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MAR 27 2013

DISCIPLINARY BOARD

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
PAUL DAVID PLESS,
Lawyer (Bar No. 34629).

Proceeding No. 12#00117
STIPULATION TO REPRIMAND

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Washington State Bar Association (Association), through disciplinary counsel Craig Bray and Respondent lawyer Paul David Pless.

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

I. ADMISSION TO PRACTICE

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1 1. Respondent was admitted to practice law in the State of Washington on February
2 3, 2004. Respondent currently is an inactive member of the Washington State Bar Association.

3 **II. STIPULATED FACTS**

4 2. Respondent was the Assistant Dean for Admissions and Financial Aid for the
5 University of Illinois College of Law (COL) from 2004 until 2011.

6 3. The COL provides information regarding its student body to the American Bar
7 Association (ABA) and U.S. News and World Report (USNWR), among others, that sets forth
8 statistical information about recently enrolled COL classes. This information includes the
9 median LSAT score and GPA of each class, as well as the number of applications received and
10 the number of admission offers extended.

11 4. In his capacity as Assistant Dean, Respondent managed the admissions process
12 and was chiefly responsible for recruiting and enrolling COL classes, for compiling admissions
13 data and preparing statistical reports based on that data, and causing this data to be included in
14 submissions to the ABA and USNWR.

15 5. Respondent supervised other employees of the Admissions Office.

16 6. In August 2011, the University of Illinois Ethics Office received information
17 indicating that there were inaccuracies in the median LSAT scores and GPAs the COL reported
18 for the Class of 2014.
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1 7. After a preliminary investigation into the matter, the university retained outside
2 counsel, Jones Day, and a financial advisory firm, Duff & Phelps, who, along with university
3 personnel, conducted a full investigation..

4 8. The investigation found that the statistical information the COL publically
5 reported for the Class of 2008 and the Classes of 2011 through 2014 was inaccurate.
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7 9. The inaccuracies resulted from the fact that the LSAT scores and GPAs of
8 individual students had been inflated on spreadsheets kept in Respondent's office after the COL
9 received the students' data from the Law School Admission Council (LSAC).

10 10. Other numbers for the Classes of 2011 through 2014 were also altered and
11 misrepresented. For example, the number of total applications to the COL was overstated and the
12 number of admission offers was understated, giving the appearance that the COL was more
13 selective than was actually the case.
14

15 11. In each instance, student numbers were increased, and the changes were just
16 enough to be statistically significant and to increase the overall student scores to the point that
17 allowed the COL to claim that it had met its enrollment goals for the year.

18 12. The number of changes to individual student scores for incoming classes
19 increased in each successive year.
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21 13. Respondent maintained a "Dashboard" report for the students of each class.
22 The Dashboard was an Excel file that included data that Respondent's staff extracted from
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1 LSAC's database and sent to him in daily reports. The Dashboard included a "Summary" tab
2 that used embedded mathematical formulas that drew upon data elsewhere in the Dashboard
3 to automatically compute aggregate statistics such as median LSAT, median GPA, and other
4 demographic data.

5 14. The Dashboard and its embedded mathematical formulas were at times
6 manipulated by entry of hard coded medians and by entry of inaccurate student data.
7

8 15. For example, the median LSAT and GPA for the Class of 2014, based on LSAC
9 data, were 163 and 3.70, respectively, while the COL's goals for that class were 168 and 3.8.
10 109 student LSAT scores and 58 student GPAs were falsely altered in the database, resulting in
11 the Dashboard reporting false final medians for the Class of 2014 of 168 and 3.81.

12 16. Respondent regularly reviewed the Dashboard data.
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14 17. Respondent also regularly accessed accurate student information, which he used
15 to make scholarship decisions, among other things.
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17 18. Respondent negligently failed to make reasonable effort to put procedures in
18 place that would ensure that student data was accurate and properly reported.

19 19. As a result, staff members he supervised who had access to student data could
20 have altered the data and Respondent would not have detected that.
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1 20. Respondent altered some student data for the Class of 2014. In particular, he
2 entered 4.0 GPAs for Class of 2014 iLEAP students as “placeholders” rather than entering the
3 actual GPA information for those students.¹

4 21. By entering “placeholders” for all iLEAP students, Respondent knew that
5 statistics being calculated through the Dashboard would be calculated with incorrect data.
6

7 22. Respondent failed to correct the alterations that he made to 2014 student data.
8

9 23. Failing to correct the inaccurate student data contributed to giving the outward
10 appearance that the Class of 2014 had better credentials than it did in reality, and that COL
11 goals had been met when they had not.

12 24. For classes preceding the Class of 2014, Respondent changed GPAs of students
13 whose LSAC GPAs were not based on final transcripts.

14 25. Respondent did so despite knowing that the ABA directed law schools to use the
15 GPAs provided by LSAC, even if they do not include final transcripts.
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17 26. Respondent failed to correct these alterations to student data.
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19 27. Respondent’s conduct contributed to the reporting of inaccurate student data for
20 those classes.
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23 ¹ iLEAP students were undergraduates with high GPAs who were invited to apply to the COL before
24 they had taken the LSAT. They were not required to take the LSAT to secure admission to the COL if
they pledged not to apply to other law schools.

