

FILED

Aug 16, 2021

Disciplinary
Board

Docket # 043

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

RICK J. WATHEN,

Lawyer (Bar No. 25539).

Proceeding No. 20#00008

ODC File No(s). 13-02035

STIPULATION TO REPRIMAND

Following settlement conference conducted
under ELC 10.12(h)

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), and following a settlement conference conducted under ELC 10.12(h), the following Stipulation to reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through managing disciplinary counsel Kathy Jo Blake, Respondent's Counsel Jeffrey Paul Downer and Respondent lawyer Rick J. Wathen.

Respondent understands that they are entitled under the ELC to a hearing, to present exhibits and witnesses on their behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that they are 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

1 outcome more favorable or less favorable to them. Respondent chooses to resolve this proceeding
2 now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk,
3 time, expense attendant to further proceedings.

4 I. ADMISSION TO PRACTICE

5 1. Respondent was admitted to practice law in the State of Washington on November 17,
6 1995.

7 II. STIPULATED FACTS

8 Background

9 2. In 2008, Douglas Kruger (Kruger) hired Respondent to pursue collections against
10 Michael Moi (Moi) related to a 1990 joint property agreement involving certain real property in
11 Seattle.

12 3. The 1990 joint property agreement required Kruger and Moi to share in payment of
13 the expenses on the property

14 4. Kruger and Moi agreed to eventually demolish the house on the property and
15 subdivide the property into Parcel A and Parcel B, which Kruger taking Parcel A and Moi taking
16 Parcel B.

17 5. In July 2003, Moi and Kruger executed a Home Equity Line of Credit Agreement and
18 Disclosure (HELCA) in the amount of \$160,000 with Washington Mutual Bank. The loan jointly
19 owned by Moi and Kruger, was an interest-only loan and payment of the \$160,000 principal was
20 due in 2033.

21 6. The \$160,000 loan principal was used to pay off the debt owed by Moi and Kruger to
22 the original seller of the property.

23 7. Moi agreed to pay the interest payments due under the HELCA loan during the period

1 | Moi resided at the house located on the property. Moi lived there less than one year and starting
2 | in October 2005, Moi stopped paying the expenses on the property including his interest payments
3 | on the \$160,000 HELCA loan.

4 | 8. In 2006 the house on the property was razed by Kruger and the property was
5 | subdivided into Parcel A and Parcel B.

6 | 9. In 2006 Kruger hired a lawyer who filed a lawsuit (2006 Lawsuit) against Moi to
7 | pursue recovery of payments made by Kruger that Moi was responsible for under the terms of the
8 | joint property agreement and to subdivide the property into two parcels.

9 | 10. In February 2007, Kruger obtained a default judgment (2007 judgement) against Moi
10 | for \$44,073.96, plus \$390.95 representing statutory attorney fees and costs.

11 | 11. The complaint in the 2006 Lawsuit did not contain allegations that Kruger and Moi
12 | had a written agreement containing an attorney fee provision.

13 | 12. The 2007 Judgement did not include an award for post-judgment attorney fees but did
14 | order the parties, Kruger and Moi, to convey the parcels to each other so that each would hold
15 | title to one parcel: Parcel A to Kruger and Parcel B to Moi.

16 | Pursuit of the 2007 Judgment

17 | 13. Kruger hired Respondent to pursue satisfaction of the 2007 Judgment, including the
18 | transfer of Parcel A to Kruger.

19 | 14. In April 2009, Respondent assisted Kruger in obtaining a quitclaim deed transferring
20 | Parcel A to Kruger.

21 | 15. Kruger did not transfer Parcel B to Moi because Kruger maintained Kruger's
22 | ownership interest as a security on the debt owed by Moi.

23 | 16. Moi did not pay the 2007 Judgment.

1 17. In August 2009, Respondent obtained an *ex parte* writ of execution on the 2007
2 Judgement plus an additional \$16,619.36 in attorney fees as “increased costs.”

3 18. In March 2012, Respondent filed another motion for a writ of execution on the 2007
4 Judgement. Moi, now represented by counsel, objected to the request for attorney fees over
5 \$2,000.

6 19. On March 22, 2012, the court entered an order that excluded all post-judgment
7 attorney fees except for the \$2,000 in uncontested fees.

8 20. After the entry of the 2007 Judgement, Kruger continued to make payments on the
9 property and Moi continued to fail to pay Moi’s share of the debt on the property.

