

FILED

Aug 27 2018

Disciplinary
Board

Docket # 010

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON SUPREME COURT

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In re

JOHN E. GROSS,

Lawyer (Bar No. 41282).

Proceeding No. 17#00083

ODC File No(s). 16-01072

STIPULATION TO REPRIMAND

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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 Sachia Stonefeld Powell and Respondent lawyer John E. Gross.

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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

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

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on May 18,
5 2009.

6 2. Respondent's license to practice law currently is administratively suspended for
7 failure to comply with licensing requirements.

8 **II. STIPULATED FACTS**

9 3. Hiwot Abraha contacted Respondent to assist her with housing issues involving
10 "Section 8" housing benefits, which are vouchers available through the Housing Choice
11 Voucher Program, funded by the U.S. Department of Housing and Urban Development.

12 4. Ms. Abraha and Respondent met on February 1, 2016, to discuss the matter.

13 5. Respondent agreed to represent Ms. Abraha for a total fee of \$300.

14 6. Ms. Abraha paid Respondent \$300 on February 1, 2016.

15 7. After the initial meeting, Respondent made an appointment to meet with a
16 representative of Section 8 housing on Ms. Abraha's behalf.

17 8. Respondent failed to appear at the appointment.

18 9. Respondent did no other work on behalf of Ms. Abraha.

19 10. Ms. Abraha tried to contact Respondent multiple times after their February 1,
20 2016 meeting by email, text message, and telephone.

21 11. Respondent did not respond to any of Ms. Abraha's attempts to contact him.

1 **V. APPLICATION OF ABA STANDARDS**

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

4 21. ABA Standard 4.4 is most applicable to the duty to act diligently and to
5 communicate with the client. ABA Standard 4.4 provides:

- 6 4.41 **Disbarment** is generally appropriate when:
7 (a) a lawyer abandons the practice and causes serious or potentially
8 serious injury to a client; or
9 (b) a lawyer knowingly fails to perform services for a client and
10 causes serious or potentially serious injury to a client; or
11 (c) a lawyer engages in a pattern of neglect with respect to client
12 matters and causes serious or potentially serious injury to a client.
13 4.42 **Suspension** is generally appropriate when:
14 (a) a lawyer knowingly fails to perform services for a client and
15 causes injury or potential injury to a client, or
16 (b) a lawyer engages in a pattern of neglect and causes injury or
17 potential injury to a client.
18 4.43 **Reprimand** is generally appropriate when a lawyer is negligent and does
19 not act with reasonable diligence in representing a client, and causes injury or
20 potential injury to a client.
21 4.44 **Admonition** is generally appropriate when a lawyer is negligent and does
22 not act with reasonable diligence in representing a client, and causes little or no
23 actual or potential injury to a client.

24 22. ABA Standard 7.0 is most applicable to the duty to return unearned fees. ABA
Standard 7.0 provides:

- 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.
7.2 **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.
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.

1 7.4 **Admonition** is generally appropriate when a lawyer engages in an isolated
2 instance of negligence that is a violation of a duty owed as a professional, and
3 causes little or no actual or potential injury to a client, the public, or the legal
4 system.

5 23. Respondent acted knowingly.

6 24. There is injury to Ms. Abraha because her matter was delayed, she received no
7 benefit from the \$300 she paid Respondent, and she was deprived the use of the \$300 that
8 Respondent only recently refunded.

9 25. The presumptive sanction is suspension.

10 26. There are no applicable aggravating factors apply under ABA Standard 9.22.

11 27. The following mitigating factors apply under ABA Standard 9.32:

12 (a) absence of a prior disciplinary record;

13 (b) absence of a dishonest or selfish motive;

14 (c) personal or emotional problems (during the relevant period, Respondent
15 had no income, and thus no funds to return to Ms. Abraha, and faced homelessness); and

16 (l) remorse.

17 28. It is an additional mitigating factor that Respondent has agreed to resolve this
18 matter at an early stage of the proceedings.

19 29. Based on the factors set forth above, the presumptive sanction should be
20 mitigated to a reprimand.

21 VI. STIPULATED DISCIPLINE

22 30. The parties stipulate that Respondent shall receive a reprimand for his
23 misconduct.

1 **VII. RESTITUTION**

2 31. Respondent paid Ms. Abraha \$300 in July 2018.

3 **VIII. COSTS AND EXPENSES**

4 32. In light of Respondent’s willingness to resolve this matter by stipulation at an
5 early stage of the proceedings, Respondent shall pay attorney fees and administrative costs of
6 \$500 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
7 13.9(l) if these costs are not paid within 30 days of approval of this stipulation.

8 **IX. VOLUNTARY AGREEMENT**

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

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

16 **X. LIMITATIONS**

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

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

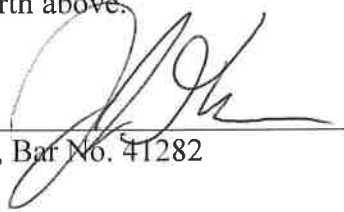
4 37. This Stipulation results from the consideration of various factors by both parties,
5 including the benefits to both by promptly resolving this matter without the time and expense of
6 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
7 such, approval of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

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


14 39. If this Stipulation is approved by the Hearing Officer, it will be followed by the
15 disciplinary action agreed to in this Stipulation. All notices required in the Rules for
16 Enforcement of Lawyer Conduct will be made.

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

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

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6 John E. Gross, Bar No. 41282
7 Respondent

Dated: 8/14/18

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24 _____
24 Sachia Stonefeld Powell, Bar No. 21166
24 Disciplinary Counsel

Dated: 8/15/18