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DISCIPLINARY  
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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**CHRISTAL OLIVIA IRWIN,**  
Lawyer (Bar No. 43924).

Proceeding No. 16#00021  
ODC File No. 14-02147  
STIPULATION TO ADMONITION  
Following settlement conference conducted  
under ELC 10.12(h)

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 Admonition is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Benjamin J. Attanasio and Respondent lawyer Christal Olivia Irwin.

Respondent understands that she is entitled under the ELC to a hearing, to present exhibits and witnesses on her behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that she 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 her. Respondent chooses to resolve this proceeding

*018*

1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the  
2 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 August 18,  
5 2011.

6 **II. STIPULATED FACTS**

7 2. John Keeton is the Co-owner/Manager of Morningside Funding, LLC  
8 (“Morningside”), based in Houston, Texas.

9 3. Respondent practices law in Republic, Washington.

10 4. In February 2014, Mr. Keeton, on behalf of Morningside, hired Respondent to  
11 negotiate for the removal of, and/or defend against, a lien placed against a property that  
12 Morningside owned near Republic.

13 5. Mr. Keeton and Respondent executed two fee agreements: one for \$300 dated  
14 February 6, 2014, and one for \$3,500 dated April 18, 2014.

15 6. Except for the amount to be paid in advance by Morningside, the two fee  
16 agreements are substantially the same.

17 7. The fee agreement dated April 18, 2014 provides in pertinent part as follows:

18 Retainer and Costs: I understand and agree that a retainer of \$3,500.00 or  
19 its equivalent shall be paid before any substantive representation shall  
20 commence, and that additional payments, if any, are due upon billing. I  
21 understand this an [sic] any payment is on a fee-for-services basis, and  
22 becomes the property of the law office--a client trust account is not  
23 maintained for me. I understand that final billing and any estimate  
24 thereof is based on my type of case and amount and length of work  
necessary at an hourly rate of \$75/hr plus anticipated and incidental court  
administrative costs and/or filing fee(s). I understand that while fees may  
be eligible to be paid/waived in part on barter by mutual agreement, court  
fees and administrative costs must be tendered in currency.

1 8. Morningside paid Respondent \$3,800 in legal fees and/or expenses in advance of  
2 Respondent commencing work or incurring costs in the matter.

3 9. Based on the fee agreements, Mr. Keeton claimed he understood that Respondent's  
4 fees were to be calculated on an hourly basis at the rate of \$75 per hour and deducted from the  
5 \$3,800 Morningside paid in advance.

6 10. Respondent did not calculate her fees on an hourly basis.

7 11. Respondent did not contemporaneously keep track of the time she spent on  
8 Morningside's matter.

9 12. While Respondent intended that the fee be a flat fee, paid in advance and earned on  
10 receipt, her written fee agreements with Morningside did not contain the provisions set forth in  
11 RPC 1.5(f)(2), that would exempt the fee from the requirement that it be deposited to a trust  
12 account until the agreed services were completed.

13 13. Respondent did not deposit into a trust account the legal fees and/or expenses that  
14 Morningside paid in advance.

15 14. Between February 2014 and August 2014, Respondent performed legal research,  
16 consulted with Morningside and others, and negotiated with the opposing party in an effort to  
17 resolve the matter.

18 15. In August 2014, Morningside paid the opposing party to remove the lien.

19 16. On August 29, 2014, Respondent informed Morningside the lien had been  
20 removed.

21 17. Also on August 29, 2014, Morningside asked Respondent if she was "going to  
22 final bill us" and if "there was any overage from the retainer."

23 18. On September 2, 2014, Respondent replied, "I consider us even," but she did not  
24

1 provide an invoice.

2 19. Later on September 2, 2014, Morningside requested that Respondent provide an  
3 invoice, but Respondent did not reply.

4 20. On September 9, 2014, Morningside requested a second time that Respondent  
5 provide an invoice.

6 21. On September 15, 2014, Respondent replied that she would "be in touch soon," but  
7 she did not provide an invoice.

8 22. On September 29, 2014, Morningside requested a third time that Respondent  
9 provide an invoice.

10 23. On September 30, 2014, Respondent sent Morningside a document entitled  
11 "Invoice." Because Respondent did not maintain contemporaneous time records, she created  
12 the "invoice" by reviewing records, calendars, and case notes and estimating the time it had  
13 taken to perform the work.

