

FILED

May 7, 2025

Disciplinary
Board

Docket # 002

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

ALISTAIR CHAN,

Lawyer (Bar No. 55568)

Proceeding No.

ODC File No. 23-00258

STIPULATION TO SUSPENSION

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Francisco Rodriguez and Respondent lawyer Alistair Chan.

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

I. ADMISSION TO PRACTICE

1. Respondent was admitted to practice law in the State of Washington on October 23, 2019.

II. STIPULATED FACTS

2. Robert Saccomanno hired Respondent to file a patent application. Respondent charged a flat fee of \$6,500.

3. Respondent filed Saccomanno's patent application on August 11, 2021.

4. Saccomanno paid the application fees that Respondent had calculated were due. However, Respondent had miscalculated the fees. Respondent made an error relating to the number of pages submitted which resulted in an underpayment.

5. The patent office subsequently sent Respondent notices of the fee deficiency on August 26, 2021, and October 7, 2021. Each notice invited Respondent to correct the error. After receiving the notices, Respondent did not pay the additional fees or notify Saccomanno of the problem.

6. On January 21, 2022, the patent office notified Respondent that it was withdrawing Saccomanno's patent application.

7. Respondent did not notify Saccomanno that the patent application had been withdrawn. Saccomanno did not discover what had happened until May 25, 2022, when Saccomanno contacted the patent office directly.

8. On July 20, 2022, Respondent filed a request for rectification, attempting to reinstate Saccomanno's patent application. The request for rectification Respondent submitted

1 did not provide any explanation for Respondent's failure to respond to the patent office's notices
2 regarding the filing fee shortfall.

3 9. On December 13, 2022, the patent office sent Respondent a notice indicating the
4 request for rectification was denied.

5 10. In explaining its rejection of the request for rectification, the patent office cited the
6 failure to respond to the notices they had sent regarding the fee deficiency.

7 11. The rejection notice from the patent office described Saccomanno's option to
8 request publication of the rejection along with the reasons given and comments from the applicant.
9 Any such request had to be filed within 60 days.

10 12. In addition, Respondent had previously advised Saccomanno that if the request for
11 rectification was denied, Saccomanno could pursue a petition to revive the patent application.

12 13. In January 2022 and early February 2023, Saccomanno repeatedly sent email and
13 text messages to Respondent seeking Respondent's advice on how to proceed. Respondent did
14 not respond to these messages.

15 14. Respondent believed the representation had ended after the request for rectification
16 was denied. However, Respondent did not notify Saccomanno of the termination of the
17 representation or otherwise respond to Saccomanno's communications.

18 15. Because Saccomanno's patent application was withdrawn by the patent office due
19 to Respondent's errors without ever being substantively considered, Respondent did not earn the
20 attorney fee paid to Respondent by Saccomanno for the representation.

21 16. Respondent did not reimburse Saccomanno for the \$6,181 Saccomanno paid for
22 the filing fee or refund any portion of the \$6,500 attorney fee Respondent charged for the rejected
23 patent application until after Saccomanno had filed a grievance and ODC had required

Respondent to do so. In 2024, Respondent refunded Saccomanno \$9,510.75. In 2025, Respondent refunded Saccomanno an additional \$3,170.25.

17. As a result of the withdrawal of the patent application and the need to file a new application, Saccomanno lost the ability to rely on three provisional patents that had been filed earlier.

III. STIPULATION TO MISCONDUCT

18. By failing to act with reasonable diligence and promptness in representing Saccomanno, Respondent violated RPC 1.3.

19. By failing to keep Saccomanno reasonably informed about the status of Saccomanno's matter and failing to promptly comply with reasonable requests for information, Respondent violated RPC 1.4(a) and (b).

20. By failing to give Saccomanno reasonable notice regarding the termination of the representation and failing to promptly refund unearned fees, Respondent violated RPC 1.16(d).

IV. PRIOR DISCIPLINE

21. Respondent has no prior discipline.

V. APPLICATION OF ABA STANDARDS

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

4.4 *Lack of Diligence*

4.41 Disbarment is generally appropriate when:

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

- 1 4.42 Suspension is generally appropriate when:
2 (a) a lawyer knowingly fails to perform services for a client and
3 causes injury or potential injury to a client, or
4 (b) a lawyer engages in a pattern of neglect and causes injury or
5 potential injury to a client.
6 4.43 Reprimand is generally appropriate when a lawyer is negligent and
7 does not act with reasonable diligence in representing a client, and
8 causes injury or potential injury to a client.
9 4.44 Admonition is generally appropriate when a lawyer is negligent and
10 does not act with reasonable diligence in representing a client, and
11 causes little or no actual or potential injury to a client.

