

FILED

Dec 28, 2021

Disciplinary
Board

Docket # 002

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JEFF B. CROLLARD,
Lawyer (Bar No. 15561).

Proceeding No.

ODC File No. 19-01561

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 Joanne S. Abelson and Respondent lawyer Jeff B. Crollard.

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. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct, and sanction to avoid the risk,

1 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 December 18,
4 1985.

5 II. STIPULATED FACTS

6 Facts regarding lack of diligence and communication

7 2. In September 2017, Dale Whitney and Whitney's brothers hired Respondent to
8 represent them in litigation against their mother's nursing home, which began before Respondent
9 was hired.

10 3. Respondent initially represented them diligently, but over time failed to follow
11 through to resolve the matter and stopped communicating with them.

12 4. In 2019, Whitney filed a grievance against Respondent with ODC, which was resolved
13 by diversion in April 2020. Respondent successfully completed the diversion and the grievance
14 was dismissed in October 2020. Respondent continued to represent the Whitneys in their legal
15 matter.

16 5. On July 1, 2021, Whitney reported to ODC that Respondent was neglecting the case
17 again. ODC reopened the grievance.

18 6. After resolution of the initial grievance, Respondent represented the Whitneys
19 diligently, providing them good legal advice, filing a counterclaim on their behalf, and negotiating
20 a favorable settlement that was concluded in November 2020. All that was left to do was to
21 ascertain the amount of the Medicare lien, pay it from funds withheld for that purpose, and
22 disburse the remainder.

23 7. After November 2020, the case stalled, with Respondent promising to do the work to

1 finalize the Medicare lien but failing to do so.

2 8. After November 2020, Respondent failed to respond to the Whitneys' reasonable
3 requests for information about the status of the Medicare lien and when the case would be final.

4 9. On October 2, 2021, Respondent ascertained the amount of the Medicare lien and so
5 advised the Whitneys.

6 10. With their permission, Respondent agreed to pay the Medicare lien and another,
7 smaller lien from a private insurer (Banker's Life) with Respondent's own funds to compensate
8 them for the problems Respondent caused.

9 11. The liens have been paid and the matter is now final.

10 12. Respondent paid \$326.75 for the Medicare lien and \$46.46 for the Banker's Life lien.

11 13. In both 2019 and 2021, Respondent failed to respond timely to ODC's requests for a
12 response to the grievance.

13 14. In each instance, ODC was required to subpoena Respondent to a deposition to obtain
14 a response to the grievance. In each instance, Respondent appeared at the deposition and testified.

15 **III. STIPULATION TO MISCONDUCT**

16 15. By failing to finalize the Whitneys' legal matter promptly, Respondent violated RPC
17 1.3.

18 16. By failing to respond promptly to the Whitneys' repeated attempts for information
19 about the status of their case, Respondent violated RPC 1.4.

20 17. By failing to respond to disciplinary counsel's written requests for a response to this
21 grievance, necessitating subpoenas and noncooperation depositions, Respondent violated RPC
22 8.4(l) by violating ELC 5.3(f) and ELC 5.3(g).

1 **IV. PRIOR DISCIPLINE**

2 18. Respondent has no prior discipline.

3 **V. APPLICATION OF ABA STANDARDS**

4 19. The applicable American Bar Association Standards for Imposing Lawyer Sanctions
5 (1991 ed. & Feb. 1992 Supp.) are attached as Appendix A.

6 20. Respondent acted negligently with respect to handling the Whitneys' legal matter and
7 knowingly with respect to failing to respond to the grievance.

8 21. The Whitneys were harmed by Respondent's misconduct. They were upset and
9 frustrated by their inability to communicate with Respondent, finalize the case, and close their
10 mother's probate. See In re Disciplinary Proceeding Against Lopez, 153 Wn.2d 570, 591, 106
11 P.3d 221 (2005) (prolonged delay and procrastination reflects poorly on the profession and causes
12 the client unnecessary frustration and anxiety).

13 22. The disciplinary system was harmed because additional resources were expended to
14 obtain Respondent's response to the grievance.

15 23. The presumptive sanction is a reprimand under ABA Standard 4.43 for the violations
16 of RPC 1.3 and RPC 1.4.

17 24. The presumptive sanction is suspension under ABA Standard 7.2 for the violation of
18 RPC 8.4(l).

19 25. The following aggravating factors apply under ABA Standard 9.22:

- 20 (d) multiple offenses; and
21 (i) substantial experience in the practice of law (admitted 1985).

22 26. The following mitigating factors apply under ABA Standard 9.32:

- 23 (a) absence of a prior disciplinary record;
(b) absence of a dishonest or selfish motive;
24 (d) timely good faith effort to make restitution or to rectify consequences of

1 misconduct (personal payment of liens); and
2 (l) remorse.

3 27. It is a mitigating factor that Respondent has agreed to resolve this matter at an early
4 stage of the proceedings.

5 28. An additional significant mitigating factor is the contribution this stipulation makes to
6 the efficient and effective operation of the lawyer discipline system considering the effect the
7 COVID-19 public health emergency has had on disciplinary resources and the orderly processing
8 of disciplinary matters.

9 29. Based on the factors set forth above, the presumptive sanction should be mitigated to
10 a reprimand.

11 **VI. STIPULATED DISCIPLINE**

12 30. The parties stipulate that Respondent shall receive a reprimand.

13 **VII. CONDITIONS OF PROBATION**

14 31. Respondent will be subject to probation for a period of two years beginning when this
15 stipulation is approved by the Chief Hearing Officer.

