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DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

Notice of Reprimand

Lawyer Gary D. Glouner JR, WSBA No. 43773, has been ordered Reprimanded by the following attached documents: Order on Stipulation to Reprimand and Stipulation to Reprimand.

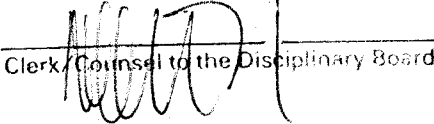
WASHINGTON STATE BAR ASSOCIATION



Kevin Bank  
Counsel to the Disciplinary Board

CERTIFICATE OF SERVICE

I certify that I caused a copy of the notice of reprimand  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Kurt Buller Responsible Counsel  
at 440 Belmont Pt. E #3 Seattle WA 98104 certified first class mail  
postage prepaid on the 8th day of March, 2017



Clerk/Counsel to the Disciplinary Board

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**GARY D. GLOUNER, JR.,**  
Lawyer (Bar No. 43773).

Proceeding No. 16#00112

ORDER ON STIPULATION TO  
REPRIMAND

On review of the February 21, 2017 Stipulation to Reprimand and the documents on file in this matter, IT IS ORDERED that the February 21, 2017 Stipulation to Reprimand is approved.

Dated this 23<sup>rd</sup> day of February, 2017.

James E. Horne  
James E. Horne  
Chief Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Order on Stip to Reprimand  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Kurt Palmer  
at 240 2nd Avenue Pl. E. #3 Seattle WA 98101  
postage prepaid on the 24th day of Feb, 2017

[Signature]  
Clerk/Counsel to the Disciplinary Board

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**GARY D. GLOUNER, JR.,**  
Lawyer (Bar No. 43773).

Proceeding No. 16#00112

ODC File No(s). 14-01223, 14-01675, and  
15-01198

**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 Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Marsha Matsumoto, Respondent's counsel Kurt M. Bulmer and Respondent lawyer Gary D. Glouner, Jr. (Respondent).

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

Stipulation to Reprimand  
Page 1

OFFICE OF DISCIPLINARY COUNSEL OF THE  
WASHINGTON STATE BAR ASSOCIATION  
1325 4<sup>th</sup> Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8207

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 June 9,  
5 2011.

6 **II. STIPULATED FACTS**

7 2. Respondent and Megan McGrath (Megan)<sup>1</sup> married in 1989, and have three  
8 children. In 2012, Respondent and Megan obtained a legal separation, but continued to live in  
9 the same household.

10 3. On June 18, 2013, Megan's father, James David McGrath (David) died. David  
11 was survived by his wife, Helga Elizabeth McGrath (Betty), daughters Megan and D'Arcy, and  
12 son, Patrick.

13 4. At all times relevant to this matter, Respondent's primary employment was at  
14 Facebook, but he occasionally handled legal matters for family and friends.

15 5. Following David McGrath's death, Respondent represented Betty in estate and  
16 trust matters, and Megan assumed responsibility for paying Betty's expenses.

17 6. In August 2013, Respondent deposited \$246,338.90 into his Chase Bank trust  
18 account ending in 3268. The funds included: 1) proceeds from David's life insurance policy;  
19 and 2) earnest money that was forfeited when the sale of David and Betty's Medina house fell  
20 through. Respondent considered the life insurance proceeds to belong to Betty because she was  
21 the beneficiary of the policy. He considered the earnest money to belong to the McGrath  
22

23 <sup>1</sup> For ease of reference, and meaning no disrespect, members of the McGrath family are referred to by  
24 their first names.

1 Medina Qualified Personal Residence Trust (McGrath Trust) because the house was a trust  
2 asset. Betty was the successor trustee of the McGrath Trust. Megan, D'Arcy, and Patrick were  
3 the beneficiaries.

4 7. After depositing the \$246,338.90 to his trust account, Respondent disbursed funds  
5 to Betty and to third parties on Betty's behalf. Megan assisted Respondent by informing Betty  
6 of the expenses and obtaining Betty's consent to paying the expenses.

7 8. During the period March to June 2014, Respondent also disbursed funds from his  
8 trust account for his own and Megan's benefit, primarily to remodel the kitchen in their home.  
9 Respondent disbursed the funds as loans from Betty and/or advances on Megan's share of the  
10 McGrath Trust.

11 9. Respondent states that he believed he was authorized to make the disbursements by  
12 a July 15, 2013 Power of Attorney bearing the signature "Elizabeth McGrath," which authorized  
13 Megan to make decisions regarding Betty's funds, and by Megan, who orally relayed Betty's  
14 consent in the same way that she relayed Betty's consent to payment of Betty's own expenses.  
15 Megan also endorsed one of the trust account checks that was payable to Megan as a "loan."

