

FILED
SEP 12 2016
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

MARK M. LARSSON,

Lawyer (Bar No. 42882).

Proceeding No. *16#0056*

ODC File No 15-01649

AMENDED STIPULATION TO
SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Amended Stipulation to Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Jonathan Burke and Respondent lawyer Mark Magnus Larsson.

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/her. Respondent chooses to resolve this

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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 October 10,
5 2010.

6 **II. STIPULATED FACTS**

7 2. In late October 2013 DN hired Respondent to obtain a parenting plan.

8 3. At the time, DN was the single mother of a 3-year old daughter. DN was never
9 married to the biological father of her daughter. During all material times, Respondent was
10 married with one child.

11 4. On November 6, 2013, Respondent filed a notice of appearance in DN's parentage
12 action. On that same date, Respondent obtained a temporary parenting plan in DN's case.

13 5. The biological father of DN's child never appeared in DN's parentage action.

14 6. In January 2014, Respondent left private practice and went to work for a company
15 where he currently works. In an email to DN, Respondent informed her that he had a new job
16 and would not be able to "go to court" or represent her anymore, but he could continue to assist
17 in her parenting matter. Respondent told DN that he could refer her to another lawyer.

18 7. During the following year, Respondent and DN exchanged emails and text messages
19 discussing their personal lives and DN's pending legal matters. Respondent provided DN legal
20 advice in those emails and text messages.

21 8. Respondent's personal email and text exchanges became so personal that
22 Respondent was getting emotionally involved with DN. Respondent sought to commence an
23 intimate relationship with DN, but DN declined to do so. Respondent also started asking DN to

1 send him pictures of herself. After DN sent Respondent pictures of herself wearing underwear,
2 Respondent asked DN to send naked pictures of herself. DN declined to do so.

3 9. In March 2014, Respondent's wife discovered a personal text from DN. Soon
4 thereafter, Respondent and his wife pursued couples' counseling to deal with marital issues for
5 approximately one year.

6 10. On November 18, 2014, the court entered an order to show cause for dismissal of
7 DN's parentage matter due to the lack of activity. The notice of the hearing reflected that
8 Respondent was the attorney of record. A copy of the notice was sent to Respondent and DN.

9 11. On December 27, 2014, Respondent sent DN an email apologizing for his
10 unprofessional behavior for trying to pursue an intimate relationship with her: "I wanted to
11 apologize for my unprofessional conduct before. You are the most beautiful woman I have ever
12 worked with and I guess I got carried away with the fantasy."

13 12. In March 4, 2015, DN attended the show cause hearing *pro se*, but the court declined
14 to hear the matter because Respondent was still DN's attorney of record. The hearing was
15 continued until July 1, 2015.

16 13. On March 9, 2015, DN and Respondent exchanged texts relating to the pending
17 show cause hearing. These texts included flirtation between DN and Respondent. Respondent
18 provided DN with legal advice.

19 14. On April 28 and April 29, 2015, DN and Respondent exchanged texts in which
20 Respondent made sexual propositions to DN. DN declined Respondent's propositions.

21 15. DN told Respondent that the court informed her that her parental custody case would
22 be dismissed unless she pursued a final parenting plan.

23 16. In or about late June 2015, Respondent met with DN at a restaurant and went over

1 the parenting plan that DN had prepared. Respondent provided DN with legal advice.
2 Respondent attempted to hug DN after the meeting.

3 17. DN attended the July 1, 2015 show cause hearing *pro se*. The court continued the
4 matter to August 5, 2015.

5 18. Respondent provided DN with legal advice and legal forms following the July 1,
6 2015 hearing.

7 19. On July 22, 2015, Respondent filed a Motion and Declaration of Default in DN's
8 case and signed the motion on behalf of DN. Respondent scheduled the hearing on the Motion
9 for Default for August 20, 2015.

10 20. On August 5, 2015, Respondent appeared on behalf of DN at the show cause hearing
11 and the court entered an order denying the motion to dismiss DN's case.

12 21. On August 6, 2015, Respondent provided DN with copies of the Notice of Motion
13 for Default. This hearing did not go forward on August 20, 2015.

14 22. On August 24, 2015, Respondent told DN that he could no longer provide free legal
15 services to her. DN told Respondent that she had no money and was afraid to represent herself
16 in court. Respondent offered to provide future legal services for sexual relations.

17 23. On August 26, 2015, Respondent sent an email to DN with copies of the pleadings
18 he filed for DN and instructions to DN for filling out paperwork related to the pending motion
19 for default. The email asked DN her to meet with him the day before the hearing to review the
20 documents.

21 24. On August 28, 2015, Respondent and DN engaged in a lengthy text message
22 exchange regarding Respondent's proposal to provide legal services for sexual relations. One
23 of Respondent's texts expressed concern that DN may report him to his wife or to the

1 authorities: “You’re not going to report me to the authorities or my wife are you? . . . Well, it
2 just makes me a little paranoid because it’s unethical on multiple levels.” Exhibit 1 of the
3 Confidential Attachment to Stipulation to Suspension and Exhibit – To Be Filed Under Seal.

4 25. DN declined to provide sexual relations for legal services.

5 26. In response to DN’s decision regarding Respondent’s offer, Respondent texted: “Just
6 saying I get it, you won’t do anything with me. Even though you said you would on Monday . .
7 . [I’m] frustrated because I thought you agreed to something else on Monday and got my hopes
8 up. But just to realize that it’s just never going to happen. So. I’m going to do my best to never
9 to there with you.”

10 27. DN had a reasonable basis to believe that Respondent represented her from July
11 2015 through August 28, 2015. During that time period, Respondent was DN’s lawyer of
12 record, was providing legal services to DN, and was appearing in court on DN’s behalf.

