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DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

ANDREW Y. KIM,
Lawyer (Bar No. 21959).

Proceeding No.

ODC File No. 22-00241

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court’s 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 Erica Temple and Respondent lawyer Andrew Y. Kim.

Respondent understands that Respondent is entitled under the ELC to a hearing, to present exhibits and witnesses on Respondent’s behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that Respondent 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 Respondent. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct and sanction to

1 avoid the risk, time, and expense attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on November 9,
4 1992.

5 **II. STIPULATED FACTS**

6 2. On March 19, 2021, Noah Isaacson hired Respondent to file a Petition for Parenting
7 Plan and Child Support and attend a hearing to enter temporary orders. The parties signed a
8 written fee agreement wherein Respondent agreed to represent Isaacson for a flat fee of \$1,760.

9 3. SW is the mother of Isaacson's child and was pro se throughout the case.

10 4. In the months that followed, Isaacson sent Respondent more than ten texts and emails
11 expressing frustrations about the delay and lack of communication from Respondent.

12 5. On September 7, 2021, Respondent filed the Petition for a Parenting Plan and for Child
13 Support and related documents in Snohomish County Superior Court No. 21-3-01788-31.
14 However, Respondent did not serve SW with these pleadings.

15 6. In the months that followed, Isaacson again sent Respondent a series of texts and
16 emails expressing frustrations about the delay and lack of communication from Respondent.

17 7. In December 2021, Isaacson and SW came to an agreement about their parenting plan
18 and Respondent agreed to draft final orders and then appear in court to have them finalized.

19 8. On February 17, 2022, Isaacson filed the grievance in this matter.

20 9. On February 21, 2022, Isaacson reviewed and approved the final orders.

21 10. However, because SW had never been served with the initial pleadings, on April 4,
22 2022, the court entered an order of dismissal without prejudice pursuant to the court's local rule.

23 11. Respondent failed to note that the case was dismissed and Respondent did not inform

1 Isaacson about the dismissal at the time.

2 12. On April 5, 2022, SW approved the final orders drafted by Respondent.

3 13. On April 8, 2022, Respondent responded to the grievance and wrote that the parties
4 were in the process of signing off on the final orders and Respondent expected to finalize the case
5 within the next couple of weeks.

6 14. Respondent did not finalize the case within the next couple of weeks or months.

7 15. On June 7, 2022, Respondent told an ODC investigator that Respondent would contact
8 Isaacson, file a motion to vacate the dismissal, and finish the case.

9 16. On June 24, 2022, Isaacson's case still had not been resolved and ODC sent a letter to
10 Respondent requesting a copy of Isaacson's client file within 30 days. After no response from
11 Respondent, on July 26, 2022, ODC sent a letter to Respondent requesting a response within 10
12 days. After no response from Respondent, on August 8, 2022, ODC served Respondent with a
13 subpoena for a deposition set on September 8, 2022.

14 17. On September 7, 2022, Respondent contacted Isaacson and SW and informed them
15 for the first time that the case had been dismissed. On that same date, Respondent provided ODC
16 with a copy of Isaacson's client file.

17 18. At Respondent's September 8, 2022 deposition, Respondent testified that Isaacson's
18 case could be completed within a week.

19 19. However, the case was not resolved. At Isaacson's request, Respondent did not
20 complete Isaacson's case and has refunded the \$1,760 fee.

21 III. STIPULATION TO MISCONDUCT

22 20. By failing to reasonably communicate with Isaacson regarding the status of the case,
23 including that it had been dismissed, Respondent violated RPC 1.4(a) and (b).

1 21. By failing to complete Isaacson's case for over 18 months, and failing to effectuate
2 service, Respondent violated RPC 1.3 and RPC 3.2.

3 22. By failing to promptly respond to ODC's request for a copy of Isaacson's client file,
4 Respondent violated RPC 8.4(l) (through a violation of ELC 1.5, 5.3(f), and 5.3(g)).

5 IV. PRIOR DISCIPLINE

6 23. Respondent has no prior discipline.

7 V. APPLICATION OF ABA STANDARDS

8 24. The following American Bar Association Standards for Imposing Lawyer Sanctions
9 (1991 ed. & Feb. 1992 Supp.) apply to this case:

10 4.4 *Lack of Diligence*

11 4.41 Disbarment is generally appropriate when:

- 12 (a) a lawyer abandons the practice and causes serious or potentially serious
injury to a client; or
- 13 (b) a lawyer knowingly fails to perform services for a client and causes serious
or potentially serious injury to a client; or
- 14 (c) a lawyer engages in a pattern of neglect with respect to client matters and
causes serious or potentially serious injury to a client.

15 4.42 Suspension is generally appropriate when:

- 16 (a) a lawyer knowingly fails to perform services for a client and causes injury
or potential injury to a client, or
- 17 (b) a lawyer engages in a pattern of neglect and causes injury or potential
injury to a client.

