

FILED

May 18, 2021

Disciplinary
Board

Docket # 020

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

BRIAN CONROY READ,

Lawyer (Bar No. 34091).

Proceeding No. 20#00043

ODC File No(s). 18-01161

STIPULATION TO DISBARMENT

Following a 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 Disbarment is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Marsha Matsumoto and Respondent lawyer Brian Conroy Read.

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 outcome more favorable or less favorable to them. Respondent chooses to resolve this proceeding

1 now by entering into the following stipulation to facts, misconduct and sanction to avoid the risk,
2 time, and expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent Brian Conroy Read was admitted to the practice of law in the State of
5 Washington on November 6, 2003.

6 **II. STIPULATED FACTS**

7 2. Respondent has been in solo practice since 2012. Nearly all of Respondent's practice
8 has been in the area of landlord-tenant, specifically evictions.

9 3. Respondent maintained an Interest on Lawyer's Trust Account (trust account), ending
10 in 6946, at Chase Bank for the deposit of client funds.

11 4. Respondent was the only authorized signer on the trust account, and the only person
12 with access to the password for online transactions.

13 5. Respondent made all of the disbursements from the trust account and most, if not all,
14 of the deposits to the trust account.

15 6. If a deposit was made to the trust account by a client or third person, it was done at
16 Respondent's direction.

17 7. Respondent also maintained a business account, ending in 0956, and a personal
18 account, ending in 0261, at Chase Bank.

19 **Trust Account Overdraft**

20 8. On July 2, 2018, Respondent made an online transfer in the amount of \$300 from the
21 trust account to the business account. The transfer was returned by the bank because there were
22 insufficient funds in the trust account to cover the transaction.

23 9. The overdraft occurred because Respondent disbursed funds from the trust account

1 before the related deposit cleared the banking process.

2 **Trust Account Records**

3 10. During the period January 2015 through December 2018, Respondent did not maintain
4 a complete or current check register for the trust account.

5 11. During the period January 2015 through December 2018, Respondent did not maintain
6 complete or current client ledgers for the trust account.

7 12. Respondent maintained a document called an "IOLTA account" record, which was
8 organized by client, but did not contain all of the information required for a trust account check
9 register or client ledgers. For example, Respondent's "IOLTA account" record did not include
10 payors for all deposits, payees for all disbursements, or a trust account balance after each
11 transaction. To the extent the "IOLTA account" record included balances, the balances were not
12 always correct.

13 13. Respondent personally made all of the entries in the "IOLTA account" record, and
14 color-coded the record to show shortages (in red) and funds owed to clients (in yellow). In 2018,
15 Respondent began color-coding the record (in green) to show earned fees that Respondent left in
16 the account, knowing the account was out of balance.

17 14. During the period January 2015 through December 2018, Respondent did not
18 reconcile a check register to the bank statements for the trust account (bank statement
19 reconciliation).

20 15. During the period January 2015 through December 2018, Respondent did not
21 reconcile a check register to client ledgers for the trust account (client ledger reconciliation).

22 16. Respondent knew that the trust account was out of balance and that there were
23 shortages in the trust account, but did not start to address these issues until after the overdraft

1 | occurred.

2 | 17. Sometime after October 31, 2018, Respondent hired Lainie Hammond to reconstruct
3 | records for the trust account.

4 | 18. Hammond reconstructed a check register and client ledgers for the trust account
5 | covering the period December 31, 2014 through December 11, 2018.

6 | **Conversion of Client Funds**

7 | 19. On multiple occasions, Respondent disbursed funds from the trust account to pay
8 | Respondent's personal expenses, without entitlement to the funds. Respondent used client funds
9 | to cover those disbursements.

10 | 20. From January to May 2017, Respondent disbursed \$13,000 from the trust account to
11 | Bayview Loan Servicing (Bayview) for personal mortgage payments, without entitlement to the
12 | funds. The disbursements included: \$2,500 on January 18, 2017, \$2,500 on February 17, 2017,
13 | \$2,500 on March 23, 2017, \$2,500 on April 24, 2017, and \$3,000 on May 23, 2017.

14 | 21. Respondent knowingly disbursed the funds to Bayview when Respondent was not
15 | entitled to the funds. Respondent knew that Respondent would have to deposit Respondent's own
16 | funds to the trust account or leave earned fees in the trust account to replenish the amounts taken.

17 | **Disbursing More Funds Than Clients Had on Deposit and Using One Client's Funds on**
18 | **Behalf of Another**

19 | 22. During the period January 2015 through December 2018, Respondent disbursed more
20 | funds from the trust account than clients had on deposit. To cover the disbursements, Respondent
21 | used funds belonging to other clients, without authorization.

22 | 23. As of July 24, 2018, Respondent had 16 negative client ledgers totaling more than
23 | <\$1,700>. Most of the ledgers had been negative for more than one year.

