

FILED

Aug 14 2018
Disciplinary
Board

Docket # 002

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

HARRY HOLLOWAY III,
Lawyer (Bar No. 2536).

Proceeding No.

ODC File No. 17-01300

STIPULATION TO THIRTY-MONTH
SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Thirty-Month Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through Managing Disciplinary Counsel Joanne S. Abelson, Respondent's counsel Leland G. Ripley and Respondent lawyer Harry Holloway III.

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 April 16,
5 1971.

6 **II. STIPULATED FACTS**

7 2. In July 2016, Linda Prentice hired Respondent after her husband passed away. She
8 needed to initiate probate proceedings in order to transfer property located in Jefferson County
9 and Clallam County to a trust.

10 3. Ms. Prentice paid Respondent \$2500 in legal fees.

11 4. Respondent initiated the probate proceedings in August 2016, after which things
12 moved slowly.

13 5. In the Fall of 2016, Respondent prepared quit claim deeds and related papers and
14 sent them to Ms. Prentice, who lives in California. She signed the deeds in December 2016
15 before a California notary.

16 6. In the spring of 2017, Ms. Prentice pressed Respondent to complete the property
17 transfers. She told him that the unfinished Washington probate was causing her stress and
18 negatively affecting her health.

19 7. In June 2017, as Respondent was reviewing Ms. Prentice's file while eating his
20 lunch, he spilled soup all over the deeds. He believed the deeds were so damaged that they
21 were unrecordable.

22 8. Rather than preparing new deeds and sending them to Ms. Prentice for her to sign
23 and have notarized again, Respondent prepared new deeds, forged Ms. Prentice's signature on

1 them, falsely notarized her signatures, and sent them to her.

2 9. Respondent also sent the deeds for the Jefferson County property to be recorded.

3 10. Respondent states that he engaged in this conduct so as not to stress Ms. Prentice
4 further.

5 11. Respondent is remorseful for his misconduct. He explains his mental lapse by the
6 personal, emotional, and health problems set forth in Appendix A, for which the parties seek a
7 protective order.

8 12. Ms. Prentice was very upset when she received the forged deeds, which also had a
9 number of typographical errors. She demanded that Respondent remedy the problem.

10 13. Respondent prepared corrected deeds and sent them to Ms. Prentice. He told her she
11 did not have to bother with a California notary.

12 14. Ms. Prentice fired Respondent and hired new counsel to prepare and file new, proper
13 deeds. She demanded that Respondent pay the legal fees of her new lawyer, which he did.

14 15. Respondent did what he could to assist new counsel in filing the corrected deeds.

15 16. The corrected deeds were recorded in August 2017.

16 17. Respondent resigned as a notary in September 2017.

17 **III. STIPULATION TO MISCONDUCT**

18 18. By forging Ms. Prentice's signature on the quit claim deeds, by notarizing the
19 signatures that he had forged, and by causing the Jefferson County deed with the false signature
20 to be recorded, Respondent violated RPC 8.4(b) through RCW 9A.60.020 (forgery) and RCW
21 42.44.160 (official misconduct by notary).

22 **IV. PRIOR DISCIPLINE**

23 19. Respondent has no prior discipline.

1 **V. APPLICATION OF ABA STANDARDS**

2 20. The following American Bar Association Standards for Imposing Lawyer Sanctions
3 (1991 ed. & Feb. 1992 Supp.) apply to this case:

4 5.11 Disbarment is generally appropriate when:

5 (a) a lawyer engages in serious criminal conduct, a necessary element of which
6 includes intentional interference with the administration of justice, false swearing,
7 misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or
8 importation of controlled substances; or the intentional killing of another; or an attempt
9 or conspiracy or solicitation of another to commit any of these offenses; or

10 (b) a lawyer engages in any other intentional conduct involving dishonesty,
11 fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's
12 fitness to practice.

13 5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal
14 conduct which does not contain the elements listed in Standard 5.11 and that seriously
15 adversely reflects on the lawyer's fitness to practice.

16 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other
17 conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely
18 reflects on the lawyer's fitness to practice law.

19 5.14 Admonition is generally appropriate when a lawyer engages in any other conduct
20 that reflects adversely on the lawyer's fitness to practice law.

21 21. Respondent acted intentionally.

22 22. Respondent caused actual injury to Ms. Prentice because he caused her additional
23 stress and she had to hire new counsel to correct the problems he caused, potential injury to her
24 legal matter, and actual injury to the image of the legal profession, which suffers when a lawyer
commits a criminal act.

25 23. The presumptive sanction is disbarment.

26 24. The following aggravating factor applies under ABA Standard 9.22:

27 (i) substantial experience in the practice of law (admitted 1971).

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

- (a) absence of a prior disciplinary record;
- (c) personal or emotional problems (see Appendix A, for which the parties request a protective order)
- (d) timely good faith effort to make restitution or to rectify consequences of misconduct;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- (g) character or reputation; and
- (l) remorse.

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

27. Based on the factors set forth above, the parties agree that the presumptive sanction should be mitigated to a thirty-month suspension.

VI. STIPULATED DISCIPLINE

28. The parties stipulate that Respondent shall be suspended from the practice of law for thirty months.

29. As a condition of reinstatement, Respondent shall, at least 30 days prior to a request for reinstatement, undergo an independent examination by a licensed psychiatrist to be approved by disciplinary counsel. Respondent shall execute all the necessary releases to permit this evaluator to obtain all necessary health and treatment records and make a report to disciplinary counsel addressing whether Respondent has the current fitness to practice law.