7 **7.0 Violations of Duties Owed as a Professional**

- 8 7.1 Disbarment is generally appropriate when a lawyer knowingly
9 engages in conduct that is a violation of a duty owed as a
10 professional with the intent to obtain a benefit for the lawyer or
11 another, and causes serious or potentially serious injury to a client,
12 the public, or the legal system.
13 7.2 Suspension is generally appropriate when a lawyer knowingly
14 engages in conduct that is a violation of a duty owed as a
15 professional and causes injury or potential injury to a client, the
16 public, or the legal system.
17 7.3 Reprimand is generally appropriate when a lawyer negligently
18 engages in conduct that is a violation of a duty owed as a
19 professional and causes injury or potential injury to a client, the
20 public, or the legal system.
21 7.4 Admonition is generally appropriate when a lawyer engages in an
22 isolated instance of negligence that is a violation of a duty owed as
23 a professional, and causes little or no actual or potential injury to a
24 client, the public, or the legal system.

23. Respondent acted knowingly with respect to the lack of reasonable
communication, failure to promptly return unearned fees, and failure to provide reasonable notice
of the termination of the representation. Respondent acted negligently with respect to the lack of
diligence.

24. Respondent's failure to act with reasonable diligence, lack of communication with
Saccomanno, and failure to provide Saccomanno with reasonable notice of the termination of the
representation caused injury to Saccomanno, who lost the opportunity to rely on provisional
patents Saccomanno had previously filed and who paid substantial filing fees for applications that

the patent office never substantively considered. Respondent's failure to promptly refund unearned fees caused financial injury to Saccomanno who was denied the use of those funds.

25. Under ABA Standard 4.43, the presumptive sanction for Respondent's lack of diligence is reprimand.

26. Under ABA Standards 4.42(a) and 7.1, the presumptive sanction for Respondent's lack of reasonable communication, failure to promptly return unearned fees, and failure to provide reasonable notice of the termination of the representation is suspension.

27. The following aggravating factors apply under ABA Standard 9.22:

(d) multiple offenses; and

(i) substantial experience in the practice of law (licensed in WA since 2019 and Wisconsin since 1998).

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

(a) absence of a prior disciplinary record;

(b) absence of a dishonest or selfish motive; and

(c) personal or emotional problems.

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

VI. STIPULATED DISCIPLINE

30. The parties stipulate that Respondent shall receive a 60-day suspension.

VII. CONDITIONS OF REINSTATEMENT

31. Reinstatement from suspension is conditioned on payment of costs and expenses, as provided below.

VIII. CONDITIONS OF PROBATION

32. Respondent will be subject to probation for a period of 24 month beginning when Respondent is reinstated to the practice of law.

33. The conditions of probation are set forth below. Respondent's compliance with these conditions will be monitored by the Probation Administrator of the Office of Disciplinary Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed herein may be grounds for further disciplinary action under ELC 13.8(b).

Practice Monitor

- a) During the period of probation, Respondent's practice will be supervised by a practice monitor. The practice monitor must be a WSBA member with no record of public discipline and who is not the subject of a pending public disciplinary proceeding.
- b) The role of the practice monitor is to consult with and provide guidance to Respondent regarding case management, office management, and avoiding violations of the Rules of Professional Conduct, and to provide reports and information to the Probation Administrator regarding Respondent's compliance with the terms of probation and the RPC. The practice monitor does not represent the Respondent.
- c) At the beginning of the probation period, the Probation Administrator will select a lawyer to serve as practice monitor for the period of Respondent's probation.
 - i) Initial Challenge: If, within 15 days of the written notice of the selection of a practice monitor, Respondent sends a written request to the Probation Administrator that another practice monitor be selected, the Probation Administrator will select another practice monitor. Respondent need not identify any basis for this initial request.
 - ii) Subsequent Challenges: If, after selection of a second (or subsequent) practice monitor, Respondent believes there is good cause why that individual should not serve as practice monitor, Respondent may, within 15 days of notice of the selected practice monitor, send a written request to the Probation Administrator asking that another practice monitor be selected. That request must articulate good cause to support the request. If the Probation Administrator agrees, another practice monitor will be selected. If the Probation Administrator disagrees, the Office of Disciplinary Counsel will submit its proposed selection for practice monitor to the Chair of the Disciplinary Board for appointment pursuant to ELC 13.8(a)(2), and will also

provide the Chair with the Respondent's written request that another practice monitor be selected.