16 10. Respondent did not personally discuss the loans and/or advances with Betty, did  
17 not transmit the terms of the loans and/or advances in writing to Betty, did not advise Betty in  
18 writing to seek the advice of independent counsel regarding the loans and/or advances, and did  
19 not obtain Betty's informed consent confirmed in writing to the terms of the loans and/or  
20 advances, including Respondent's role in the transactions.

21 11. Respondent did not provide Betty with a written accounting after each  
22 disbursement of her funds and/or the McGrath Trust funds from his trust account.

23 12. In June 2014, Megan left Respondent. On or about the same day, Betty contacted

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Stipulation to Reprimand  
Page 3

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1 Respondent and told him to return the funds he had used to his trust account.

2 13. Respondent restored the funds to his trust account.

3 14. On June 12, 2014, Respondent sent Betty a letter, accounting, and check, drawn on  
4 his trust account in the amount of \$217,777.90. Betty signed the letter, acknowledging receipt  
5 of Respondent's check and accounting.

6 15. On June 26, 2014, Respondent sent Betty an email, asking if she had any questions  
7 about the accounting. On July 7, 2014, Respondent sent Betty another email, stating:

8 Yes, the accounting report should be 100% accurate and let me know if you see  
9 anything that doesn't make sense. Notice that all advances and loans were taken  
10 completely out as if they never happened. Sorry about the issues there.  
11 Definitely big miscommunication, but I'm glad it all worked out ok. . .

12 16. On July 21, 2014, Betty replied, "[h]i Gary, all was well as far as the accounting  
13 goes."

### 14 III. STIPULATION TO MISCONDUCT

15 17. By disbursing funds belonging to Betty McGrath and/or the McGrath Trust to  
16 himself and/or his wife as a loan or advance without meeting the requirements of RPC 1.8(a)(1),  
17 (2), or (3), Respondent violated RPC 1.8(a).

18 18. By failing to provide Betty McGrath with a written accounting after disbursing her  
19 funds and/or the McGrath Trust funds from his trust account, Respondent violated RPC  
20 1.15A(e).

### 21 IV. PRIOR DISCIPLINE

22 19. Respondent has no prior discipline in Washington.

### 23 V. APPLICATION OF ABA STANDARDS

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

1 **4.3 Failure to Avoid Conflicts of Interest**

2 4.31 Disbarment is generally appropriate when a lawyer, without the informed  
3 consent of client(s):

- 4 (a) engages in representation of a client knowing that the lawyer's interests  
5 are adverse to the client's with the intent to benefit the lawyer or another,  
6 and causes serious or potentially serious injury to the client; or  
7 (b) simultaneously represents clients that the lawyer knows have adverse  
8 interests with the intent to benefit the lawyer or another, and causes  
9 serious or potentially serious injury to a client; or  
10 (c) represents a client in a matter substantially related to a matter in which  
11 the interests of a present or former client are materially adverse, and  
12 knowingly uses information relating to the representation of a client with  
13 the intent to benefit the lawyer or another and causes serious or  
14 potentially serious injury to a client.

15 4.32 Suspension is generally appropriate when a lawyer knows of a conflict of  
16 interest and does not fully disclose to a client the possible effect of that  
17 conflict, and causes injury or potential injury to a client.

18 4.33 Reprimand is generally appropriate when a lawyer is negligent in  
19 determining whether the representation of a client may be materially  
20 affected by the lawyer's own interests, or whether the representation will  
21 adversely affect another client, and causes injury or potential injury to a  
22 client.

23 4.34 Admonition is generally appropriate when a lawyer engages in an  
24 isolated instance of negligence in determining 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  
little or no actual or potential injury to a client.

15 **4.1 Failure to Preserve the Client's Property**

16 4.11 Disbarment is generally appropriate when a lawyer knowingly converts  
17 client property and causes injury or potential injury to a client.

18 4.12 Suspension is generally appropriate when a lawyer knows or should  
19 know that he is dealing improperly with client property and causes injury  
20 or potential injury to a client.

21 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing  
22 with client property and causes injury or potential injury to a client.

23 4.14 Admonition is generally appropriate when a lawyer is negligent in  
24 dealing with client property and causes little or no actual or potential  
injury to a client.

21. Respondent acted negligently in failing to recognize the conflict of interest and in  
entering into a business transaction with Betty McGrath, without meeting the requirements of  
RPC 1.8(a).