30. If the evaluator concludes that Respondent is not currently fit to practice law, the report shall recommend a course of treatment necessary to enable Respondent to return to the practice of law.

31. If the evaluator concludes that Respondent is not currently fit to practice law, Respondent (or Respondent's counsel, if Respondent is then represented) and disciplinary counsel shall meet to discuss the evaluator's report and what steps can be taken to address the

1 evaluator's concerns. If Respondent and disciplinary counsel cannot reach an agreement, both
2 parties shall present written materials and arguments to the Disciplinary Board. The
3 Disciplinary Board shall decide whether and the conditions under which Respondent shall
4 return to the active practice of law.

5 32. If the evaluator concludes that Respondent is fit to practice law but recommends that
6 he undergo further treatment, Respondent shall be subject to probation for a period of two years
7 beginning on the date he returns to active status.

8 33. If the evaluator recommends treatment, Respondent shall undergo treatment with a
9 treatment provider approved by ODC's Probation Administrator.

10 34. Respondent shall comply with all requirements and recommendations of the
11 treatment provider, including but not limited to the completion of any period of in- or out-
12 patient treatment and aftercare and the taking of all prescribed medications.

13 35. Respondent shall execute an authorization allowing and directing the treatment
14 provider to take the following actions:

15 (a) on a quarterly basis, send written reports to the Probation Administrator that
16 include the dates of treatment, whether Respondent has been cooperative
17 with treatment, and whether continued treatment is recommended;

18 (b) report immediately to the Probation Administrator if Respondent fails to
19 appear for treatment or stops treatment without the provider's agreement and
20 consent prior to either termination of the treatment plan or expiration of the
21 probation period set forth in this stipulation;

22 (c) report immediately to the Probation Administrator if Respondent fails to
23 comply with any treatment recommendations of the treatment provider;

1 (d) report immediately to the Probation Administrator if Respondent otherwise
2 violates any of the terms or conditions of treatment;

3 (e) report immediately to the Probation Administrator if the provider will no
4 longer serve as treatment provider to Respondent prior to termination of the
5 treatment plan or expiration of the probation period set forth in this
6 stipulation; and

7 (f) report to the Probation Administrator if Respondent successfully completes
8 treatment and is discharged from further treatment.

9 36. Respondent shall provide a copy of the authorization to the Probation Administrator
10 upon execution.

11 37. Respondent is responsible for paying any and all fees, costs, and/or expenses of
12 mental health evaluation and treatment.

13 **VII. RESTITUTION**

14 38. Restitution is not required by this stipulation. Respondent already has paid
15 \$1,920.35 to Ms. Prentice's new counsel to cover the additional legal fees she incurred.

16 **VIII. COSTS AND EXPENSES**

17 39. In light of Respondent's willingness to resolve this matter by stipulation at an early
18 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
19 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(1)
20 if these costs are not paid within 30 days of approval of this stipulation

21 40. Reinstatement from suspension is conditioned on payment of costs.

22 **IX. VOLUNTARY AGREEMENT**

23 41. Respondent states that prior to entering into this Stipulation he has consulted

1 independent legal counsel regarding this Stipulation, that he is entering into this Stipulation
2 voluntarily, and that no promises or threats have been made by ODC, the Association, nor by
3 any representative thereof, to induce him to enter into this Stipulation except as provided herein.

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

6 **X. LIMITATIONS**

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

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

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

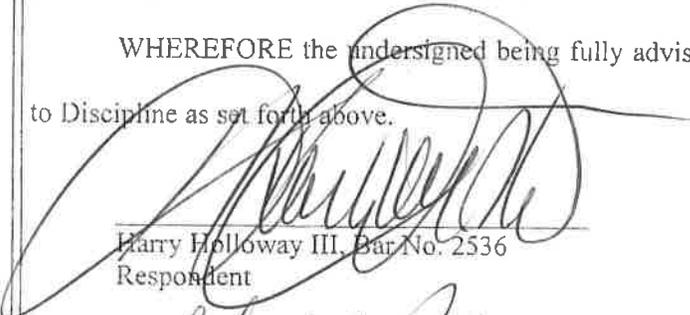
22 46. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
23 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record

1 before the Board for its review become public information on approval of the Stipulation by the
2 Board, unless disclosure is restricted by order or rule of law.

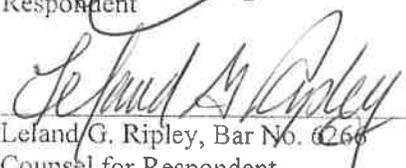
3 47. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
4 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
5 Rules for Enforcement of Lawyer Conduct will be made.

6 48. If this Stipulation is not approved by the Disciplinary Board and Supreme Court, this
7 Stipulation will have no force or effect, and neither it nor the fact of its execution will be
8 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
9 proceeding, or in any civil 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 Harry Holloway III, Bar No. 2536
14 Respondent

Dated: 3-12-18

15 
16 Leland G. Ripley, Bar No. 6266
17 Counsel for Respondent

Dated: 3/19/18

18 
19 Joanne S. Abelson, Bar No. 24877
20 Managing Disciplinary Counsel

Dated: 3/22/18

APPENDIX A

(Protective Order Requested)