10 2009 Lawsuit and Order Granting Default Judgement and First Appeal

11 21. On October 12, 2009, Respondent filed Kruger’s second lawsuit (2009 Lawsuit)
12 against Moi seeking additional damages for Moi’s continuing failure to pay Moi’s share of the
13 expenses on the property.

14 22. The complaint in the 2009 Lawsuit did not allege specific damages.

15 23. The complaint alleged that the debt on the property was jointly owed by Moi and
16 Kruger.

17 24. The complaint did not allege that Moi owed Kruger the \$160,000 principal on the
18 HELCA loan and did not allege a contractual or other specific legal basis for attorney fees other
19 than the statement in the relief requested section for “reasonable attorney fees and costs as allowed
20 by law.”

21 25. Moi was served with the complaint but, again, did not file an answer.

22 26. Respondent directed an associate lawyer at Respondent’s firm to perform work on the
23 Kruger matter, including drafting and preparing pleadings.

1 27. At Respondent's direction, the associate prepared default pleadings for the 2009
2 Lawsuit.

3 28. Kruger provided the associate with a spreadsheet that included all of the expenses paid
4 by Kruger including attorney fees Kruger paid to Respondent and Kruger's prior lawyers.

5 29. An incomplete copy of the spreadsheet was attached as Exhibit A to Kruger's
6 declaration in support of the motion for default judgment. The spreadsheet was incomplete in
7 that it was missing entries 1-53, which totaled approximately \$60,000 of the \$141,379.59 in
8 expenses paid by Kruger. The spreadsheet was also illegible in that the font was difficult to read.

9 30. On February 23, 2010, the court entered *ex parte* the proposed order of default
10 judgment awarding \$79,224.36 to Kruger against Moi in the 2009 Lawsuit.

11 31. Respondent directed an associate lawyer to file an *ex parte* motion for an amended
12 default judgment in the 2009 Lawsuit that included more damages including the entire \$160,000
13 principal. According to Respondent, Respondent sought the entire \$160,000 because Kruger
14 asserted facts to the firm that supported Kruger's right to recover the entire sum.

15 32. The motion for an amended default judgment sought a total of \$214,903.56. The
16 \$214,903.56 total was calculated based on the following figures: \$141,379 (spreadsheet total)
17 plus \$6,386.69 (amounts incurred since judgment), plus \$160,000 (principal on HELCA loan),
18 minus \$92,862.72 (total owed on the 2007 judgment).

19 33. The motion for amended default judgment and supporting declarations did not disclose
20 to the court that the \$160,000 was not yet due under the terms of the HELCA loan or that the
21 proposed amended judgment included attorney fees.

22 34. Kruger's declaration in support of the amended judgment included as an exhibit the
23 incomplete spreadsheet that was previously filed in support of the default judgment and totaled

1 | \$81,254.59, not \$141,379.59.

2 | 35. In May 2010, the court entered the Amended Judgment Order *ex parte* awarding
3 | \$214,903.56 in damages requested by Kruger.

4 | 36. In 2009, Respondent learned that Moi owned commercial real property in Ballard
5 | (Ballard Property).

6 | 37. Respondent directed his associate attorney to record two lis pendens against the
7 | Ballard Property for the 2007 Judgment and the Amended Judgement Order.

8 | 38. On September 11, 2011, Moi filed a motion to cancel the lis pendens on the Ballard
9 | Property as improper and to order Kruger to pay attorney fees.

10 | 39. On November 28, 2011, the court entered an order cancelling the two lis pendens
11 | recorded against the Ballard Property and ordered that Kruger pay Moi's attorney fees, which
12 | would be determined at a later date.

13 | 40. Respondent received a May 27, 2011 email from Moi's lawyer setting out Moi's
14 | position that the amended judgment order was void under CR 60(b) because, among other reasons,
15 | it exceeded the relief requested in the complaint, in violation of CR 54(c).

16 | 41. Respondent received Moi's motion to vacate the amended judgment order, dated
17 | August 17, 2011, arguing, among other things, that the judgment was obtained by fraud under CR
18 | 60(b)(4), and requesting that the court assess attorney fees under CR 11.

19 | 42. On November 28, 2011, the trial court denied Moi's motion to vacate the amended
20 | judgment order finding, among other things, that the motion was untimely.

