

Jun 22 2020

Disciplinary
Board

Docket # 005

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BEFORE THE
DISCIPLINARY BOARD

In re

PHILIP HUANG,

Lawyer (Bar No. 50689).

Proceeding No. 20#00022

ODC File No. 19-00663

STIPULATION TO NINE-MONTH
SUSPENSION

Under Rule 9.1 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Nine-Month Suspension is entered into by Respondent Philip Huang, Respondent’s Counsel, Jeffrey P. Downer, and the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through Senior Disciplinary Counsel Scott G. Busby.

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 10,
5 2016.

6 **II. STIPULATED FACTS**

7 2. On March 18, 2019, Diane McAlister of the Washington State Bar Association
8 (WSBA) Regulatory Services Department (RSD) sent Respondent an email notifying him that a
9 Presuspension Notice had been mailed to him on March 8, 2019, and that he would be
10 suspended from the practice of law unless he completed certain specified licensing requirements
11 by May 7, 2019. Respondent did not receive the Presuspension Notice mailed to him on March
12 8, 2019. However, a copy of the Presuspension Notice was attached to the March 18 email.

13 3. On May 8, 2019, consistent with the March 18, 2019 email and the Presuspension
14 Notice, Respondent was suspended from the practice of law by order of the Washington
15 Supreme Court for failure to comply with his 2019 licensing requirements.

16 4. On or before May 8, 2019, Respondent received and read Ms. McAlister's March 18,
17 2019 email and the attached March 8, 2019 Presuspension Notice. Respondent later expressed
18 to WSBA his disagreement as to the timing of his suspension due to first receiving and reading
19 the Presuspension Notice on a date later than March 8, 2019.

20 5. On May 8, 2019, Respondent replied to Ms. McAlister's March 18, 2019 email. On
21 the same date, Respondent forwarded his reply to Amy Christensen, the WSBA RSD's
22 Licensing Program Lead.

23 6. On May 9, 2019, Ms. Christensen replied to Respondent's May 8, 2019 email and

1 informed Respondent that he was suspended effective May 8, 2019. Ms. Christensen provided
2 Respondent with contacts for information on reinstatement.

3 7. On May 9, 2019, Respondent received and read Ms. Christensen's May 9, 2019
4 email. On the same date, Respondent forwarded Ms. Christensen's email to
5 statuschanges@wsba.org and inquired about how to renew his WSBA membership.

6 8. On Friday May 10, 2019, Ken Bergenham, an RSD Analyst, replied to Respondent's
7 May 9, 2019 email to statuschanges@wsba.org. Mr. Bergenham informed Respondent that he
8 needed to apply for a membership status change to active, and he provided Respondent
9 information about the application process.

10 9. On Monday May 13, 2019, Respondent made an appearance in the Snohomish
11 County Superior Court as counsel for a juvenile respondent at an arraignment hearing before
12 Judge Millie M. Judge. Respondent's firm requested that he appear as a substitute attorney in
13 this matter, as the assigned attorney was unable to do so. Soon thereafter, the court clerk
14 discovered that Respondent was suspended from the practice of law.

15 10. On Monday May 13, 2019, Mr. Bergenham sent Respondent an email with a letter,
16 forms he needed to complete a membership change to active, and a "Duties on Suspension"
17 notice.

18 11. The letter informed Respondent again that his license was suspended effective May
19 8, 2019.

20 12. The "Duties on Suspension" notice informed Respondent of some of the duties and
21 consequences of the suspension of his license to practice law. Among other things, it informed
22 Respondent (a) that under ELC 14.2 he was prohibited from any further practice of law
23 whatsoever, and (b) that violation of that provision might subject him to discipline.

1 13. On May 14, 2019, Respondent acknowledged receipt of Mr. Bergenham's May 13,
2 2019 email with the attached letter, forms, and "Duties on Suspension" notice. On the same
3 date, Respondent signed and submitted an Application for Change of License Status to Active.
4 In response to the question, "Have you had any direct or continuing active legal experience
5 since you left Active status?" Respondent answered, "No." Respondent also certified that since
6 leaving active status he had not been employed in any capacity requiring an active license to
7 practice law, and that he had not engaged in the practice of law in Washington.

8 14. On May 14, 2019, Judge Judge sent an email to Respondent's law firm notifying
9 Respondent's employer that Respondent had made a court appearance the previous day while
10 suspended.

11 15. On the same date, the court vacated the orders entered at the May 13, 2019
12 arraignment hearing because the juvenile respondent was not represented by a lawyer licensed
13 to practice law. The court was obliged to hold a new arraignment hearing at which the juvenile
14 respondent was required to appear again.

15 16. Between May 14, 2019 and May 22, 2019, the date he was reinstated to active status,
16 Respondent continued to work in a law office. During that period, Respondent's work included
17 the drafting of legal documents.

18 17. On May 15, 2019, Respondent submitted an amended Application for Change of
19 License Status to Active. In response to the question, "Have you had any direct or continuing
20 active legal experience since you left Active status?" Respondent answered:

21 I made one appearance (limited) in Snohomish juvenile court on behalf of a
22 fellow attorney, just before receiving notice of my suspension. I ceased
practicing immediately and all parties are notified pursuant to ELC Title 14.

23 Respondent also certified that since leaving active status he had not been employed in any

1 capacity requiring an active license to practice law, and that he had not engaged in the practice
2 of law in Washington.