- d) In the event the practice monitor is no longer able to perform the practice monitor's duties, the Probation Administrator will select a new practice monitor at the Probation Administrator's discretion.
- e) During the period of probation, Respondent must cooperate with the named practice monitor. Respondent must meet with the practice monitor at least once per month. Respondent must communicate with the practice monitor to schedule all required meetings.
- f) The Respondent must bring to each meeting a current, complete written list of all pending client legal matters being handled by the Respondent. The list must identify the current status of each client matter and any problematic issues regarding each client matter. The list may identify clients by using the client's initials rather than the client's name.
- g) At each meeting, the practice monitor will discuss with Respondent practice issues that have arisen or are anticipated. In light of the conduct giving rise to the imposition of probation, ODC recommends that the practice monitor and Respondent discuss Respondent is diligently making progress on each client matter, whether Respondent is in communication with each client, and whether Respondent needs to consider withdrawing from any client matters. Meetings may be in person or by telephone at the practice monitor's discretion. The practice monitor uses discretion in determining the length of each meeting.
- h) The practice monitor will provide the Probation Administrator with quarterly written reports regarding Respondent's compliance with probation terms and the RPC. Each report must include the date of each meeting with Respondent, a brief synopsis of the discussion topics, and a brief description of any concerns the practice monitor has regarding the Respondent's compliance with the RPC. The report must be signed by the practice monitor. Each report is due within 30 days of the completion of the quarter.
- i) If the practice monitor believes that Respondent is not complying with any of Respondent's ethical duties under the RPC or if Respondent fails to schedule or attend a monthly meeting, the practice monitor will promptly communicate that to the Probation Administrator.
- j) Respondent must make payments totaling \$1,000 to the Washington State Bar Association to defray the costs and expenses of administering the probation, as follows:
 - i) \$250 due within 30 days of the start of the probation;
 - ii) \$250 due within 6 months of the start of the probation period;

- 1 iii) \$250 due within 12 months of the start of the probation period; and
2 iv) \$250 due within 18 months of the start of the probation period.

3 All payments should be provided to the Probation Administrator for processing.

4 **IX. RESTITUTION**

- 5 34. Respondent has already paid restitution in the amount of \$12,681.00.

6 **X. COSTS AND EXPENSES**

7 35. In light of Respondent's willingness to resolve this matter by stipulation at an early
8 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
9 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if
10 these costs are not paid within 30 days of approval of this stipulation. Reinstatement from
11 suspension is conditioned on payment of costs.

12 **XI. VOLUNTARY AGREEMENT**

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

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

20 **XII. LIMITATIONS**

21 38. This Stipulation is a compromise agreement intended to resolve this matter in
22 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
23 expenditure of additional resources by the Respondent and ODC. Both the Respondent lawyer

1 and ODC acknowledge that the result after further proceedings in this matter might differ from
2 the result agreed to herein.

3 39. This Stipulation is not binding upon ODC or the respondent as a statement of all
4 existing facts relating to the professional conduct of the Respondent, and any additional existing
5 facts may be proven in any subsequent disciplinary proceedings.

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


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

16 42. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it
17 will be followed by the disciplinary action agreed to in this Stipulation. All notices required in
18 the Rules for Enforcement of Lawyer Conduct will be made. Respondent represents that, in
19 addition to Washington, Respondent also is admitted to practice law in the following jurisdictions,
20 whether current status is active, inactive, or suspended: Wisconsin.


21 43. If this Stipulation is not approved by the Disciplinary Board and Supreme Court,
22 this Stipulation will have no force or effect, and neither it nor the fact of its execution will be
23

1 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
2 proceeding, or in any civil or criminal action.

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

5 
6 Alistair Chan, Bar No. 55568
7 Respondent

Dated: 03/24/2025

8 
9 Francisco Rodriguez, Bar No. 22881
10 Senior Disciplinary Counsel

Dated: 03/25/2025