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7 BEFORE THE
8 LIMITED PRACTICE BOARD

9 In re

10 JUDITH KOKANOS,

11 Limited Practice Officer (LPO No.
12 2267).

LFP No. LG14-00003

STIPULATION TO REVOCATION

13 Under Rule 9.1 of the Rules for Enforcement of Limited Practice Officer Conduct
14 (ELPOC), the following Stipulation to Revocation is entered into by the Limited Practice Board
15 (Board), through senior disciplinary counsel Jonathan Burke, respondent Judith Kokanos
16 (Respondent), and Kurt Bulmer, Respondent's lawyer.

17 Respondent understands that she is entitled under the ELPOC to a hearing, to present
18 exhibits and witnesses on her behalf, and to have a hearing officer determine the facts,
19 misconduct and sanction in this case. Respondent further understands that she is entitled under
20 the ELPOC to appeal the outcome of a hearing to the Board, and, in certain cases, the Supreme
21 Court. Respondent further understands that a hearing and appeal could result in an outcome
22 more favorable or less favorable to her. Respondent chooses to resolve this proceeding now by
23 entering into the following stipulation to facts, misconduct, and sanction to avoid the risk, time,
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1 expense and publicity attendant to further proceedings.

2 Respondent wishes to stipulate to license revocation without affirmatively admitting the
3 facts and misconduct in ¶¶ 7-15, ¶ 20, and ¶ 24, rather than proceed to a public hearing.
4 Respondent agrees that if this matter were to proceed to a public hearing, there is a substantial
5 likelihood that disciplinary counsel would be able to prove, by a clear preponderance of the
6 evidence, the facts and misconduct in ¶¶ 7-15, ¶ 20, and ¶ 24.

7 I. ADMISSION TO PRACTICE

8 1. Respondent was admitted to engage in the limited practice of law in the State of
9 Washington on December 6, 1990.

10 II. STIPULATED FACTS

11 2. Land Title Company of Pend Oreille County, Inc. (Land Title) was incorporated in
12 Washington on October 2, 1989. Land Title is located in Newport, Washington. It was licensed
13 as a title agency with the Washington State Insurance Commission.

14 3. Since January 1, 2005, Respondent has been president and the governing person for
15 Land Title. During all material times, Respondent resided in Priest River, Idaho.

16 4. During all material times, Respondent acted as a limited practice officer for Land
17 Title in connection with real estate transactions under the authorization of Rule 12(d) of the
18 Admission to Practice Rules (APR).

19 5. During the period that Respondent worked at Land Title, she maintained and had
20 exclusive control over identifiable trust accounts used in connection with real estate
21 transactions.

22 6. During all material times, Respondent did not reconcile the trust accounts used for
23 Land Title's real estate transactions.

1 7. When Respondent became aware of substantial deficiencies in Land Title's bank
2 accounts in 2013, she knowingly used funds in Land Title's trust accounts that were earmarked
3 for certain real estate transactions to cover deficiencies from other transactions.

4 8. Starting in October 2013, Land Title's trust accounts did not contain sufficient client
5 funds to cover deficiencies that mounted over time.

6 9. In October 2013, in connection with File No. 19165, Respondent issued two NSF
7 checks from Land Title's trust account #4814. During that same month, Respondent also issued
8 three NSF checks from Land Title's trust account #7889.

9 10. In November 2013, in connection with File No. 19209, Respondent issued two NSF
10 checks from Land Title's trust account #4814. During that same month, Respondent issued an
11 NSF check from Land Title's trust account #7889.

12 11. In late 2013 and early 2014, Land Title and Respondent acted as an unlicensed
13 escrow agency for the sale of certain real property located in Idaho (Idaho Transaction) in
14 violation of Idaho Code §30-903.

15 12. Due to deficiencies in one trust account, Land Title did not have sufficient funds to
16 disburse the proceeds from the Idaho Transaction when it closed on or about January 6, 2014.