21 | 43. In December 2011, Moi appealed the court's ruling (First Appeal).

22 | 44. At Respondent's directions, while the appeal was pending, a Motion for Entry of
23 | Judgment Summary in the 2009 Lawsuit was prepared and sent to Moi's attorney. The motion

1 reflected it would be presented *ex parte*.

2 45. Moi's attorney objected to the motion being heard *ex parte*.

3 46. On February 6, 2012, the Motion for Entry of Judgment Summary was filed and
4 included a supporting declaration by Respondent with an exhibit containing the full and legible
5 spreadsheet for approximately \$141,000 (entries 1-143) in costs and expenses. The declaration
6 stated that the "Plaintiff had previously submitted lines one through one hundred forty-three in
7 support of his Motion for Amended Default Judgment." A copy of Kruger's prior declaration in
8 support of the Motion for Amended Default Judgment was also filed, except it omitted Exhibit
9 A, the Incomplete Spreadsheet.

10 47. Plaintiff had not previously submitted lines one through one hundred forty-three
11 because the Incomplete Spreadsheet was missing entries 1-53 and totaled \$60,000 less than the
12 total \$141,000 in damages.

13 48. On February 7, 2012, the commissioner *ex parte* entered the proposed judgment
14 submitted with the judgement summary (2012 Judgment).

15 49. On May 29, 2012, the court entered an order clarifying that none of the judgments,
16 including the 2012 Judgment, contained a finding for the basis for awarding attorney fees and that
17 the issue was pending before the Court of Appeals.

18 50. On September 3, 2013, the Court of Appeals issued a decision finding that the
19 Amended Judgment violated CR 60(b)(4) but did not reverse the Amended Judgment Order under
20 CR 60(b)(4) because the trial court did not abuse its discretion in finding that Moi's motion was
21 untimely. The Court of Appeals voided the Amended Judgment Order under CR 60(b)(5) because
22 it exceeded the relief requested in the Compliant, including the \$160,000 principal and attorney
23 fees.

1 Conflict of Interest/Violation of CR 11

2 51. The Court of Appeals also reversed the trial court's denial of CR 11 attorney fees
3 against Kruger and remanded the matter to the trial court to determine an award of attorney fees
4 or other sanctions for Kruger's violation of CR 11.

5 52. In October and/or November 2013, Moi's appellate lawyer, William Crittenden, sent
6 Respondent correspondence claiming that Respondent and his firm had a non-waivable conflict
7 of interest due to the Court of Appeals' decision in the First Appeal to remand the issue of CR 11
8 sanctions to the trial court.

9 53. Crittenden also filed a grievance with ODC against Respondent regarding the conflict
10 of interest. At Respondent's request, the investigation of the grievance was deferred pending
11 outcome of the litigation.

12 54. Respondent disagreed that there was a non-waivable conflict of interest.

13 55. On January 22, 2014, Moi filed a motion to disqualify Respondent and his firm from
14 representing Kruger, claiming that Respondent had an actual conflict of interest.

15 56. In response to the motion, on January 29, 2014, Kruger signed a declaration prepared
16 by Respondent in which Kruger explained the sources of the damages calculations in the
17 Amended Judgement Order and defending Kruger's and Respondent's conduct.

18 57. During the February 18, 2014 hearing on Moi's motion to disqualify Respondent, the
19 court expressed concern about Respondent's conflict of interest and ordered further briefing on
20 the issue.

21 58. Also on February 18, 2014, the court granted Moi's motion compelling the Clerk of
22 the Court to expunge the 2012 Judgment consistent with the decision by the Court of Appeals,
23 and ordering Kruger to immediately quit claim any interest in the Ballard Property to Moi.

1 59. On February 24, 2014, Respondent prepared a declaration that Kruger signed that day
2 waiving the conflict of interest.

3 60. On June 25, 2014, the court entered an order disqualifying Respondent and his firm
4 from representing Kruger in connection with the sanctions portion of the proceedings, finding
5 there was an actual non-waivable conflict pursuant to RPC 1.7 because of the likelihood of the
6 “imposition of attorney fees against Kruger, his lawyers, or a combination of the two.”

7 61. The court did not disqualify Respondent from representing Kruger on substantive
8 issues in the 2009 Lawsuit and stayed the sanctions portion of the proceedings pending the
9 resolution of the substantive portion of the proceedings.