14 24. The "invoice" reflected that Respondent performed 52.75 hours of work at a rate of  
15 \$75 per hour, for \$3,956.25 in "total hourly" charges. To this she added \$100 in expenses to  
16 reach a "Total Combined Gross Value" of \$4,056.25. From this figure she subtracted \$256.25  
17 to arrive at a "net charge" of \$3,800.

18 25. Morningside disputed the number of hours on which the "total hourly" charges  
19 were based and requested a partial refund.

20 26. Respondent declined to refund any money to Morningside, stating to Morningside  
21 that the \$3,800 paid was the "minimum required to take the case" and that an accounting of her  
22 time was not necessary.

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- 1 (a) absence of a prior disciplinary record;
- 2 (b) absence of a dishonest motive;
- 3 (f) inexperience in the practice of law;
- 4 (l) remorse.

5 37. Based on the factors set forth above, the presumptive sanction should be mitigated to  
6 admonition.

#### 7 VI. STIPULATED DISPOSITION

8 38. The parties stipulate that Respondent shall receive an admonition for her conduct.

9 39. Respondent will be subject to probation for a period of one year beginning when this  
10 stipulation receives final approval.

11 40. The conditions of probation are set forth in Appendix B. Respondent's compliance  
12 with these conditions shall be monitored by the ODC Probation Administrator. Failure to  
13 comply with a condition of probation listed herein may be grounds for further disciplinary  
14 action under ELC 13.8(b).

#### 15 VII. RESTITUTION

16 41. No restitution is required by this stipulation.

#### 17 VIII. COSTS AND EXPENSES

18 42. Respondent shall pay attorney fees and administrative costs of \$800 in accordance  
19 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these  
20 costs are not paid within 30 days of approval of this stipulation unless Respondent has entered  
21 into a periodic payment plan under ELC 13.9(i)(3).

#### 22 IX. VOLUNTARY AGREEMENT

23 43. Respondent states that prior to entering into this Stipulation she has had an  
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1 opportunity to consult independent legal counsel regarding this Stipulation, that Respondent is  
2 entering into this Stipulation voluntarily, and that no promises or threats have been made by  
3 ODC, the Association, nor by any representative thereof, to induce the Respondent to enter into  
4 this Stipulation except as provided herein.

5 44. Once fully executed, this Stipulation is a contract governed by the legal principles  
6 applicable to contracts, and may not be unilaterally revoked or modified by either party.

#### 7 X. LIMITATIONS

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

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

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

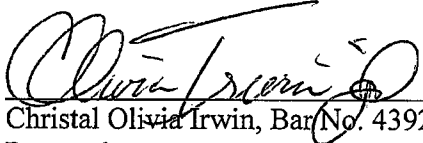
23 48. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for  
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1 his or her review become public information on approval of the Stipulation by the Hearing  
2 Officer, unless disclosure is restricted by order or rule of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

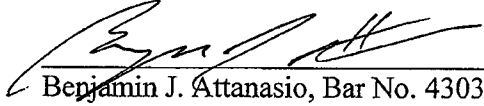
3 49. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
4 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
5 Enforcement of Lawyer Conduct will be made.

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

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

12   
13 Christal Olivia Irwin, Bar No. 43924  
14 Respondent

Dated: 8/23/2016

15   
16 Benjamin J. Attanasio, Bar No. 43032  
17 Disciplinary Counsel

Dated: 8/23/16

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# APPENDIX A

American Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.)

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

Absent aggravating or mitigating circumstances, upon application of the factors set out in 3.0, the following sanctions are generally appropriate in cases involving the failure to preserve client property:

- 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.
- 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.
- 4.13 **Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.**
- 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

## *4.4 Lack of Diligence*

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

- 4.41 Disbarment is generally appropriate when:
  - (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
  - (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
  - (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
- 4.42 Suspension is generally appropriate when:
  - (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
  - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.
- 4.43 **Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.**
- 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

# APPENDIX A

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

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.