1 22. Respondent's conduct caused potential injury. Although Betty McGrath's funds and  
2 the McGrath Trust funds were returned in full, the terms of the loans and/or advances were not  
3 transmitted in writing, Betty was not advised to seek independent counsel, and Respondent did  
4 not obtain Betty's informed written consent.

5 23. The presumptive sanction under ABA Standard 4.33 is reprimand.

6 24. Respondent acted negligently in improperly handling client funds when he failed to  
7 provide Betty McGrath with a written accounting upon disbursing her funds and/or the McGrath  
8 Trust funds from his trust account.

9 25. Respondent's conduct caused potential injury to Betty McGrath by denying her  
10 information about her funds and/or the McGrath Trust funds.

11 26. The presumptive sanction under ABA Standard 4.13 is reprimand.

12 27. The following aggravating factor applies under ABA Standard 9.22:

13 9.22 Aggravating factors include:  
14 (d) multiple offenses.

15 28. The following mitigating factors apply under ABA Standard 9.32:

16 9.32 Mitigating factors include:  
17 (a) absence of a prior disciplinary record;  
(f) inexperience in the practice of law (Respondent was admitted to practice  
in July 2011).

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

20 30. The aggravating and mitigating factors do not warrant deviation from the  
21 presumptive sanction of reprimand.

## 22 VI. STIPULATED DISCIPLINE

23 31. The parties stipulate that Respondent shall receive a reprimand for his conduct.



1           32. Respondent will be subject to probation for a period of two years commencing upon  
2 final approval of this stipulation.

3           33. During the probationary period, Respondent shall complete a minimum of 6 credit  
4 hours of continuing legal education courses, at Respondent's own expense, in the areas of  
5 conflicts of interest and trust accounting. Respondent shall provide evidence of attendance at  
6 such courses to the Probation Administrator no later than 30 days after the conclusion of the  
7 course. Proof of attendance shall include the program brochure, evidence of payment, and a  
8 written statement that includes the date and time of attendance.

9           34. During probationary period, Respondent will be subject to periodic reviews under  
10 ELC 13.8 of his/her trust account practices, and shall comply with the specific probation terms  
11 set forth below:

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

1 records from the end of the previously provided quarter through the end of  
2 month nine.

3 iv) Months 10 – 12. By no later than the 30<sup>th</sup> day of the thirteenth month after  
4 the commencement of probation, Respondent shall provide the trust  
5 account records from the end of the previously provided quarter through  
6 the end of month twelve.

7 v) Months 13– 15. By no later than the 30<sup>th</sup> day of the sixteenth month after  
8 the commencement of probation, Respondent shall provide the trust  
9 account records from the end of the previously provided quarter through  
10 the end of month fifteen.

11 vi) Months 16 – 18. By no later than the 30<sup>th</sup> day of the nineteenth month after  
12 the commencement of probation, Respondent shall provide the trust  
13 account records from the end of the previously provided quarter through  
14 the end of month eighteen.

15 vii) Months 19 – 21. By no later than the 30<sup>th</sup> day of the twenty-second month  
16 after the commencement of probation, Respondent shall provide the trust  
17 account records from the end of the previously provided quarter through  
18 the end of month twenty-one.

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

d) On the same quarterly time schedule set forth in the preceding paragraph,  
Respondent will provide ODC's Audit Manager or designee with copies of any and  
all fee agreements entered into within the time period at issue.

e) The ODC's Audit Manager or designee may request additional financial or client  
records if needed to verify Respondent's compliance with RPC 1.15A and/or 1.15B.  
Within twenty days of a request from ODC's Audit Manager or designee for  
additional records needed to verify Respondent's compliance with RPC 1.15A  
and/or RPC 1.15B, Respondent will provide ODC's Audit Manager or designee the  
additional records requested.

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1 ODC acknowledge that the result after further proceedings in this matter might differ from the  
2 result agreed to herein.

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

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

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

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

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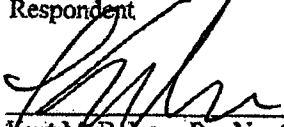
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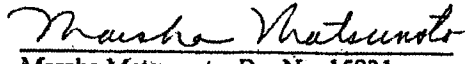
1 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation  
2 to Discipline as set forth above.

3   
4 Gary D. Glouber, Jr., Bar No. 43773  
5 Respondent

Dated: 2/1/2017

6   
7 Kurt M. Bolmer, Bar No. 5559  
8 Counsel for Respondent.

Dated: 2/7/17

9   
10 Marsha Matsumoto, Bar No. 15831  
11 Managing Disciplinary Counsel

Dated: 2/21/17

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