1 28. There is no evidence that Respondent committed any financial malfeasance,
2 diverted any funds to his own use, or based any admission decisions or scholarship awards on
3 the altered student data.

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5 **III. STIPULATION TO MISCONDUCT**

6 29. By failing to adopt proper procedures to ensure that conduct of Admission Office
7 staff was compatible with his professional obligations, Respondent violated RPC 5.3(b).

8 30. By altering certain student data himself, Respondent violated RPC 8.4(c).

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10 **IV. PRIOR DISCIPLINE**

11 31. Respondent has no prior disciplinary history.

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13 **V. APPLICATION OF ABA STANDARDS**

14 32. Standards 5.1 and 7.0 of the American Bar Association's Standards for Imposing
15 Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.) apply in this case:

16 **5.1 Failure to Maintain Personal Integrity**

17 5.11 **Disbarment** is generally appropriate when:

18 (a) a lawyer engages in serious criminal conduct a necessary element
19 of which includes intentional interference with the administration
20 of justice, false swearing, misrepresentation, fraud, extortion,
21 misappropriation, or theft; or the sale, distribution or importation
22 of controlled substances; or the intentional killing of another; or an
23 attempt or conspiracy or solicitation of another to commit any of these
24 offenses; or

(b) a lawyer engages in any other intentional conduct involving
dishonesty, fraud, deceit, or misrepresentation that seriously adversely
reflects on the lawyer's fitness to practice.

5.12 **Suspension** is generally appropriate when a lawyer knowingly engages in
criminal conduct which does not contain the elements listed in Standard
5.11 and that seriously adversely reflects on the lawyer's fitness to
practice.

1 5.13 **Reprimand** is generally appropriate when a lawyer knowingly engages in
2 any other conduct that involves dishonesty, fraud, deceit, or
misrepresentation and that adversely reflects on the lawyer's fitness to
practice law.

3 5.14 **Admonition** is generally appropriate when a lawyer engages in any other
4 conduct that reflects adversely on the lawyer's fitness to practice law.

5 **7.0 Violations of Duties Owed as a Professional**

6 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 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.

8 7.3 **Reprimand** is generally appropriate when a lawyer negligently engages
9 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.

10 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
11 professional, and causes little or no actual or potential injury to a client,
the public, or the legal system.

12 33. Respondent acted negligently in failing to have proper procedures in place for
13 ensuring accuracy of student data.

14 34. Respondent acted knowingly in altering some student data for the Classes of
15 2010 through 2014.

16 35. Respondent's conduct spanning a period of years adversely reflects on his fitness
17 to practice law.

18 36. Respondent's conduct injured the public and the reputation of the COL.

19 37. The presumptive sanction is reprimand under Standards 5.13 and 7.3.

20 38. The following aggravating factors apply under ABA Standards Section 9.22:

21 (c) pattern of misconduct (conduct occurring over several years).

22 39. The following mitigating factors apply under ABA Standards Section 9.32:

23 (a) absence of a prior disciplinary record; and
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1 (k) imposition of other penalties and sanctions (Respondent accepted
2 responsibility and resigned his position with the COL shortly after it began
its investigation).

3 40. It is an additional mitigating factor that Respondent has agreed to resolve this
4 matter at an early stage of the proceedings.

5 41. On balance, the aggravating and mitigating factors do not require a departure
6 from the presumptive sanction.

7 **VI. STIPULATED DISCIPLINE**

8 42. Respondent shall receive a reprimand.

9 **VII. RESTITUTION**

10 43. No restitution is required in this case.

11 **VIII. COSTS AND EXPENSES**

12 44. In light of Respondent's willingness to resolve this matter by stipulation at an
13 early state of the proceedings, Respondent shall pay attorney fees and administrative costs of
14 only \$750.00 in accordance with ELC 13.9(i). The Association will seek a money judgment
15 under ELC 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.
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17 **IX. VOLUNTARY AGREEMENT**

18 45. Respondent states that prior to entering into this Stipulation he had an
19 opportunity to consult independent legal counsel regarding this Stipulation, that he is entering
20 into this Stipulation voluntarily, and that no promises or threats have been made by the
21 Association, nor by any representative thereof, to induce him to enter into this Stipulation
22 except as provided herein.
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X. LIMITATIONS

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

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


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

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

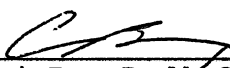
1 50. If this Stipulation is approved by the Hearing Officer, it will be followed by
2 the disciplinary action agreed to in this Stipulation. All notices required in the Rules for
3 Enforcement of Lawyer Conduct will be made.

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

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

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12 
13 Paul David Pless, Bar No. 34629
14 Respondent

Dated: 3/8/2013

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16 
17 Craig Bray, Bar No. 20821
18 Disciplinary Counsel

Dated: 3/8/2013