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Aug 14 2018

Disciplinary
Board

Docket # 016

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

FRANCIS GREY,
Lawyer (Bar No. 36428).

Proceeding No. 17#00079

ODC File No. 17-01779

STIPULATION TO DISBARMENT

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), 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 Codee McDaniel, Respondent's Counsel Peter R. Jarvis and Respondent lawyer Francis Grey.

Respondent understands that he is entitled under the ELC to a hearing, to present exhibits and witnesses on his behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that he 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 him. Respondent chooses to resolve this

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

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on July 1, 2005.

5 2. On June 8, 2014, Respondent voluntarily resigned his law license. The resignation
6 became effective on June 13, 2014.

7 **II. STIPULATED FACTS**

8 3. On May 3, 2006, Respondent executed an application for a United States passport in
9 the name "Stanley Rex Davis" at the United States Postal Service acceptance facility in
10 Richland, Washington.

11 4. Respondent submitted a Washington Department of Licensing identification card
12 in the name of "Stanley Rex Davis" as proof of his identity.

13 5. As proof of United States citizenship, Respondent presented a Washington birth
14 certificate in the name "Stanley Rex Davis."

15 6. Respondent's application included biographical data of "Stanley Rex Davis" in
16 support of the application.

17 7. Respondent also submitted a photograph of his likeness and listed his name as
18 "Stanley Rex Davis" on the passport application.

19 8. Respondent further listed his Social Security number as ###-##-2804, the true
20 Social Security number for Stanley Rex Davis.

21 9. The true person known as Stanley Rex Davis died in 1972.

22 10. Respondent knew that the information he provided on the passport application was
23

1 false.

2 11. Due to Respondent's false representations, a passport was subsequently issued to
3 Respondent under the name "Stanley Rex Davis."

4 12. Respondent later received the passport.

5 13. On January 29, 2014, a Criminal Complaint was filed in the United States District
6 Court for the Eastern District of Washington charging Respondent with making a false
7 statement in an application for a passport, in violation of 18 U.S.C. § 1542.

8 14. The Criminal Complaint was supported by the affidavit of a United States
9 Department of State Special Agent describing the investigation into Respondent's use of a false
10 identity to obtain a United States Passport.

11 15. On February 11, 2014, an Indictment was filed in the United States District Court
12 for the Eastern District of Washington charging Respondent with making a false statement in an
13 application for a passport, in violation of 18 U.S.C. § 1542.

14 16. The crime charged in the Indictment is a felony, for which the maximum statutory
15 penalty is not more than 10 years imprisonment, a fine not to exceed \$250,000, a term of
16 supervised release of not more than 3 years; and a \$100 special penalty assessment.

17 17. The elements of the crime charged in the Indictment are (a) that Respondent made
18 a false statement in an application for a United States passport, (b) that Respondent made the
19 statement intending to get a United States passport for his own use, and (c) that Respondent
20 acted knowingly and willfully.

21 18. On June 10, 2014, Respondent pleaded guilty to making a false statement in an
22 application for a passport, in violation of 18 U.S.C. § 1542, as charged in the Indictment.

1 19. Respondent admitted that he was guilty of the crime charged in the Indictment, and
2 he agreed to the facts set forth in paragraphs 3-12 above. Although Respondent contends that
3 his primary interest and objective was to demonstrate the porous nature of the United States
4 passport system at the time, and although Respondent never sought to benefit financially from
5 this passport or to use it for personal travel, Respondent's guilty plea effectively conceded that as
6 a matter of law, these matters were not a defense to the crime charged.

7 20. Respondent entered his guilty plea knowingly and voluntarily.

8 21. On June 10, 2014, United States Senior District Judge Edward F. Shea accepted
9 Respondent's guilty plea and adjudged Respondent guilty of making a false statement in an
10 application for a passport, as charged in the Indictment.

11 22. Respondent did not report his felony conviction to disciplinary counsel.

12 III. STIPULATION TO MISCONDUCT

13 23. By committing the crime of making a false statement in an application for a
14 passport, Respondent violated RPC 8.4(b), RPC 8.4(c), RPC 8.4(i), and RPC 8.4(k).

15 24. By failing to report his felony conviction to disciplinary counsel, Respondent
16 violated RPC 8.4(d) (by violating ELC 7.1(b)). Although Respondent did not understand this at
17 the time, Respondent concedes that his duty to inform the Washington State Bar of his felony
18 conviction did not end on June 8, 2014, the date on which Respondent submitted his voluntary
19 resignation, but continued at least until June 13, 2014, the date on which Respondent's
20 resignation became effective.

21 IV. PRIOR DISCIPLINE

22 25. Respondent has no prior disciplinary history.

1 **V. APPLICATION OF ABA STANDARDS**

2 26. The following American Bar Association Standards for Imposing Lawyer Sanctions
3 (1991 ed. & Feb. 1992 Supp.) apply to this case.