17 13. Respondent violated Idaho Code §30-919(7) by failing to timely disburse funds to the
18 purchaser in the Idaho Transaction.

19 14. On January 29, 2014, Respondent used \$40,000 from an unrelated real estate
20 purchase and sale transaction to pay proceeds owed to the seller in the Idaho Transaction.

21 15. On February 4, 2014, Respondent and Land Title signed a Consent Order To Cease
22 and Desist prepared by the State of Idaho, Department of Finance, Securities Bureau agreeing
23 to, among other things, cease acting as an escrow agency in any escrow transaction effecting the
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1 sale or transfer of real or personal property located in Idaho.

2 16. In late January 2014, First American Title Insurance Company, Inc. (First American)
3 audited the books, records, and trust accounts for Land Title. Based on its audit, First
4 American determined that Land Title's bank accounts currently had shortages of \$163,352.72.
5 First American issued checks totalling that amount to cover the shortages.

6 17. First American's audit did not ascertain the reasons for the deficiencies in Land
7 Title's trust accounts and did not determine when the deficiencies occurred. The focus of the
8 audit was to determine Land Title's outstanding liability.

9 18. First American cancelled its policy with Land Title effective February 10, 2014.

10 III. STIPULATION TO MISCONDUCT

11 19. Respondent's conduct violated Rule 1.10(g)(unfitness to practice as an LPO) of the
12 Limited Practice Officer Rules of Professional Conduct (LPORPC), and LPORPC 1.12(A)(b),
13 LPORPC 1.12(A)(c)(2), and LPORPC 1.12A(g)(6) and (8), and LPORPC 1.12B(a).

14 IV. PRIOR DISCIPLINE

15 20. Respondent has no prior discipline.

16 V. SANCTION ANALYSIS

17 21. In Washington, the LPORPC were modeled on the rules governing lawyer conduct
18 (Rules for Professional Conduct). The Washington Supreme Court has held that the American
19 Bar Association Standards for Imposing Lawyer Sanctions (1991 ed. & Feb. 1992 Supp.)
20 ("ABA Standards") provide the appropriate framework to impose disciplinary sanctions in
21 lawyer discipline cases. In re Disciplinary Proceeding Against Halverson, 140 Wn.2d 475, 492,
22 998 P.2d 833 (2000).

1 22. The application of the ABA Standards¹ by analogy in this case would result in a
2 presumptive sanction of disbarment under ABA Standard 4.11.²

3 23. Respondent knowingly misused funds belonging to clients/third parties by using
4 those funds to pay deficiencies for other clients/third parties causing actual or potential harm to
5 clients/third parties.

6 24. The presumptive sanction for Respondent's violation of LPORPC 1.12A and/or
7 LPORPC 1.12B is revocation of her LPO license.

8 25. There is no ABA Standard for RPC 8.4(n), the analogous provision to LPORPC
9 1.10(g) (unfitness to practice as an LPO). Under the circumstances, revocation is the
10 appropriate sanction for Respondent's violation of LPORPC 1.10(g).

11 26. The following aggravating factor from ABA Standard 9.22 apply to Respondent's
12 conduct:

13 (d) A pattern of misconduct [Respondent engaged in a pattern of misappropriating funds
14 and failing to maintain accurate records].

15 27. The following mitigating factor from ABA Standard 9.32 applies to Respondent's
16 conduct:

17 (a) Absence of a prior disciplinary record.

18 28. The aggravating and mitigating factors do not warrant a less severe sanction than
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20 ¹ Although the ABA Standards have been applied by analogy, there are significant differences between
21 discipline for lawyers and LPOs. For example, a disbarred lawyer may not seek reinstatement from
22 disbarment until after a period of five years. Rule 25.1(b) of the Admission to Practice Rules (APR).
An LPO may seek reinstatement of a revoked license after two years. APR 12, Regulation 16.1(A). The
23 maximum length of suspension for lawyers is three years. Rule 13.3(a) of the Rules for Enforcement of
24 Lawyer Conduct. The maximum length of suspension for LPOs is one year. ELPOC 13.3(a).

