M. Bank, and Respondent lawyer Steven Erik Turner.

Respondent understands that Respondent is entitled under the ELC to a hearing, to present exhibits and witnesses on Respondent's behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that Respondent 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 Respondent. Respondent chooses to resolve this

1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
2 avoid the risk, time, expense and publicity attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on June 26, 2003.

5 **II. STIPULATED FACTS**

6 2. In August 2009, Bial was hired as general manager and general counsel of North Fork
7 Composites LLC (NFC), located in Woodland, WA.

8 3. Bial was terminated by NFC in or around July 2014.

9 4. In May 2014, shortly before Bial's termination, NFC's CEO Aleksandr Maslov
10 obtained from Columbia Bank a printout of canceled checks (the "Columbia Bank checks")
11 written on the accounts of NFC and Edge Rods, LLC, an NFC subsidiary.

12 5. Among the bases for NFC's decision to terminate Bial was Loomis's and Maslov's
13 belief that Bial had improperly issued reimbursement checks to Bial and Bial's wife

14 6. In December 2014, Turner, on behalf of NFC, filed a lawsuit against Bial claiming,
15 among other things, that Bial had converted money and other property belonging to NFC: North
16 Fork Composites v. Bial et al., Clark County Superior Court no. 14-2-03428-1.

17 7. After the lawsuit was filed, Maslov provided a printout of the Columbia Bank checks
18 to Turner. Also in December 2014, Bial filed counterclaims against NFC, Loomis and Loomis's
19 wife Susan, and Maslov, claiming the company failed to pay Bial's wages despite a written
20 employment agreement and failed to redeem Bial's ownership interest despite a written operating
21 agreement.

22 8. Bial was represented by Dana Sullivan. Turner represented NFC, the Loomises, and
23 Maslov.

1 9. Between April and November 2015, Sullivan served several requests for production
2 (RFP) on Turner seeking, among other things, documents NFC relied on in justifying the decision
3 to terminate Bial, based on the language of the termination letter sent to Bial in July 2014.

4 10. Despite being in possession of the checks that formed at least a partial basis for the
5 termination decision, and for reasons disputed, Turner never produced the checks in response to
6 Sullivan's discovery requests.

7 11. In September 2017, Maslov provided Turner with another copy of the Columbia Bank
8 checks after Turner apparently misplaced the set Maslov had provided in 2014.

9 12. Also in September 2017, Sullivan filed a motion in limine seeking to exclude evidence
10 at trial regarding checks Bial allegedly wrote to Bial or Bial's wife from NFC's bank account.
11 Sullivan sought to exclude the evidence because, despite Maslov testifying about them in a
12 deposition, no such checks had been produced in discovery.

13 13. On October 4, 2017, the court held a hearing on the motion in limine. The court noted
14 that any such checks appear to fall under RFP #57 and that if NFC was arguing that the checks
15 were inappropriate, they should be disclosed prior to trial. Turner argued at hearing that Sullivan
16 had not specifically requested checks Bial wrote to Bial's wife. The court asked whether the
17 checks in question existed. In response, Turner asserted that they did.

18 14. Trial was held from May 21 to 29, 2018.

19 15. On May 29, 2018, Sullivan cross-examined Maslov and asked whether NFC had
20 checks from Columbia Bank. Maslov responded that they had a "physical printout of the checks
21 from the bank." After Sullivan questioned Maslov further regarding whether those checks had
22 been produced to Bial or presented to the jury and asked Maslov: "The court's ruling wasn't a
23 ruling that precluded you from presenting those checks, correct?" Turner asked the court whether

1 they would be allowed to present the checks to the jury based on Sullivan's statements.

2 16. Later that day, Bial sought, and the court granted, a mistrial based on Turner's
3 comment about presenting the checks, which had been excluded by the October 4, 2017 order.