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

20 33. Respondent shall comply with the specific probation terms set forth below:

21 **Continuing Legal Education**

22 34. During the probationary period, Respondent shall complete a minimum of six credit
23 hours of continuing legal education courses, at Respondent's own expense, in the areas of
24 handling Medicare and other subrogation liens and communicating with clients.

1 35. Respondent shall provide evidence of attendance at such courses to the Probation
2 Administrator no later than 30 days after the conclusion of the course. Proof of attendance shall
3 include the program brochure, evidence of payment, and a written statement that includes the date
4 and time of attendance.

5 **Mental Health Treatment**

6 36. Within 60 days after probation begins, Respondent shall provide the Probation
7 Administrator with the name and contact information of a proposed mental health provider. The
8 Probation Administrator will either approve or reject the proposed provider and will notify
9 Respondent of that decision in writing. If the provider is not approved, Respondent shall provide
10 the Probation Administrator with the name and contact information of another proposed provider
11 within three weeks of the date of the Probation Administrator's letter.

12 37. Within 30 days of the date of the Probation Administrator's written approval of a
13 provider, Respondent shall begin treatment sessions.

14 38. If Respondent changes providers during the course of the probation term, Respondent
15 shall advise the Probation Administrator within two weeks to obtain approval for a new provider.

16 39. Respondent shall comply with all requirements and recommendations of the provider,
17 including but not limited to the completion of any period of treatment and the taking of any
18 prescribed medications.

19 40. Respondent shall execute an authorization[s] allowing and directing the provider to
20 take the following actions:

- 21 a) on a quarterly basis, send written reports to the Probation Administrator that include
22 the dates of treatment, whether Respondent has been cooperative with treatment, and
23 whether continued treatment is recommended;

- 1 b) report immediately to the Probation Administrator if Respondent fails to appear for
2 treatment or stops treatment without the provider's agreement and consent prior to
3 either termination of the treatment plan or expiration of the probation period set forth
4 in this stipulation;
- 5 c) report immediately to the Probation Administrator if Respondent fails to comply with
6 any treatment recommendations of the treatment provider;
- 7 d) report immediately to the Probation Administrator if Respondent otherwise violates
8 any of the terms or conditions of treatment;
- 9 e) report immediately to the Probation Administrator if the provider will no longer serve
10 as treatment provider to Respondent prior to termination of the treatment plan or
11 expiration of the probation period set forth in this stipulation; and
- 12 f) report to the Probation Administrator if Respondent successfully completes treatment
13 and is discharged from further treatment.

14 41. Respondent shall provide a copy of the authorization to the Probation Administrator
15 upon execution.

16 42. Respondent is responsible for paying any and all fees, costs, and/or expenses of mental
17 health treatment.

18 **VIII. RESTITUTION**

19 43. No restitution is required by this stipulation.

20 **IX. COSTS AND EXPENSES**

21 44. In light of Respondent's willingness to resolve this matter by stipulation at an early
22 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
23 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if

1 these costs are not paid within 30 days of approval of this stipulation.

2 X. VOLUNTARY AGREEMENT

3 45. Respondent states that prior to entering into this Stipulation Respondent has had an
4 opportunity to consult independent legal counsel regarding this Stipulation, that Respondent is
5 entering into this Stipulation voluntarily, and that no promises or threats have been made by ODC,
6 the Association, nor by any representative thereof, to induce the Respondent to enter into this
7 Stipulation except as provided herein.

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

10 XI. LIMITATIONS

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

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

19 49. This Stipulation results from the consideration of various factors by both parties,
20 including the benefits to both by promptly resolving this matter without the time and expense of
21 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
22 such, approval of this Stipulation will not constitute precedent in determining the appropriate
23 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in

1 subsequent proceedings against Respondent to the same extent as any other approved Stipulation.
2 Under ELC 3.1(b), all documents that form the record before the Chief Hearing Officer for review
3 become public information on approval of the Stipulation by the Chief Hearing Officer, unless
4 disclosure is restricted by order or rule of law.


5 50. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by the
6 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement
7 of Lawyer Conduct will be made.

8 51. If this Stipulation is not approved by the Chief Hearing Officer, this Stipulation will
9 have no force or effect, and neither it nor the fact of its execution will be admissible as evidence
10 in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
11 or criminal action.

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

14
15 
16 _____
17 Jeff B. Crollard, Bar No. 15561
18 Respondent

Dated: 12/17/2021

19 
20 _____
21 Joanne S. Abelson, Bar No. 24877
22 Managing Disciplinary Counsel

Dated: 12/20/2021

1 **APPENDIX A**

2 **SELECTED ABA STANDARDS**

3 **ABA Standard 4.4 -- Lack of Diligence**

- 4 4.41 Disbarment is generally appropriate when:
- 5 (a) a lawyer abandons the practice and causes serious or potentially serious
- 6 injury to a client; or
- 7 (b) a lawyer knowingly fails to perform services for a client and causes serious
- 8 or potentially serious injury to a client; or
- 9 (c) a lawyer engages in a pattern of neglect with respect to client matters and
- 10 causes serious or potentially serious injury to a client.
- 11 4.42 Suspension is generally appropriate when:
- 12 (a) a lawyer knowingly fails to perform services for a client and causes injury
- 13 or potential injury to a client, or
- 14 (b) a lawyer engages in a pattern of neglect and causes injury or potential
- 15 injury to a client.
- 16 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act
- 17 with reasonable diligence in representing a client, and causes injury or potential
- 18 injury to a client.
- 19 4.44 Admonition is generally appropriate when a lawyer is negligent and does not act
- 20 with reasonable diligence in representing a client, and causes little or no actual or
- 21 potential injury to a client.

22 **ABA Standard 7.0 -- Violations of Duties Owed as a Professional**

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