18 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.

19 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.

20 7.0 *Violations of Duties Owed as a Professional*

21 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct
22 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
23 client, the public, or the legal system.

24 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct

1 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.

2 7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct
3 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.

4 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
5 or no actual or potential injury to a client, the public, or the legal system.

6 25. Respondent acted knowingly in failing to act with diligence and to reasonably
communicate with a client. Respondent acted knowingly in failing to promptly comply with
7 ODC's requests for Isaacson's client file.

8 26. Respondent caused injury to Isaacson, who paid \$1,760 for work that was not
9 completed and whose case was dismissed without Isaacson knowing. The lawyer discipline
10 system, which depends on lawyers' cooperation to function properly, was harmed by
11 Respondent's failure to cooperate, which impeded ODC's investigation of this matter and
12 required the expenditure of time and resources to conduct a deposition.

13 27. The presumptive sanction is suspension.

14 28. The following aggravating factors apply under ABA Standard 9.22:

15 (d) multiple offenses;

16 (i) substantial experience in the practice of law.

17 29. The following mitigating factors apply under ABA Standard 9.32:

18 (a) absence of a prior disciplinary record.

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

21 31. Based on the factors set forth above, the presumptive sanction should be mitigated to
22 Reprimand.

1 **VI. STIPULATED DISCIPLINE**

2 32. The parties stipulate that Respondent shall receive a reprimand.

3 **VII. CONDITIONS OF PROBATION**

4 33. Respondent will be subject to probation for a period of six months beginning when
5 this Stipulation receives final approval and shall comply with the specific probation terms set
6 forth below.

7 34. Respondent's compliance with these conditions will be monitored by the Probation
8 Administrator of the Office of Disciplinary Counsel ("Probation Administrator"). Failure to
9 comply with a condition of probation listed herein may be grounds for further disciplinary action
10 under ELC 13.8(b).

11 35. Respondent shall participate in two 30-minute office management consultations with
12 the Practice Management Advisor or their designee. The Practice Management Advisor is
13 currently Margeaux Green, who can be reached at margeauxg@wsba.org.

14 36. Respondent shall contact the Practice Management Advisor to schedule a consultation
15 within 30 days of approval of this Stipulation. Both consultations shall take place no later than
16 60 days thereafter.

17 37. Respondent authorizes the Practice Management Advisor to report immediately to the
18 Probation Administrator if Respondent fails to comply with these terms.

19 38. Ethics School

- 20 a) Respondent agrees to attend Ethics School by viewing the recorded seminar "ODC
21 Ethics School (April 2021)," which can be purchased at the WSBA CLE Store.
The link to the seminar is:

22 <https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=251&product>
23 [Id=20411244](https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=251&product).

1 The seminar costs \$150 plus applicable sales tax. Respondent will receive all
2 applicable approved CLE credits for time in attendance at the Ethics School (5.00
Ethics and 2.00 Other).

- 3 b) Respondent shall complete the ethics school requirement within 90 days of
4 approval of this Stipulation.
- 5 c) Respondent shall provide evidence of completion of ethics school to the Probation
6 Administrator no later than 30 days after the conclusion of the course. Proof of
attendance shall include evidence of payment and a written statement that includes
7 the date and time of attendance.
- 8 d) The Ethics School administrator may respond to inquiries from the Probation
Administrator regarding Respondent's compliance with these conditions.

8 VIII. RESTITUTION

9 39. Prior to entering into this stipulation, Respondent paid restitution of \$1,760 to
10 Isaacson.

11 IX. COSTS AND EXPENSES

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

16 X. VOLUNTARY AGREEMENT

17 41. Respondent states that prior to entering into this Stipulation, Respondent had an
18 opportunity to consult independent legal counsel regarding this Stipulation, that Respondent is
19 entering into this Stipulation voluntarily, and that no promises or threats have been made by ODC,
20 the Association, nor by any representative thereof, to induce the Respondent to enter into this
21 Stipulation except as provided herein.

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

1 **XI. LIMITATIONS**

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

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

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

16 46. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for
17 Hearing Officer's review become public information on approval of the Stipulation by the
18 Hearing Officer, unless disclosure is restricted by order or rule of law.

19 47. If this Stipulation is approved by the Hearing Officer, it will be followed by the
20 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement
21 of Lawyer Conduct will be made.

22 48. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have no
23 force or effect, and neither it nor the fact of its execution will be admissible as evidence in the

1 pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil or
2 criminal action.

3 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
4 Reprimand as set forth above.

5 
6 _____
Andrew Y. Kim, Bar No. 21959
Respondent

Dated: 12-14-2022

7 
8 _____
9 Erica Temple, Bar No. 28458
Senior Disciplinary Counsel

Dated: Dec 14, 2022