4 17. The clients hired lawyer Joseph Vance. On June 4, 2018, Vance filed a notice of
5 substitution of counsel. On June 8, 2018, Vance sent Sullivan the set of Columbia Bank checks
6 that Maslov had printed in May 2014 and had provided to Turner in December 2014 and
7 September 2017.

8 18. On July 27, 2018, the court ordered Maslov and the Loomises to pay Bial \$225,618.21
9 in attorney fees and costs associated with the mistrial.

10 19. Bial moved for a default judgment against NFC as a remedy for the failure to produce
11 the Columbia Bank checks. Following a hearing on September 14, 2018, the court granted default
12 judgment against Maslov and Loomis.

13 III. STIPULATION TO MISCONDUCT

14 20. RPC 3.4(d) provides that a lawyer shall not "fail to make reasonably diligent effort to
15 comply with a legally proper discovery request by an opposing party." By failing to provide the
16 Columbia Bank checks to Bial, Turner violated RPC 3.4(d).

17 21. RPC 1.4(a) provides, among other things, that a lawyer must "reasonably consult with
18 the client about the means by which the client's objectives are to be accomplished" and must
19 "keep the client reasonably informed about the status of the matter." RPC 1.4(b) provides a
20 lawyer must "explain a matter to the extent reasonably necessary to permit the client to make
21 informed decisions regarding the representation." By failing to inform the clients that Turner had
22 not produced the Columbia Bank checks in discovery and/or by failing to adequately explain the
23 checks' exclusion from trial, Turner violated RPC 1.4(a) and 1.4(b).

1 22. RPC 3.4(e) provides that, in trial, a lawyer shall not "allude to any matter . . . that will
2 not be supported by admissible evidence . . ." By asking to present the excluded Columbia Bank
3 checks during trial, Turner violated RPC 3.4(e).

4 **IV. PRIOR DISCIPLINE**

5 23. Respondent has no prior discipline.

6 **V. APPLICATION OF ABA STANDARDS**

7 24. The following American Bar Association Standards for Imposing Lawyer Sanctions
8 (1991 ed. & Feb. 1992 Supp.) apply to this case:

9 25. ABA Standard 6.2 is most applicable to the duty to produce information in
10 discovery. Turner acted knowingly¹ in failing to produce the Columbia Bank checks. The
11 presumptive sanction for the withholding of the checks is suspension under ABA Standard 6.22.

12 26. ABA Standard 4.4 is most applicable to the failure to communicate adequately with a
13 client. Turner acted negligently in failing to communicate adequately with the clients. Turner's
14 actions caused injury to Bial, NFC, and the legal system. The presumptive sanction for ^{the failure to communicate} is
15 reprimand under ABA Standard 4.43.

16 27. ABA Standard 6.2 is most applicable to the duty to obey the rules of the tribunal. ⁸⁶ SET
17 ^{negligently} Turner acted ~~knowingly~~ by asking to present the excluded checks during trial with the jury
18 present, knowing that the checks had been excluded from evidence. The presumptive sanction is
19 reprimand under ABA Standard 6.23.

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

- 21 (i) substantial experience in the practice of law [licensed in Washington since
22

23 ¹ "Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct without
the conscious objective to achieve a particular result.

2003, and licensed in other states practicing since 1989].

29. The following mitigating factors apply under ABA Standard 9.32:

- (a) absence of a prior disciplinary record;
- (b) personal or emotional problems [Regarding Count 3, Turner's misconduct occurred at the end of a six-day trial. The night before the misconduct occurred, Turner's minor stepson woke him up at approximately 1:00 a.m. with severe abdominal pain and had to be taken to the emergency room. Turner spent the rest of the night at the emergency room with Turners stepson. As a result, Turner was exhausted and fatigued during that day's court proceedings];
- (l) remorse.

30. A significant mitigating factor is the contribution this stipulation makes to the efficient and effective operation of the lawyer discipline system considering the effect the COVID-19 public health emergency has had on disciplinary resources and the orderly processing of disciplinary matters.