10 62. On October 7, 2014, the court entered an order on default damages in the 2009 Lawsuit
11 that adjusted the damages from Kruger’s claim of \$84,133.56 to \$51,588.80. Unlike the Amended
12 Judgment Order and the 2012 Judgement, the damages assessed against Moi by the court did not
13 include attorney fees or the \$160,000 principal balance on the loan.

14 63. Respondent withdrew from representing Kruger in the 2009 Lawsuit once the
15 substantive portion of the proceeding concluded on October 7, 2014 but continued to represent
16 Kruger in the 2006 lawsuit.

17 64. Respondent received Moi’s motion for sanctions against Kruger and Respondent that
18 was filed on December 28, 2015.

19 65. On January 17, 2017, the court issued a decision letter finding that Respondent and
20 Kruger were liable for CR 11 sanctions and that the appropriate sanction was the award of attorney
21 fees to Moi. The decision letter stated Respondent “is primarily responsible for the sanctions” and
22 set Respondent’s responsibility for sanctions at 80%.

23 66. On March 7, 2017, the parties settled the claims of Moi and Kruger against

1 Respondent.

2 67. Respondent faced significant financial consequences based on his liability insurer's
3 assertion of coverage defenses.

4 Redemption of Parcel B and Second Appeal

5 68. On May 25, 2012, Parcel B was sold to Kruger at a Sheriff's sale.

6 69. Respondent was aware that Moi had a one-year redemption period after the date of the
7 sale, which was due to expire on May 25, 2013.

8 70. On May 21, 2013, Moi submitted a notice of intent to redeem Parcel B.

9 71. On May 29, 2013, Kruger filed a motion requesting that the court issue an order
10 compelling the Sheriff to transfer Parcel B to Kruger. Moi opposed the motion.

11 72. During oral argument, Respondent represented in court that he would "make a good-
12 faith effort" to allow Moi five days to redeem Parcel B for the amount owed.

13 73. Based on Respondent's representations, the court issued an order on June 11, 2013 for
14 the Sheriff to transfer the deed and instructed the sheriff's attorney to "hold [the deed] for five
15 days" to allow Moi to redeem Parcel B.

16 74. Moi's counsel contended that after the hearing, Respondent acted contrary to
17 Respondent's representations to the court by disregarding Moi's attempts to effectuate
18 redemption of Parcel B. Respondent disputed that interpretation, and after motion practice Judge
19 Susan Craighead agreed with Respondent. Judge Laura Inveen and the Court of Appeals later
20 ruled to the contrary.

21 75. On June 24, 2013, the court entered an order granting Kruger's motion for an order
22 for the Sheriff to transfer the deed of Parcel B to Kruger.

23 76. Moi appealed the order (the Second Appeal).

1 77. The Court of Appeals issued a decision in the Second Appeal on February 2, 2015
2 remanding the matter back to the trial court to determine the appropriate remedy.

3 78. On October 15, 2015, the court granted Moi's motion to transfer Parcel B back to Moi
4 on the grounds that Respondent failed to honor his promise in court to allow Moi five additional
5 days to redeem.

6 79. The court also ordered Kruger to quitclaim Parcel B to Moi and accept the \$73,290.97
7 that Moi had deposited into the registry of the court as redemption.

8 III. STIPULATION TO MISCONDUCT

9 80. Respondent's conduct in obtaining the Amended Judgment Order and the 2012
10 Judgment violated RPC 8.4(c) and 8.4(d).

11 81. Respondents conduct relating to and following Respondent's representations to the
12 court regarding Moi's attempt to redeem Parcel B violated RPC 8.4(d).

13 82. By representing Kruger when there was a conflict of interest regarding liability for
14 violations of CR 11, Respondent violated RPC 1.7.

15 IV. PRIOR DISCIPLINE

16 83. Respondent has no prior discipline.