² ABA Standard 4.11 provides: "Disbarment is generally appropriate when a lawyer knowingly converts
client property and causes injury or potential injury to the client."

1 | revocation of LPO license.

2 | **VI. STIPULATED DISCIPLINE**

3 | 29. The parties agree that Respondent's LPO license will be revoked. Reinstatement
4 | will be conditioned on repayment of costs and repayment of the amount of funds paid by First
5 | American.

6 | **VII. RESTITUTION**

7 | 30. Restitution does not apply because First American, Respondent's title insurer, paid
8 | for all misused funds.

9 | **VIII. COSTS AND EXPENSES**

10 | 31. In light of Respondent's willingness to resolve this matter by stipulation at an early
11 | stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$500 in
12 | accordance with ELPOC 13.9(i). The Board through disciplinary counsel will seek a money
13 | judgment under ELPOC 13.9(l) if these costs are not paid within 30 days of approval of this
14 | stipulation.

15 | **IX. VOLUNTARY AGREEMENT**

16 | 32. Respondent states that prior to entering into this Stipulation she had an opportunity
17 | to consult independent legal counsel regarding this Stipulation, that she had the opportunity to
18 | be represented by legal counsel in these proceedings, that Respondent is entering into this
19 | Stipulation voluntarily, and that no promises or threats have been made by the Board, nor by
20 | any representative thereof, to induce the Respondent to enter into this Stipulation except as
21 | provided herein.

22 | **X. LIMITATIONS**

23 | 33. This Stipulation is a compromise agreement intended to resolve this matter in
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1 accordance with the purposes of LPO discipline while avoiding further proceedings and the
2 expenditure of additional resources by the Respondent and the Board. Both the Respondent
3 lawyer and the Board acknowledge that the result after further proceedings in this matter might
4 differ from the result agreed to herein.

5 34. This Stipulation is not binding upon the Board or Respondent as a statement of all
6 existing facts relating to the professional conduct of the respondent lawyer, and any additional
7 existing facts may be proven in any subsequent disciplinary proceedings.

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

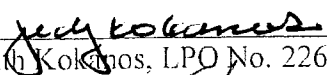
14 36. Under Limited Practice Board policy, in addition to the Stipulation, the Board shall
15 have available to it for consideration all documents that the parties agree to submit to the Board,
16 and all public documents. Under ELPOC 3.1(b), all documents that form the record before the
17 Board for its review become public information on approval of the Stipulation by the Board,
18 unless disclosure is restricted by order or rule of law.

19 37. If this Stipulation is approved by the Board and Supreme Court, it will be followed
20 by the disciplinary action agreed to in this Stipulation. All notices required in the Rules for
21 Enforcement of Limited Practice Officer Conduct will be made.

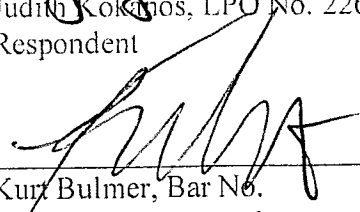
22 38. If this Stipulation is not approved by the Board and Supreme Court, this Stipulation
23 will have no force or effect, and neither it nor the fact of its execution will be admissible as
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1 | evidence in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or
2 | in any civil or criminal action.

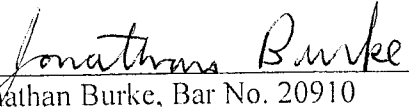
3 | WHEREFORE the undersigned being fully advised, adopt, and agree to the facts and
4 | terms of this Stipulation to Revocation as set forth above.

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7 | Judith Kokomos, LPO No. 2267
8 | Respondent

Dated: 10/31/14

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10 | Kurt Bulmer, Bar No.
11 | Attorney for Respondent

Dated: 11/7/14

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13 | Jonathan Burke, Bar No. 20910
14 | Senior Disciplinary Counsel

Dated: 11/10/14

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