31. Based on the factors set forth above, the presumptive sanction should be mitigated to reprimand.

VI. STIPULATED DISCIPLINE

32. The parties stipulate that Respondent shall receive a reprimand.

VII. CONDITIONS OF PROBATION

33. Respondent will be subject to probation for a period of two years beginning when this stipulation receives final approval.

- a) During the probationary period, Respondent shall complete a minimum of 15 credit hours of continuing legal education courses, at Respondent's own expense, in the areas of discovery, litigation ethics, and client communication.
- b) Respondent shall provide evidence of attendance at such courses to the Probation Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall include the program brochure, evidence of payment, and a written statement that includes the date and time of attendance.

1 Ethics School

- 2 a) Respondent shall attend Ethics School by webinar (approximately 7.5 hours), or by
3 obtaining the recorded product, and to pay registration costs of \$150 plus applicable
4 sales tax. Respondent will receive all applicable approved CLE credits for time in
5 attendance at the Ethics School.
- 6 b) Attendance at Ethics School is in addition to and shall not fulfill any continuing legal
7 education (CLE) requirements set out in this stipulation.
- 8 c) Respondent shall contact the Ethics School Administrator, currently Chris Chang, at
9 (206) 727-8328 or chrisc@wsba.org, by April 15, 2024 to confirm enrollment in
10 Ethics School and related logistics.
- 11 d) Respondent shall complete the ethics school requirement by December 31, 2024.
- 12 e) Respondent shall provide evidence of completion of ethics school to the Probation
13 Administrator no later than 30 days after the conclusion of the course. Proof of
14 attendance shall include the program brochure, evidence of payment, and a written
15 statement that includes the date and time of attendance.
- 16 f) Respondent may contact the Ethics School administrator directly to enroll in Ethics
17 School and administrative communications, e.g. regarding registration, payment,
18 program content and schedule, and CLE credits, may be sent directly to Respondent.
- 19 g) The Ethics School administrator may respond to inquiries from the Probation
20 Administrator regarding Respondent's compliance with these conditions.

21 **VIII. RESTITUTION**

22 34. Maslov and the Loomises sued Turner for malpractice. The parties reached a
23 settlement in that matter, thus no restitution is required by this stipulation.

24 **IX. COSTS AND EXPENSES**

35. Respondent shall pay attorney fees and administrative costs of costs plus \$1,500 in
accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if
these costs are not paid within 30 days of approval of this stipulation.

X. VOLUNTARY AGREEMENT

36. Respondent states that prior to entering into this Stipulation Respondent has consulted
independent legal counsel regarding this Stipulation, that Respondent is entering into this

1 Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,
2 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
3 as provided herein.

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

6 XI. LIMITATIONS

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

12 39. This Stipulation is not binding upon ODC or the respondent as a statement of all
13 existing facts relating to the professional conduct of the Respondent, and any additional existing
14 facts may be proven in any subsequent disciplinary proceedings.


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

21 41. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for
22 Hearing Officer's review become public information on approval of the Stipulation by the
23 Hearing Officer, unless disclosure is restricted by order or rule of law.

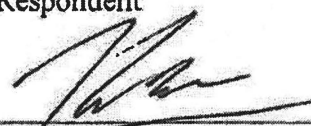
1 42. If this Stipulation is approved by the Hearing Officer, it will be followed by the
2 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement
3 of Lawyer Conduct will be made. Respondent represents that, in addition to Washington,
4 Respondent also is admitted to practice law in the following jurisdictions, whether current status
5 is active, inactive, or suspended: Oregon and California.

6 43. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have no
7 force or effect, and neither it nor the fact of its execution will be admissible as evidence in the
8 pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or
9 criminal action.


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

12 
13 Steven Erik Turner, Bar No. 33840
14 Respondent

Dated: 3/4/24

15 
16 Kevin M. Bank, Bar No. 28935
17 Counsel for Respondent

Dated: 3/4/24

18 
19 Briana Gieri, Bar No. 53970
20 Disciplinary Counsel

Dated: March 4, 2024