3 18. On May 16, 2019, Judge Judge filed a grievance against Respondent, ODC File No.
4 19-00663, based on Respondent's May 13, 2019 appearance in the Snohomish County Superior
5 Court while he was suspended.

6 19. On May 17, 2019, ODC requested Respondent's written response to the grievance.

7 20. On May 22, 2019, Respondent was reinstated to active status.

8 21. On June 17, 2019, Respondent provided ODC a written response to the grievance.
9 In his response to the grievance, Respondent stated that he did not learn of his suspension until
10 May 14, 2019, the day after his May 13, 2019 court appearance, and that he stopped practicing
11 law immediately.

12 **III. STIPULATION TO MISCONDUCT**

13 22. By representing a person in court while suspended on May 13, 2019, and by
14 continuing to engage in the practice of law by drafting legal documents while suspended
15 between May 13, 2019 and May 22, 2019, Respondent violated RPC 5.5(a), RPC 5.8(a), and
16 RPC 8.4(l) (by violating ELC 14.2).

17 23. By knowingly making false statements of material fact in his Application for Change
18 of License Status and his response to the grievance, Respondent violated RPC 8.1(a) and RPC
19 8.4(l) (by violating ELC 5.3(f) and 5.3(g)).

20 **IV. PRIOR DISCIPLINE**

21 24. Respondent has no prior discipline.

22 **V. APPLICATION OF ABA STANDARDS**

23 25. The American Bar Association *Standards for Imposing Lawyer Sanctions* (1991 ed.

1 & Feb. 1992 Supp.) apply to this case.

2 26. ABA *Standards* std. 7.0¹ applies to violations of duties owed as a professional,
3 including the duty not to engage in the unauthorized practice of law.

4 27. In violating RPC 5.5(a), RPC 5.8(a), and RPC 8.4(l) (by violating ELC 14.2),
5 Respondent acted knowingly and caused injury to a client, the public, and the legal system.

6 28. The presumptive sanction for these violations is suspension under ABA *Standards*
7 std. 7.2.

8 29. ABA *Standards* std. 7.0 also applies to violations of RPC 8.1 and RPC 8.4(l).

9 30. In violating RPC 8.1 and RPC 8.4(l), Respondent acted knowingly and caused injury
10 to the public and the legal system.

11 31. The presumptive sanction for these violations is suspension under ABA *Standards*
12 std. 7.2.

13 32. The following aggravating factor applies under ABA *Standards* std. 9.22:

14 (d) multiple offenses.

15 33. The following mitigating factors apply under ABA *Standards* std. 9.32:

16 (a) absence of a prior disciplinary record;
17 (l) remorse.

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

20 35. On balance, the aggravating and mitigating factors do not require a departure from
21 the presumptive sanction.

22 VI. STIPULATED DISCIPLINE

23 36. The parties stipulate that Respondent shall receive a nine-month suspension for his

24 ¹ Appendix A.

1 misconduct.

2 **VII. COSTS AND EXPENSES**

3 37. Respondent shall pay attorney fees and administrative costs of \$1,000 in accordance
4 with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if these
5 costs are not paid within 30 days of approval of this stipulation. Reinstatement from suspension
6 is conditioned on payment of costs.

7 **VIII. VOLUNTARY AGREEMENT**

8 38. Respondent states that prior to entering into this Stipulation he consulted
9 independent legal counsel regarding this Stipulation, that he is entering into this Stipulation
10 voluntarily, and that no promises or threats have been made by ODC, the Association, or any
11 representative thereof to induce Respondent to enter into this Stipulation, except as provided
12 herein.

13 39. 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 **IX. LIMITATIONS**

16 40. 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 Respondent and ODC. Both Respondent and ODC
19 acknowledge that the result after further proceedings in this matter might differ from the result
20 agreed to herein.

21 41. This Stipulation is not binding on ODC or Respondent as a statement of all existing
22 facts relating to Respondent's professional conduct, and any additional existing facts may be
23 proven in any subsequent disciplinary proceedings.

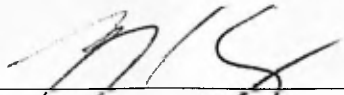
1 42. This Stipulation results from the consideration of various factors by both parties,
2 including the benefits to both by promptly resolving this matter without the time and expense of
3 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
4 such, approval of 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 43. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
9 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record
10 before the Board for its review become public information on approval of the Stipulation by the
11 Board, unless disclosure is restricted by order or rule of law.

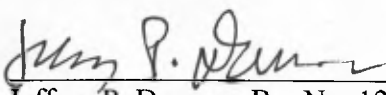
12 44. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
13 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
14 Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition
15 to Washington, Respondent also is admitted to practice law in the following jurisdictions,
16 whether current status is active, inactive, or suspended: California.

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

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

3 
4 _____
Philip Huang, Bar No. 50689
Respondent

Dated: 5/15/20

5 
6 _____
Jeffrey P. Downer, Bar No. 12625
7 Counsel for Respondent

Dated: 5/18/2020

8 _____
9 Scott G. Busby, Bar No. 17522
10 Senior Disciplinary Counsel

Dated: _____

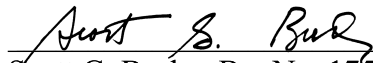
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Respondent

Dated: _____

5
6 _____
Jeffrey P. Downer, Bar No. 12625
Counsel for Respondent

Dated: _____

7
8 _____

9 Scott G. Busby, Bar No. 17522
Senior Disciplinary Counsel

Dated: _____ 5/29/20

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.