1 24. During the period October 12, 2015 to July 9, 2018, Respondent made 43 trust account
2 transactions that were not identified by client matter (unknown transactions). The unknown
3 transactions included \$2,281.66 in deposits and \$16,786.89 in disbursements, for a net negative
4 of <\$14,505.23> in unknown transactions.

5 25. After the July 2018 trust account overdraft, Respondent began depositing
6 Respondent's own funds to the trust account: \$4,200 on July 25, 2018, \$1,500 on August 27,
7 2018, \$6,150 on September 13, 2018, and \$6,890 on October 1, 2018.

8 26. As of December 11, 2018, Respondent's trust account was still short more than
9 \$12,000.

10 **Failure to Promptly Deliver Funds to Clients or Third Persons Entitled to Receive Them**

11 27. As of December 11, 2018, Respondent had more than \$5,500 in the trust account that
12 clients or third persons were entitled to receive. For example, Respondent was holding:

- 13 a. \$133.20 for client VK whose case ended around June 2015;
- 14 b. \$176.25 for client LW whose case ended in late 2015;
- 15 c. \$564.20 for client CLLC whose last transaction occurred in October 2017.

16 28. Respondent states that Respondent should have hired administrative and bookkeeping
17 assistance, especially as Respondent's practice became busier. Respondent states that
18 Respondent felt burdened by the demands of Respondent's law practice and family life, which
19 resulted in the trust account problems going unresolved.

1 **Failure to Cooperate in Grievance Investigation**

2 29. On July 12, 2018, ODC sent Respondent a letter requesting an explanation of the cause
3 of the overdraft, how it was corrected, and requesting trust account records for a two-month
4 period.

5 30. Respondent requested an extension until August 31, 2018.

6 31. Respondent did not respond by August 31, 2018.

7 32. On September 17, 2018, ODC sent Respondent a letter requiring a response by
8 October 1, 2018 or ODC would issue a subpoena for Respondent's deposition.

9 33. Respondent did not respond by October 1, 2018.

10 34. On October 10, 2018, ODC issued a notice of intent to take deposition and a subpoena
11 duces tecum requiring Respondent to appear and produce records on October 31, 2018.

12 35. On October 10, 2018, Respondent was personally served with the notice of intent to
13 take deposition and subpoena duces tecum.

14 36. Respondent appeared for the deposition on October 31, 2018, but declined to answer
15 several questions until Respondent retained counsel. Among other matters, Respondent declined
16 to testify about the cause of the overdraft and whether the overdraft was corrected – questions
17 that were originally asked in ODC's July 12, 2018 letter.

18 37. Respondent's deposition was recessed and scheduled to resume on December 13,
19 2018.

20 38. On December 13, 2018, Respondent appeared for the deposition, was represented by
21 counsel, and answered all of the questions asked at the deposition. Respondent also produced the
22 subpoenaed records, which allowed the investigation to proceed.

23 39. Respondent states that these events occurred during a stressful time, exacerbated by

1 marital problems and significant financial difficulties. Respondent states that these life stresses
2 affected Respondent's ability to provide timely responses during the grievance investigation.

3 III. STIPULATION TO MISCONDUCT

4 40. By converting client funds for Respondent's own benefit without entitlement to the
5 funds, Respondent violated RPC 1.15A(b) and RPC 1.15A(c).

6 41. By using one client's funds on behalf of another and by disbursing funds in excess of
7 the amounts clients had on deposit, Respondent violated RPC 1.15A(c) and RPC 1.15A(h)(8).

8 42. By failing to promptly pay or deliver funds that clients or third persons were entitled
9 to receive, Respondent violated RPC 1.15A(f).

10 43. By failing to maintain a complete and current check register and client ledgers,
11 Respondent violated RPC 1.15A(h)(2), RPC 1.15B(a)(1), and RPC 1.15B(a)(2).

12 44. By failing to perform bank statement and client ledger reconciliations for the trust
13 account, Respondent violated RPC 1.15A(h)(6) and RPC 1.15B(a)(8).

14 45. By disbursing funds from the trust account before deposit(s) cleared the banking
15 process, Respondent violated RPC 1.15A(h)(7).

16 46. By failing to promptly respond to ODC's requests for information and records,
17 Respondent violated RPC 8.4(l) [ELC 1.5, ELC 5.3(f)] and RPC 8.4(d).

18 IV. PRIOR DISCIPLINE

19 47. Respondent does not have a record of prior disciplinary action in Washington.

20 V. APPLICATION OF ABA STANDARDS

21 48. The following American Bar Association Standards for Imposing Lawyer Sanctions
22 (1991 ed. & Feb. 1992 Supp.) apply to this case:
23

1 **4.1 Failure to Preserve the Client's Property**

2 Absent aggravating or mitigating circumstances, upon application of the
3 factors set out in 3.0, the following sanctions are generally appropriate in cases
4 involving the failure to preserve client property:

5 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
6 client property and causes injury or potential injury to a client.