17 V. APPLICATION OF ABA STANDARDS

18 84. The following American Bar Association Standards for Imposing Lawyer Sanctions
19 (1991 ed. & Feb. 1992 Supp.) apply to this case:

20 ***4.3 Failure to Avoid Conflicts of Interest***

21 Absent aggravating or mitigating circumstances, upon application of the factors
22 set out in Standard 3.0, the following sanctions are generally appropriate
23 in cases involving conflicts of interest:

24 4.31 Disbarment is generally appropriate when a lawyer, without the informed
consent of client(s):

1 (a) engages in representation of a client knowing that the lawyer's
2 interests are adverse to the client's with the intent to benefit the lawyer or
another, and causes serious or potentially serious injury to the client; or

3 (b) simultaneously represents clients that the lawyer knows have
adverse interests with the intent to benefit the lawyer or another, and causes
4 serious or potentially serious injury to a client; or

5 (c) represents a client in a matter substantially related to a matter in
6 which the interests of a present or former client are materially adverse, and
knowingly uses information relating to the representation of a client with
7 the intent to benefit the lawyer or another and causes serious or potentially
serious injury to a client.

8 4.32 Suspension is generally appropriate when a lawyer knows of a conflict of
9 interest and does not fully disclose to a client the possible effect of that
10 conflict, and causes injury or potential injury to a client.

11 **4.33 Reprimand is generally appropriate when a lawyer is negligent in
12 determining whether the representation of a client may be materially
13 affected by the lawyer's own interests, or whether the representation
14 will adversely affect another client, and causes injury or potential
15 injury to a client.**

16 4.34 Admonition is generally appropriate when a lawyer engages in an isolated
17 instance of negligence in determining whether the representation of a client
18 may be materially affected by the lawyer's own interests, or whether the
19 representation will adversely affect another client, and causes little or no
20 actual or potential injury to a client.

21 ***6.1 False Statements, Fraud, and Misrepresentation***

22 Absent aggravating or mitigating circumstances, upon application of the factors
23 set out in Standard 3.0, the following sanctions are generally appropriate
24 in cases involving conduct that is prejudicial to the administration of justice
or that involves dishonesty, fraud, deceit, or misrepresentation to a court:

6.11 Disbarment is generally appropriate when a lawyer, with the intent to
deceive the court, makes a false statement, submits a false document, or
improperly withholds material information, and causes serious or
potentially serious injury to a party, or causes a significant or potentially
significant adverse effect on the legal proceeding.

6.12 Suspension is generally appropriate when a lawyer knows that false
statements or documents are being submitted to the court or that material
information is improperly being withheld, and takes no remedial action,
and causes injury or potential injury to a party to the legal proceeding, or
causes an adverse or potentially adverse effect on the legal proceeding.

**6.13 Reprimand is generally appropriate when a lawyer is negligent either
in determining whether statements or documents are false or in taking
remedial action when material information is being withheld, and
causes injury or potential injury to a party to the legal proceeding, or
causes an adverse or potentially adverse effect on the legal proceeding.**

1 6.14 Admonition is generally appropriate when a lawyer engages in an isolated
2 instance of neglect in determining whether submitted statements or
3 documents are false or in failing to disclose material information upon
4 learning of its falsity, and causes little or no actual or potential injury to a
5 party, or causes little or no adverse or potentially adverse effect on the legal
6 proceeding.

7 85. As it relates to engaging in the conflict of interest, Respondent's conduct was
8 negligent.

9 86. Respondent's conduct caused injury to the opposing party, Respondent's client, and
10 the court.

11 87. The presumptive sanction for engaging in the conflict of interest is reprimand under
12 ABA Standard 4.33.

13 88. As it relates to Respondent's conduct that violates RPC 8.4(c) and (d), Respondent
14 acted negligently.

15 89. Respondent's conduct caused significant harm to the client and the opposing party.

16 90. The presumptive sanction is reprimand under ABA Standard 6.13.

17 91. The following aggravating factors apply under ABA Standard 9.22:

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

19 92. The following mitigating factors apply under ABA Standard 9.32:

20 (a) Absence of a prior disciplinary record

21 (k) imposition of other penalties and

22 (l) remorse.

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

94. A significant mitigating factor is the contribution this stipulation makes to the efficient
and effective operation of the lawyer discipline system considering the effect the COVID-19
public health emergency has had on disciplinary resources and the orderly processing of

1 disciplinary matters.

2 95. On balance the aggravating and mitigating factors do not require a departure from the
3 presumptive sanction of reprimand due to the significant harm caused by Respondent's conduct.

4 **VI. STIPULATED DISCIPLINE**

5 96. The parties stipulate that Respondent shall receive two reprimands.