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

# APPENDIX B

## Probation Terms for Stipulation to Admonition

In re Christal Olivia Irwin, Proceeding no. 16#00021

### Fee Agreements and Billing Statements

- a. On a quarterly basis, Respondent shall provide the Probation Administrator of the Office of Disciplinary Counsel ("Probation Administrator") with copies of any and all fee agreements executed and any and all billing statements or invoices produced during the time period at issue. These materials are due as follows:
  - i) Months 1 – 3. By no later than the 30th day of the fourth month after the commencement of probation, Respondent shall provide the fee agreements and billing statements or invoices from the date of commencement of probation to the end of the third full month.
  - ii) Months 4 – 6. By no later than the 30th day of the seventh month after the commencement of probation, Respondent shall provide the fee agreements and billing statements or invoices from the end of the previously provided quarter through the end of month six.
  - iii) Months 7 – 9. By no later than the 30th day of the tenth month after the commencement of probation, Respondent shall provide the fee agreements and billing statements or invoices from the end of the previously provided quarter through the end of month nine.
  - iv) Months 10 – 12. By no later than the 30th day of the thirteenth month after the commencement of probation, Respondent shall provide the fee agreements and billing statements or invoices from the end of the previously provided quarter through the end of month twelve.
- b. The Probation Administrator may request additional records if needed to verify Respondent's compliance with RPC 1.5 or 1.15A. Respondent must provide the Probation Administrator with the additional requested records within twenty days of the Probation Administrator's request.

### Ethics Consultation

- c. Respondent agrees to a minimum of one two-hour consultation with an ethics consultant regarding the conduct giving rise to this grievance and compliance with the RPC. The consultation may be by telephone or in person. The consultation shall occur within 45 days of the date of commencement of probation. Within two weeks of the consultation, Respondent shall provide proof to the Probation Administrator of the meeting in the form of a written statement that includes the date, time, and a brief summary of the consultation.
- d. The ethics consultant will be selected by ODC in consultation with Respondent,

## APPENDIX B

- e. Respondent shall be responsible for paying any and all fees, costs and/or expenses charged by the ethics consultant.

### Continuing Legal Education

- f. During the probationary period, Respondent shall complete a minimum of ten (10) credit hours of continuing legal education (CLE) courses, at Respondent's own expense, in the areas of fee agreements, billing practices, client communication, and trust accounting.
- g. Respondent shall provide evidence of attendance at such courses to the Probation Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall include the program brochure, evidence of payment, and a written statement that includes the date and time of attendance.
- h. As an alternative to the requirements of paragraphs f and g above, Respondent may attend Ethics School (approximately six hours), tentatively scheduled to be held on both October 21, 2016 and April 7, 2017, and to pay registration costs of \$150. Respondent will receive all applicable approved CLE credits for time in attendance at the Ethics School. Ethics School will be held at the offices of the Washington State Bar Association.
- i. Respondent shall not disclose the names or other identifying information of other Ethics School attendees outside of Ethics School.
- j. Respondent shall contact the Ethics School Administrator, currently Thea Jennings, at (206) 733-5985 or [theaj@wsba.org](mailto:theaj@wsba.org), within 30 days of the approval of this Stipulation to confirm enrollment in Ethics School.
- k. The Ethics School Administrator may respond to inquiries from the Probation Administrator regarding Respondent's compliance with these conditions.

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**CHRISTAL OLIVIA IRWIN,**  
Lawyer (Bar No. 43924).

Proceeding No. 16#00021  
ADMONITION

Pursuant to Rule 13.5 of the Rules for Enforcement of Lawyer Conduct, the following Admonition was issued by the Disciplinary Board Chair.

**I. ADMISSION TO PRACTICE**

At all times material to the complaint, you were licensed to practice in the state of Washington.

**II. FACTS**

1. John Keeton is the Co-owner/Manager of Morningside Funding, LLC (“Morningside”), based in Houston, Texas.
2. You practice law in Republic, Washington.
3. In February 2014, Mr. Keeton, on behalf of Morningside, hired you to negotiate for the removal of, and/or defend against, a lien placed against a property that Morningside owned near Republic.

1           4.    You and Mr. Keeton executed two fee agreements: one for \$300 dated February 6,  
2 2014, and one for \$3,500 dated April 18, 2014.

3           5.    Except for the amount to be paid in advance by Morningside, the two fee  
4 agreements are substantially the same.