7 4.12 Suspension is generally appropriate when a lawyer knows or should know
8 that he is dealing improperly with client property and causes injury or
9 potential injury to a client.

10 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
11 with client property and causes injury or potential injury to a client.

12 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing
13 with client property and causes little or no actual or potential injury to a
14 client.

15 **7.0 Violations of Duties Owed as a Professional**

16 Absent aggravating or mitigating circumstances, upon application of the
17 factors set out in Standard 3.0, the following sanctions are generally appropriate
18 in cases involving false or misleading communication about the lawyer or the
19 lawyer's services, improper communication of fields of practice, improper
20 solicitation of professional employment from a prospective client, unreasonable
21 or improper fees, unauthorized practice of law, improper withdrawal from
22 representation, or failure to report professional misconduct.

23 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
24 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.

49. Respondent knowingly converted client funds, used one client's funds for another,
failed to deliver funds that clients or third persons were entitled to receive, failed to maintain trust
account records, failed to reconcile the trust account, and failed to cooperate in a grievance
investigation. Respondent knew or should have known that Respondent was disbursing funds

1 from the trust account before the deposit cleared the banking process.

2 50. Respondent's conduct caused actual and potential injury to clients and third persons,
3 delayed the disciplinary process, and diminishes public confidence in the legal system and
4 profession.

5 51. The presumptive sanction for Respondent's conversion of client funds is disbarment
6 under ABA Standard 4.11. The presumptive sanction for Respondent's other trust account
7 violations and failure to cooperate in a grievance investigation is suspension under ABA
8 Standards 4.12 and 7.2.

9 52. The following aggravating factors apply under ABA Standard 9.22:

- 10 (c) a pattern of misconduct;
- 11 (d) multiple offenses;
- 12 (i) substantial experience in the practice of law [Respondent was admitted to
practice law in 2003]; and
- 13 (j) indifference to making restitution.

14 53. The following mitigating factors apply under ABA Standard 9.32:

- 15 (a) absence of a prior disciplinary record;
- 16 (c) personal or emotional problems (Respondent states that Respondent
17 experienced anxiety, mild depression, financial difficulties and marital
18 problems, and used alcohol to excess. Respondent states that Respondent
19 is working on the causes of Respondent's problems and is trying to move
20 forward in a more productive way.).

21 54. On balance, the aggravating and mitigating factors do not require a departure from
22 the presumptive sanction of disbarment.

23 **VI. STIPULATED DISCIPLINE**

24 55. The parties stipulate that Respondent shall be disbarred.

25 **VII. RESTITUTION**

26 56. Respondent shall pay restitution to the clients or third persons entitled to receive the
27 amounts listed in Confidential Attachment A, with interest at 12% per annum calculated from the

1 date this Stipulation is approved until the date restitution is paid.

2 57. If Respondent claims that Respondent is entitled to receive some or all of the amounts
3 listed in Confidential Attachment A, Respondent must produce documentary evidence
4 demonstrating Respondent's entitlement, demonstrating that Respondent has given written notice
5 to the client of an intent to withdraw the funds, and demonstrating that Respondent has provided
6 the client with a complete accounting of all funds received and disbursed.

7 58. If Respondent has an obligation to pay restitution under this Stipulation, and the
8 Client Protection Fund (CPF) pays a gift to the client(s) or third person(s), Respondent shall
9 reimburse the CPF for the amount(s) paid.

10 59. Reinstatement from disbarment is conditioned on payment of restitution to clients and
11 third persons (including the CPF).

12 **VIII. COSTS AND EXPENSES**

13 60. Respondent shall pay attorney fees and administrative costs of \$3,040.20 in
14 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if
15 these costs are not paid within 30 days of approval of this Stipulation. Reinstatement from
16 disbarment is conditioned on payment of costs.

17 **IX. VOLUNTARY AGREEMENT**

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

23 62. Once fully executed, this Stipulation is a contract governed by the legal principles

1 applicable to contracts, and may not be unilaterally revoked or modified by either party.

2 X. LIMITATIONS

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

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

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


17 66. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on the
18 record agreed to by the parties. Under ELC 3.1(b), all documents that form the record before the
19 Board for its review become public information on approval of the Stipulation by the Board,
20 unless disclosure is restricted by order or rule of law.

21 67. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will
22 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the
23 Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in addition

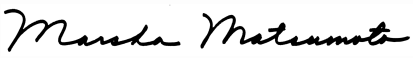
1 to Washington, Respondent also is admitted to practice law in the following jurisdictions, whether
2 current status is active, inactive, or suspended: Respondent is not admitted to practice in other
3 jurisdictions.

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

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

10 
11 _____
12 Brian Conroy Read, Bar No. 34091
13 Respondent

Dated: 4/26/21

14 
15 _____
16 Marsha Matsumoto, Bar No. 15831
17 Managing Disciplinary Counsel

Dated: 4/26/21