6 **VII. CONDITIONS OF PROBATION**

7 97. Respondent will be subject to probation for a period of one year beginning when this
8 stipulation receives final approval and shall comply with the specific probation terms set forth
9 below:

10 Ethics School

- 11 a) Respondent shall attend Ethics School by webinar (approximately 7.5 hours), or by
12 obtaining the recorded product, and to pay registration costs of \$150 plus applicable
13 sales tax. Respondent will receive all applicable approved CLE credits for time in
14 attendance at the Ethics School.
- 15 b) Attendance at Ethics School is in addition to and shall not fulfill any continuing legal
16 education (CLE) requirements set out in this [order] [stipulation].
- 17 c) Respondent shall contact the Ethics School Administrator, currently Chris Chang, at
18 (206) 727-8328 or chrisc@wsba.org, by October 1, 2021 to confirm enrollment in
19 Ethics School and related logistics.
- 20 d) Respondent shall complete the ethics school requirement by March 1, 2022.
- 21 e) Respondent shall provide evidence of completion of ethics school to the Probation
22 Administrator no later than 30 days after the conclusion of the course. Proof of
23 attendance shall include the program brochure, evidence of payment, and a written
statement that includes the date and time of attendance.
- 24 f) Respondent may contact the Ethics School administrator directly to enroll in Ethics
School and administrative communications, e.g. regarding registration, payment,
program content and schedule, and CLE credits, may be sent directly to Respondent.
- g) The Ethics School administrator may respond to inquiries from the Probation
Administrator regarding Respondent's compliance with these conditions.

1 Ethics Consult

- 2 h) Respondent agrees to a consultation with Arthur Lachman regarding the conduct
3 giving rise to this grievance and compliance with the RPC. The method of
4 communication (telephonic, Zoom or other remote platform, in person, etc.) shall be
5 set by Arthur Lachman. The consultation shall last no longer than two hours. Arthur
6 Lachman's rate is \$275 per hour.
- 7 i) The consultation(s) shall occur by February 1, 2021. Within two weeks of this
8 consultation, Respondent shall provide proof to the Probation Administrator of the
9 meetings in the form of a written statement that includes the date, time, and a brief
10 summary of the consultation.
- 11 j) Respondent agrees to pay all costs in connection with the ethics consultation.

12 98. Respondent's compliance with these conditions shall be monitored by the Probation
13 Administrator of the Office of Disciplinary Counsel ("Probation Administrator"). Failure to
14 comply with a condition of probation listed herein may be grounds for further disciplinary action
15 under ELC 13.8(b).

16 **VIII. RESTITUTION**

17 99. No restitution is required.

18 **IX. COSTS AND EXPENSES**

19 100. In light of Respondent's willingness to resolve this matter by stipulation at an early
20 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$3,910.40
21 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(1)
22 if these costs are not paid within 30 days of approval of this stipulation.

23 **X. VOLUNTARY AGREEMENT**

24 101. Respondent states that prior to entering into this Stipulation they have consulted
independent legal counsel regarding this Stipulation, that Respondent is entering into this
Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,
nor by any representative thereof, to induce the Respondent to enter into this Stipulation except

1 as provided herein.

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

4 XI. LIMITATIONS

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

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

13 105. This Stipulation results from the consideration of various factors by both parties,
14 including the benefits to both by promptly resolving this matter without the time and expense of
15 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
16 such, approval of this Stipulation will not constitute precedent in determining the appropriate
17 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
18 subsequent proceedings against Respondent to the same extent as any other approved Stipulation.
19 Under ELC 3.1(b), all documents that form the record before the Hearing Officer for his or her
20 review become public information on approval of the Stipulation by the Hearing Officer, unless
21 disclosure is restricted by order or rule of law.

22 106. If this Stipulation is approved by the Hearing Officer, it will be followed by the
23 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement


1 of Lawyer Conduct will be made. Respondent represents that, in addition to Washington,
2 Respondent also is admitted to practice law in the following jurisdictions, whether current status
3 is active, inactive, or suspended: N/A.

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


8 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation to
9 two Reprimands as set forth above.

10 
11 _____
Rick J. Wathen, Bar No. 25539
Respondent

Dated: 8/12/2021

12 
13 _____
Jeffrey Paul Downer, Bar No. 12625
14 Counsel for Respondent

Dated: 8/12/2021

15 
16 _____
Kathy Jo Blake, Bar No. 29235
17 Managing Disciplinary Counsel

Dated: August 12, 2021