4 **5.1 Failure to Maintain Personal Integrity**

5 5.11 Disbarment is generally appropriate when:

- 6 (a) a lawyer engages in serious criminal conduct, a
7 necessary element of which includes intentional
8 interference with the administration of justice, false
9 swearing, misrepresentation, fraud, extortion,
10 misappropriation, or theft; or the sale, distribution
11 or importation of controlled substances; or the
intentional killing of another; or an attempt or
conspiracy or solicitation of another to commit any
of these offenses; or
- 12 (b) a lawyer engages in any other intentional conduct
involving dishonesty, fraud, deceit, or
misrepresentation that seriously adversely reflects
on the lawyer's fitness to practice.

13 5.12 Suspension is generally appropriate when a lawyer
14 knowingly engages in criminal conduct which does not
contain the elements listed in Standard 5.11 and that
seriously adversely reflects on the lawyer's fitness to
practice.

15 5.13 Reprimand is generally appropriate when a lawyer
16 knowingly engages in any other conduct that involves
dishonesty, fraud, deceit, or misrepresentation and that
adversely reflects on the lawyer's fitness to practice law.

17 5.14 Admonition is generally appropriate when a lawyer
18 engages in any other conduct that reflects adversely on the
lawyer's fitness to practice law.

19 27. In committing the crime of making a false statement in an application for a passport,
20 Respondent acted intentionally.

21 28. Respondent engaged in serious criminal conduct, a necessary element of which
22 includes misrepresentation.

23 29. Respondent's conduct seriously adversely reflects on his fitness to practice.

1 30. The presumptive sanction for Respondent's violation of RPC 8.4(b), RPC 8.4(c),
2 RPC 8.4(i), and RPC 8.4(k) is disbarment.

3 **7.0 Violations of Duties Owed as a Professional**

4 Absent aggravating or mitigating circumstances, upon application of the factors
5 set out in Standard 3.0, the following sanctions are generally appropriate in cases
6 involving false or misleading communication about the lawyer or the lawyer's
7 services, improper communication of fields of practice, improper solicitation of
8 professional employment from a prospective client, unreasonable or improper
9 fees, unauthorized practice of law, improper withdrawal from representation, or
10 failure to report professional misconduct.

11 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
12 conduct that is a violation of a duty owed as a professional with the intent
13 to obtain a benefit for the lawyer or another, and causes serious or
14 potentially serious injury to a client, the public, or the legal system.

15 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
16 conduct that is a violation of a duty owed as a professional and causes
17 injury or potential injury to a client, the public, or the legal system.

18 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
19 conduct that is a violation of a duty owed as a professional and causes
20 injury or potential injury to a client, the 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 a
23 professional, and causes little or no actual or potential injury to a client,
24 the public, or the legal system.

31. In failing to report his felony conviction to disciplinary counsel, Respondent acted
32 knowingly in the sense that he was aware of his conviction and chose not to report it at the time.

33. Respondent's conduct was a violation of a duty owed as a professional and caused
34 injury or potential injury to the public and the legal system.

35. The presumptive sanction for Respondent's violation of RPC 8.4(l) is suspension.

36. The following aggravating factor applies under ABA Standard 9.22.

(d) multiple offenses.

37. The following mitigating factor applies under ABA Standard 9.32:

1 (a) absence of a prior disciplinary record.

2 36. The aggravating and mitigating factors do not support a departure from the
3 presumptive sanction.

4 **VI. STIPULATED DISCIPLINE**

5 37. The parties stipulate that Respondent shall be disbarred for his conduct.

6 **VII. RESTITUTION**

7 38. Respondent does not owe any restitution.

8 **VIII. COSTS AND EXPENSES**

9 39. In light of Respondent's willingness to resolve this matter by stipulation at an early
10 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$1,000
11 in accordance with ELC 13.9(i). The Association will seek a money judgment under ELC
12 13.9(f) if these costs are not paid within 30 days of approval of this stipulation. Reinstatement
13 from disbarment is conditioned on payment of costs.

14 **IX. VOLUNTARY AGREEMENT**

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

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

1 **X. LIMITATIONS**

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

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

10 44. 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
16 Stipulation.

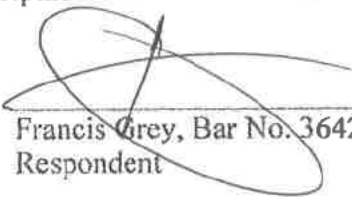
17 45. Under ELC 9.1(d)(4), the Disciplinary Board reviews a stipulation based solely on
18 the record agreed to by the parties. Under ELC 3.1(b), all documents that form the record
19 before the Board for its review become public information on approval of the Stipulation by the
20 Board, unless disclosure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

21 46. If this Stipulation is approved by the Disciplinary Board and the Supreme Court, it
22 will be followed by the disciplinary action agreed to in this Stipulation. All notices required in
23


1 the Rules for Enforcement of Lawyer Conduct will be made.

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


6 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
7 to Discipline as set forth above.

8 
9 _____
Francis Grey, Bar No. 36428
Respondent

Dated: 6/13/2018

11 
12 _____
Peter R. Jarvis, Bar No. 13704
Counsel for Respondent

Dated: 6/14/18

13 
14 _____
Codee McDaniel, Bar No. 42045
Disciplinary Counsel

Dated: 6/18/2018