

**FILED**  
MAY 12 2015  
DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**EDWARD A. RITTER II,**  
Lawyer (Bar No. 34499).

Proceeding No. 13#00078 and 15#00010

STIPULATION TO SUSPENSION

Under Rule 9.1 of the 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 Erica Temple, with special disciplinary counsel Peter Ehrlichman and Amy Sterner, Respondent's Counsel David Allen and Respondent lawyer Edward A. Ritter II.

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

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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, expense attendant to further proceedings.

4 Respondent wishes to stipulate to suspension without affirmatively admitting the facts  
5 and misconduct in ¶¶ 7-14 and 30-34, rather than proceed to a public hearing. Respondent  
6 agrees that if this matter were to proceed to a public hearing, there is a substantial likelihood  
7 that ODC would be able to prove, by a clear preponderance of the evidence, the facts and  
8 misconduct in ¶¶ 7-14 and 30-34, and that the facts and misconduct will be deemed proved in  
9 any subsequent disciplinary proceeding in any jurisdiction.

#### 10 I. ADMISSION TO PRACTICE

11 1. Respondent was admitted to practice law in the State of Washington on November  
12 24, 2003.

#### 13 II. STIPULATED FACTS

14 2. Beginning in 2003, Respondent and lawyer Dan Wershow were equal shareholders  
15 in the law firm of Wershow & Ritter, P.S., Inc. (the "firm").

16 3. In March 2005, lawyer Jason D. Gaber joined the firm as an associate employee.

17 4. In April 2004, Sara O'Connor-Kriss began working for the firm as a non-lawyer  
18 employee. In July 2009, Ms. O'Connor-Kriss became licensed to practice law.

19 5. In September 2009, Mr. Gaber and Ms. O'Connor-Kriss became shareholders in  
20 the firm.

21 6. This resulted in Respondent becoming a 50% shareholder, Mr. Wershow a 30%  
22 shareholder, Mr. Gaber a 15% shareholder, and Ms. O'Connor-Kriss a 5% shareholder.

1 **Missing Cash**

2 7. In 2007, the firm began a traffic-ticket practice serving area taxi drivers.

3 8. The majority of the taxi drivers paid in cash, and received a receipt from the firm  
4 receptionist. Most of the taxi drivers paid a flat fee for this legal service. Upon receipt, firm  
5 policy was that the flat fee should be deposited into the firm's general account.

6 9. Between 2008 and 2010, more than \$70,000 in cash from clients was not deposited  
7 to the firm's trust account, and was not accounted for in the firm's books and records.

8 10. Almost all of the money belonged to the firm, not clients.

9 11. The missing cash was not distributed to Respondent's partners according to their  
10 respective interests in the corporate entity.

11 12. Respondent wrongfully exerted unauthorized control over some, if not all, of the  
12 cash as described above.

13 13. Respondent acted with the intent to deprive the other shareholders of the firm of  
14 money that should have been shared with them.

15 14. In or around July 2010 (prior to the grievance being filed), Respondent reimbursed  
16 the firm shareholders for the cash that had not been deposited into the firm's accounts.

17 **Inaccurate Records**

18 15. In 2009 and the first half of 2010, Respondent had primary responsibility among  
19 the firm's lawyers for the accuracy of the trust account records and client invoices with regard  
20 to client payments made to the firm.

21 16. During 2009 and 2010, there were discrepancies between the trust account records  
22 and the invoice records.

23 17. Respondent knew, or should have known, about the discrepancies noted below.

1 18. For clients KI, TE, DU and HE (the clients) the trust account client ledger kept on  
2 the firm's QuickBooks set forth a number of financial transactions that occurred with regard to  
3 the client's trust funds, but failed to include multiple transactions that were noted on the client's  
4 invoices.

5 19. The trust account client ledgers for the clients were inaccurate.

6 20. On one or more occasions, invoices to the clients were inaccurate.

7 21. In addition, neither the trust account records nor the invoices accurately reflected  
8 all payments made by the clients to the firm.

9 22. The records do not support a finding that funds belonging to clients were taken  
10 improperly by Respondent.