13 28. Shortly after the August 28, 2015 text exchange, Respondent ceased any further
14 contact with DN.

15 29. Respondent promptly sought mental health services relating to his conduct towards
16 DN.

17 30. Respondent’s mental health treatment is described in the Confidential Attachment,
18 which is filed under seal.

19 31. On November 9, 2015, Respondent filed a notice of withdrawal in DN’s parentage
20 action.

21 32. DN never rescheduled the motion for default and the matter went to hearing in
22 March 2016.

1 **III. STIPULATION TO MISCONDUCT**

2 33. By attempting to have sexual relations with DN and/or by offering legal services to
3 DN in exchange for sex while he was representing her, Respondent violated RPC 8.4(a)
4 (attempting to violate RPC 1.8(j)) and RPC 1.7(a).

5 **IV. PRIOR DISCIPLINE**

6 34. Respondent has no prior discipline.

7 **V. APPLICATION OF ABA STANDARDS**

8 35. The following standards from the American Bar Association Standards for Imposing
9 Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.) apply to this case:

10 **4.3 Failure to Avoid Conflicts of Interest**

11 4.31 Disbarment is generally appropriate when a lawyer, without the informed
12 consent of client(s):

13 (a) engages in representation of a client knowing that the lawyer's interests are
14 adverse to the client's with the intent to benefit the lawyer or another, and causes serious
or potentially serious injury to the client; or

15 (b) simultaneously represents clients that the lawyer knows have adverse interests
16 with the intent to benefit the lawyer or another, and causes serious or potentially serious
injury to a client; or

17 (c) represents a client in a matter substantially related to a matter in which the
18 interests of a present or former client are materially adverse, and knowingly uses
information relating to the representation of a client with the intent to benefit the lawyer
or another and causes serious or potentially serious injury to a client.

19 **4.32 Suspension is generally appropriate when a lawyer knows of a conflict of**
20 **interest and does not fully disclose to a client the possible effect of that conflict, and**
causes injury or potential injury to a client.

21 4.33 Reprimand is generally appropriate when a lawyer is negligent in determining
22 whether the representation of a client may be materially affected by the lawyer's own
interests, or whether the representation will adversely affect another client, and causes
23 injury or potential injury to a client.

24 4.34 Admonition is generally appropriate when a lawyer engages in an isolated

1 instance of negligence in determining whether the representation of a client may be
2 materially affected by the lawyer's own interests, or whether the representation will
adversely affect another client, and causes little or no actual or potential injury to a
3 client.

4 36. Respondent knew that he had a conflict of interest with DN when attempted to
exchange legal services for sexual relationships during a period that he represented her.

5 37. Respondent did not fully disclose the possible effect of his conflict of interest with
6 DN, including that such an exchange would be illegal.

7 38. Respondent's conduct resulted in potential harm to DN.

8 39. The presumptive sanction for Respondent's misconduct is suspension under ABA
9 Standard 4.32.

10 40. The following aggravating factor applies under ABA Standard 9.22:

11 (b) Selfish motive.

12 41. The following mitigating factors apply under ABA Standard 9.32:

13 (a) Absence of a prior disciplinary record;

14 (b) Personal or emotional problems (During material times, Respondent suffered from
15 anxiety disorder (described in the Confidential Attachment), and personal and
16 emotional problems);

17 (c) Timely good faith effort to rectify misconduct (Respondent promptly sought
18 treatment for his misconduct);

19 (d) Inexperience in the practice of law (At the time of the misconduct, Respondent had
20 been practicing less than five years); and

21 (l) Remorse (Respondent has expressed remorse).

22 42. It is an additional mitigating factor that Respondent has agreed to resolve this matter
23 at an early stage of the proceedings.

1 43. On balance the mitigating factors outweigh the aggravating factor warranting a short
2 suspension that is less than the presumptive minimum six month suspension.

3 **VI. STIPULATED DISCIPLINE**

4 44. The parties stipulate that Respondent shall receive a 90-day suspension for his
5 conduct.

6 45. Respondent's reinstatement to practice law is conditioned upon a successful fitness
7 to practice examination by psychologist Dr. Terry Copeland, Ph.D. and/or, in the alternative,
8 another mental health professional acceptable to disciplinary counsel.

9 46. Respondent will be subject to probation for a period of one-year beginning when this
10 stipulation receives final approval and shall comply with the specific probation terms set forth
11 below.

12 47. Respondent will continue treatment with Dr. Copeland and/or an alternate acceptable
13 to disciplinary counsel for at least one year after final acceptance of this stipulation. During the
14 course of the probationary period, Dr. Copeland and/or his alternate will submit to ODC's
15 Probation Administrator a quarterly report demonstrating compliance with the terms of
16 probation.

17 48. Respondent shall follow the treatment recommended by Dr. Copeland and/or the
18 alternate and will see him/her as recommended.

19 49. Respondent will be solely responsible for paying Dr. Copeland and/or the alternate
20 mental health professional.

21 **VII. RESTITUTION**

22 50. Not applicable.

1 **VIII. COSTS AND EXPENSES**

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

7 **IX. VOLUNTARY AGREEMENT**

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

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

15 **X. LIMITATIONS**

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

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

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

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

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

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

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

Mark M. Larsson, Bar No. 42882
Respondent

Dated: _____

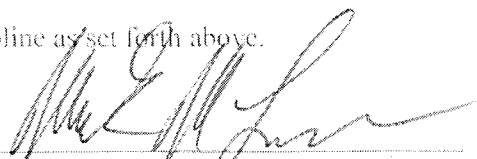
Jonathan Burke

Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel

Dated: 6/1/16

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Mark M. Larsson, Bar No. 42882
Respondent

Dated: 5/31/2016

Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel

Dated: _____