5           6.    The fee agreement dated April 18, 2014 provides in pertinent part as follows:

6                   Retainer and Costs: I understand and agree that a retainer of \$3,500.00 or  
7 its equivalent shall be paid before any substantive representation shall  
8 commence, and that additional payments, if any, are due upon billing. I  
9 understand this an [sic] any payment is on a fee-for-services basis, and  
10 becomes the property of the law office--a client trust account is not  
11 maintained for me. I understand that final billing and any estimate  
thereof is based on my type of case and amount and length of work  
necessary at an hourly rate of \$75/hr plus anticipated and incidental court  
administrative costs and/or filing fee(s). I understand that while fees may  
be eligible to be paid/waived in part on barter by mutual agreement, court  
fees and administrative costs must be tendered in currency.

12           7.    Morningside paid you \$3,800 in legal fees and/or expenses in advance of you  
13 commencing work or incurring costs in the matter.

14           8.    Based on the fee agreements, Mr. Keeton claimed he understood that your fees  
15 were to be calculated on an hourly basis at the rate of \$75 per hour and deducted from the  
16 \$3,800 Morningside paid in advance.

17           9.    You did not calculate your fees on an hourly basis.

18           10.   You did not contemporaneously keep track of the time you spent on Morningside's  
19 matter.

20           11.   While you intended that the fee be a flat fee, paid in advance and earned on receipt,  
21 your written fee agreements with Morningside did not contain the provisions set forth in RPC  
22 1.5(f)(2) that would exempt the fee from the requirement that it be deposited to a trust account  
23 until the agreed services were completed.  
24

1 12. You did not deposit into a trust account the legal fees and/or expenses that  
2 Morningside paid in advance.

3 13. Between February 2014 and August 2014, you performed legal research, consulted  
4 with Morningside and others, and negotiated with the opposing party in an effort to resolve the  
5 matter.

6 14. In August 2014, you informed Morningside that the lien had been removed.

7 15. On August 29, 2014, Morningside asked Respondent if she was "going to final bill  
8 us" and if "there was any overage from the retainer."

9 16. On September 2, 2014, you replied, "I consider us even," but did not provide an  
10 invoice.

11 17. Later on September 2, 2014, Morningside requested that you provide an invoice,  
12 but you did not reply.

13 18. On September 9, 2014, Morningside requested a second time that you provide an  
14 invoice.

15 19. On September 15, 2014, you replied that you would "be in touch soon," but did not  
16 provide an invoice.

17 20. On September 29, 2014, Morningside requested a third time that you provide an  
18 invoice.

19 21. On September 30, 2014, you sent Morningside a document entitled "Invoice."  
20 Because you did not maintain contemporaneous time records, you created the "invoice" by  
21 reviewing records, calendars, and case notes and estimating the time it had taken to perform the  
22 work.

23 22. The "invoice" reflected that you performed 52.75 hours of work at a rate of \$75  
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1 per hour, for \$3,956.25 in "total hourly" charges. To this you added \$100 in expenses to reach a  
2 "Total Combined Gross Value" of \$4,056.25. From this figure you subtracted \$256.25 to arrive  
3 at a "net charge" of \$3,800.

4 23. Morningside disputed the number of hours on which the "total hourly" charges  
5 were based and requested a partial refund.

6 24. You declined to refund any money to Morningside, stating to Morningside that the  
7 \$3,800 paid was the "minimum required to take the case" and that an accounting of your time  
8 was not necessary.

9 **III. MISCONDUCT**

10 25. By failing to deposit into a trust account legal fees and/or expenses paid in advance,  
11 you violated RPC 1.5(f) and RPC 1.15A(c)(2).

12 26. By failing to adequately communicate the basis or rate of the fee for which the client  
13 would be responsible, you violated RPC 1.4(b) and RPC 1.5(b).

14 **IV. ADMONITION**

15 YOU ARE HEREBY ADMONISHED FOR THIS MISCONDUCT. This admonition is  
16 not a disciplinary sanction, but is a disciplinary action, and shall be admissible in evidence in  
17 subsequent discipline or disability proceedings involving you.

18  
19 Dated this \_\_\_\_ day of \_\_\_\_\_, 2016.

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21 \_\_\_\_\_  
22 Stephanie Bloomfield, Chairperson  
23 Disciplinary Board  
24