11 **2013 IOLTA account overdraft**

12 23. The preceding paragraphs relate to conduct at issue in a pending public  
13 disciplinary proceeding, No. 13#00078. This stipulation also resolves the issues arising in a  
14 separate public proceeding, No. 15#00010, opened as a result of a June 26, 2013 overdraft in a  
15 trust account maintained by Respondent.

16 24. Between September 2010 and April 2013, Respondent maintained a trust account  
17 in the name of a law firm, Wershow Marshall Ritter, Inc., P.S., which was created after the  
18 dissolution of the law firm in which Jason Gaber had been a shareholder.

19 25. Between September 2010 and April 2013, the trust-account records did not  
20 adequately identify and track the funds placed into and removed from the trust account, making  
21 it impossible to accurately identify the clients whose funds were in the trust account or the  
22 amount of funds belonging to each client.

23 26. Between September 2010 and April 2013, as a result of the inadequacy of the trust-  
24

1 account records, it was impossible for Respondent or his bookkeeper to reconcile client ledgers  
2 amounts with either the check register or the trust-account bank statement.

3 27. By the end of April 2013, Respondent closed the trust account of Wershow  
4 Marshall Ritter, Inc., P.S.

5 28. On June 26, 2013, the Office of Disciplinary Counsel (ODC) received an overdraft  
6 notification from Key Bank relating to this trust account.

7 **False Statements to ODC**

8 29. By letter dated July 1, 2013, ODC requested Respondent's explanation for the  
9 overdraft.

10 30. By letter dated July 26, 2013, Respondent responded, falsely, that he did not have  
11 access to the records related to the Wershow Marshall Ritter IOLTA account.

12 31. On October 31, 2014, ODC conducted a deposition of Respondent relating to his  
13 trust account records.

14 32. Respondent testified under oath.

15 33. Respondent testified that the Marshall Ritter bookkeeper never notified him that  
16 there were transactions in the trust account for which no client could be identified or that there  
17 were clients with negative balances.

18 34. These were false statements.

19 **III. STIPULATION TO MISCONDUCT**

20 35. By taking cash paid to the firm without the firm's authorization, Respondent  
21 violated RPC 8.4(b) (by wrongfully exerting unauthorized control of the money with the intent  
22 to deprive the other firm shareholders) and RPC 8.4(c).

23 36. By failing to keep accurate client ledgers for the trust account, Respondent violated  
24

1 RPC 1.15A(a)(h)(2) and RPC 1.15B(a)(2).

2 37. By failing to accurately account to one or more clients regarding trust transactions,  
3 Respondent violated RPC 1.15A(d) and (e).

4 38. By failing to keep complete and accurate trust-account records for the Wershow  
5 Marshall Ritter, Inc., P.S. law firm, between September 2010 and April 2013, Respondent  
6 violated RPC 1.15A(h).

7 39. By making misrepresentations to ODC during the course of its investigation of the  
8 grievance, and by originally claiming that he did not have access to records held by himself and  
9 his own bookkeeper, Respondent violated RPC 8.1(a), RPC 8.4(c), and RPC 8.4(l).

10 **IV. PRIOR DISCIPLINE**

11 40. Respondent has no prior discipline.

12 **V. APPLICATION OF ABA STANDARDS**

13 41. The following American Bar Association Standards for Imposing Lawyer Sanctions  
14 (1991 ed. & Feb. 1992 Supp.), attached as Appendix A, apply to this case:

15 42. ABA Standard 5.1 is most applicable to criminal law violations (violations of RPC  
16 8.4(b) and RPC 8.4(c)).

17 43. With regard to the cash payments taken by Respondent, the actual injury was the loss  
18 of significant amounts of firm funds.

19 44. Respondent acted intentionally.

20 45. The presumptive sanction is disbarment.

21 46. ABA Standard 4.1 is most applicable to the duty to handle client funds appropriately  
22 (violations of RPC 1.15A and RPC 1.15B).

23 47. With regard to the firm's failure to accurately account to clients regarding the  
24

1 handling of their funds, the potential injury was the loss of client funds.

2 48. Respondent knew or should have known of the firm's improper record keeping.

3 49. The presumptive sanction is suspension.

4 50. With regard to the failure to maintain adequate trust-account records for the  
5 Wershow Marshall Ritter law firm, the firm's clients were potentially injured by the inability of  
6 the firm to track and account for their funds.

7 51. Respondent knew or should have known that he was improperly handling client  
8 funds.

9 52. The presumptive sanction is suspension.

10 53. ABA Standards section 7.0 is most applicable to the duty of honesty in the context of  
11 a disciplinary investigation (violations of RPC 8.1(a), RPC 8.4(c) and RPC 8.4(l)).

12 54. With regard to the false statements Respondent made to ODC, Respondent caused  
13 potential injury to the public and the legal system, by impeding the investigation of the  
14 grievance.

15 55. Respondent acted intentionally.

16 56. The presumptive sanction is suspension.

17 57. The following aggravating factors apply under ABA Standard 9.22:

- 18 (b) dishonest or selfish motive;  
19 (c) a pattern of misconduct;  
(d) multiple offenses.

20 58. The following mitigating factor applies under ABA Standard 9.32:

- 21 (a) absence of a prior disciplinary record.

22 59. There are four additional mitigating factors; Respondent has agreed to resolve this  
23 matter at an early stage of the proceedings; passage of time; payment of restitution to firm  
24

1 shareholders prior to a grievance being filed, and the uncertainties of continued litigation.

2 60. Based on the factors set forth above, the presumptive sanction should be mitigated to  
3 a three year suspension.

4 **VI. STIPULATED DISCIPLINE**

5 61. The parties stipulate that Respondent shall receive a three year suspension for his  
6 conduct.

7 62. Respondent will be subject to probation for a period of two years beginning when  
8 Respondent is reinstated to the practice of law and shall comply with the specific probation  
9 terms set forth below, with periodic reviews under ELC 13.8 of his trust account practices, and  
10 shall comply with the specific probation terms set forth below:

- 11 a) Respondent shall carefully review and fully comply with RPC 1.15A and RPC  
12 1.15B, and shall carefully review the current version of the publication, Managing  
Client Trust Accounts: Rules, Regulations, and Common Sense.
- 13 b) For all client matters, Respondent shall have a written fee agreement signed by the  
14 client, which agreements are to be maintained for least seven years (see RPC  
1.15B(a)(3)).
- 15 c) On a quarterly basis, Respondent shall provide ODC's audit staff with all trust-  
16 account records for the time period to be reviewed by ODC's audit staff and  
disciplinary counsel for compliance with the RPC:
  - 17 i) Months 1 – 3. By no later than the 30<sup>th</sup> day of the fourth month after the  
18 commencement of probation, Respondent shall provide the trust account  
records from the date of his reinstatement to the end of the third full month.
  - 19 ii) Months 4 – 6. By no later than the 30<sup>th</sup> day of the seventh month after the  
20 commencement of probation, Respondent shall provide the trust account  
records from the end of the previously provided quarter through the end of  
21 month six.
  - 22 iii) Months 7 – 9. By no later than the 30<sup>th</sup> day of the tenth month after the  
23 commencement of probation, Respondent shall provide the trust account  
records from the end of the previously provided quarter through the end of  
24 month nine.



- 1           iv) Months 10 – 12. By no later than the 30<sup>th</sup> day of the thirteenth month after  
2           the commencement of probation, Respondent shall provide the trust  
3           account records from the end of the previously provided quarter through  
4           the end of month twelve.
- 5           v) Months 13– 15. By no later than the 30<sup>th</sup> day of the sixteenth month after  
6           the commencement of probation, Respondent shall provide the trust  
7           account records from the end of the previously provided quarter through  
8           the end of month fifteen.
- 9           vi) Months 16 – 18. By no later than the 30<sup>th</sup> day of the nineteenth month after  
10           the commencement of probation, Respondent shall provide the trust  
11           account records from the end of the previously provided quarter through  
12           the end of month eighteen.
- 13           vii) Months 19 – 21. By no later than the 30<sup>th</sup> day of the twenty-second month  
14           after the commencement of probation, Respondent shall provide the trust  
15           account records from the end of the previously provided quarter through  
16           the end of month twenty-one.

17           The trust account records Respondent provides to ODC for each quarterly review of  
18           his trust account will include: (a) a complete checkbook register for his trust  
19           account covering the period being reviewed, (b) complete individual client ledger  
20           records for any client with funds in Respondent's trust account during all or part of  
21           the period being reviewed, as well as for Respondent's own funds in the account (if  
22           any), (c) copies of all trust-account bank statements, deposit slips, and cancelled  
23           checks covering the period being reviewed, (d) copies of all trust account client  
24           ledger reconciliations for the period being reviewed, and (e) copies of  
            reconciliations of Respondent's trust account check register covering the period  
            being reviewed. The ODC's Audit Manager or designee will review Respondent's  
            trust account records for each period.

- 17           d) On the same quarterly time schedule set forth in the preceding paragraph,  
18           Respondent will provide ODC's Audit Manager or designee with copies of any and  
19           all fee agreements entered into within the time period at issue.
- 20           e) The ODC's Audit Manager or designee may request additional financial or client  
21           records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.  
22           Within twenty days of a request from ODC's Audit Manager or designee for  
23           additional records needed to verify Respondent's compliance with RPC 1.15A  
24           and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the  
            additional records requested.
- f) Respondent will reimburse the Association for time spent by ODC's Audit Manager  
            or designee in reviewing and reporting on Respondent's records to determine his  
            compliance with RPC 1.15A and RPC 1.15B, at the rate of \$85 per hour.  
            Respondent will make payment within thirty days of each written invoice setting

1            forth the auditor's time and payment due.

2    **VII. RESTITUTION**

3            63. An order of restitution is not appropriate in this case.

4    **VIII. COSTS AND EXPENSES**

5            64. Respondent shall pay attorney fees and administrative costs of \$3,295 in accordance  
6 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these  
7 costs are not paid within 30 days of approval of this stipulation.

8            65. Reinstatement from suspension is conditioned on payment of costs and expenses.

9    **IX. VOLUNTARY AGREEMENT**

10           66. Respondent states that prior to entering into this Stipulation he has consulted  
11 independent legal counsel regarding this Stipulation, that Respondent is entering into this  
12 Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
13 Association, nor by any representative thereof, to induce the Respondent to enter into this  
14 Stipulation except as provided herein.

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

17    **X. LIMITATIONS**

18           68. This Stipulation is a compromise agreement intended to resolve this matter in  
19 accordance with the purposes of lawyer discipline while avoiding further proceedings and the  
20 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer  
21 and ODC acknowledge that the result after further proceedings in this matter might differ from  
22 the result agreed to herein.

23           69. If there are any subsequent disciplinary proceedings against Respondent, this  
24

1 Stipulation is not binding upon ODC or the respondent as a statement of all existing facts  
2 relating to the professional conduct of the respondent lawyer.


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

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

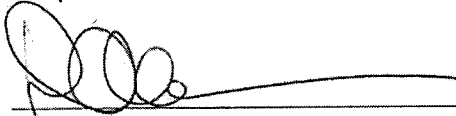
15 72. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will  
16 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
17 Rules for Enforcement of Lawyer Conduct will be made.

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

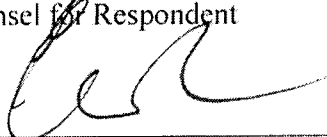
1           WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation  
2 to Discipline as set forth above.

3   
4 \_\_\_\_\_  
5 Edward A. Ritter II, Bar No. 34499  
6 Respondent

Dated:  \_\_\_\_\_

7   
8 \_\_\_\_\_  
9 David Allen, Bar No. 500  
10 Counsel for Respondent

Dated: March 9, 2015

11   
12 \_\_\_\_\_  
13 Erica Temple, Bar No. 28458  
14 Disciplinary Counsel

Dated: March 11, 2015

## Allison Sato

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**From:** Erica Temple  
**Sent:** Tuesday, May 12, 2015 9:01 AM  
**To:** Allison Sato  
**Subject:** Emailing: Stipulation signed.PDF  
**Attachments:** Stipulation signed.PDF

Please file. Thank you.

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