

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**JOSHUA B. LOCKER,**

Lawyer (Bar No. 38719).

Proceeding No.

WSBA File Nos. 16-00705

STIPULATION TO 60-DAY SUSPENSION

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to 60-Day Suspension is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Jonathan Burke and Respondent lawyer Joshua B. Locker.

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 proceeding now by entering into the following stipulation to facts, misconduct and sanction to

Stipulation to Discipline  
Page 1

**ORIGINAL**

OFFICE OF DISCIPLINARY COUNSEL  
OF THE WASHINGTON STATE BAR ASSOCIATION  
1325 4<sup>th</sup> Avenue, Suite 600  
Seattle, WA 98101-2539  
(206) 727-8207

001

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

2 **I. ADMISSION TO PRACTICE AND LICENSE STATUS**

3 1. Respondent was admitted to practice law in the State of Washington on May 15,  
4 2007.

5 2. On May 11, 2016, the Washington Supreme Court entered an order suspending  
6 Respondent's license for, among other things, failing to pay 2016 licensing fees.

7 3. At this time, Respondent's license to practice law remains administratively  
8 suspended.

9 **II. STIPULATED FACTS**

10 4. On September 14, 2015, Respondent was hired by Tirhas Andeberhan (Andeberhan)  
11 to represent her in a pending marital dissolution.

12 5. Respondent drafted pleadings for Andeberhan and represented her at a hearing on  
13 October 8, 2015. At the hearing, the court entered a Temporary Order requiring Andeberhan to  
14 make a number of payments to her estranged husband Pawlos Ogbamichael (Ogbamichael).

15 6. At the conclusion of the hearing, Respondent told Andeberhan that he would provide  
16 her with a copy of the order after he received a copy of the order from opposing counsel.

17 7. Respondent eventually sent the Temporary Order to Andeberhan, but it was missing  
18 the second page, which contained information regarding payments Andeberhan was required to  
19 make to Ogbamichael.

20 8. During November 2015, Respondent ceased practicing law and abandoned his law  
21 practice. After abandoning his law practice, Respondent could no longer be contacted by mail,  
22 telephone, or email.

23 9. Respondent's decision to stop practicing law was related to mental health issues that

1 are discussed in the Confidential Attachment to Stipulation to Suspension.

2 10. After ceasing the practice of law, Respondent had no further contact with  
3 Andeberhan. Respondent did not inform Andeberhan that he left the practice. He did not  
4 withdraw from Andeberhan's dissolution. He did not return the client file to Andeberhan. He  
5 took no steps to protect Andeberhan's interests.

6 11. When Andeberhan was unable to reach Respondent, she contacted opposing counsel  
7 Richard Cassady (Cassady) several times to ascertain information so that she could comply with  
8 her duties under the Temporary Order, but Cassady declined to engage in communication with  
9 Andeberhan because the record reflected that she was represented by Respondent.

10 12. Cassady attempted to contact Respondent but was unable to reach him.

11 13. On April 22, 2016, Cassady filed a motion for contempt against Andeberhan for not  
12 complying with the Temporary Order.

13 14. Andeberhan hired another lawyer and paid several thousand dollars in attorney fees  
14 to the new lawyer to assist her in responding to the motion for contempt.

### 15 **III. STIPULATION TO MISCONDUCT**

16 15. By failing to keep Andeberhan informed about her duties under the Temporary  
17 Order and by failing to inform her that he was no longer representing her, Respondent violated  
18 RPC 1.3 and RPC 1.4(a).

19 16. By failing to file a notice of withdrawal in the Andeberhan dissolution and by failing  
20 to take reasonable steps to protect Andeberhan's interests when he ceased to practice law,  
21 Respondent violated RPC 1.16(d).

### 22 **IV. PRIOR DISCIPLINE**

23 17. Respondent has no prior discipline.

## V. APPLICATION OF ABA STANDARDS

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

19. ABA Standard 4.4 applies to Respondent's failure to diligently represent and communicate with Andeberhan. It provides as follows:

### **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.

4.42 **Suspension is generally appropriate when:**

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or**
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

20. Respondent knowingly failed to keep Andeberhan informed about obligations in the Temporary Order and failed to inform her that he was withdrawing from representing her.

21. Respondent's conduct resulted in harm and potential harm to Andeberhan who incurred additional attorney fees.

22. Suspension is the presumptive sanction for Respondent's misconduct under ABA Standard 4.42.

23. ABA Standard 7.0 applies to the violations of duties owed as a professional, including the duty to protect clients upon termination. It provides as follows:

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

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

24. Respondent knowingly failed to take reasonable steps to protect Andeberhan when he ceased practicing law, including failing to inform her that he was no longer practicing law and failing to file a notice of withdrawal.

25. Respondent's conduct resulted in actual and potential injury to Andeberhan, the public, and the legal system.

26. The presumptive sanction for violating the duties owed as a professional is suspension under ABA Standard 7.2.

27. No aggravating factors apply under ABA Standard 9.22.

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

(a) Absence of prior disciplinary record;

(b) Absence of dishonest or selfish motive;

1 (c) Personal or emotional problems [During material times, Respondent was  
2 experiencing mental health issues, which are identified in the Confidential  
Attachment to Stipulation to Suspension, attached hereto as Exhibit 1];<sup>1</sup> and

3 (d) Respondent has expressed remorse for his misconduct.

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

6 30. On balance the mitigating factors warrant a decrease in the length of suspension  
7 from the presumptive suspension of six months to a 60-day suspension.

## 8 VI. STIPULATED DISCIPLINE

9 31. The parties stipulate that Respondent shall receive a 60-day suspension for his  
10 conduct.

11 32. Respondent's reinstatement to practice is conditioned upon a successful fitness to  
12 practice examination by a mental health professional acceptable to disciplinary counsel. The  
13 fitness to practice statement must be received within 30 days of the date Respondent seeks  
14 reinstatement. The evaluator will be provided with the Confidential Attachment to Stipulation  
15 to Suspension.

16 33. Upon reinstatement, Respondent will be subject to probation for a one-year period  
17 and shall comply with the specific probation terms set forth below.

18 34. During the one-year probation period, Respondent will commence, participate, and  
19 maintain treatment with a mental health professional acceptable to ODC's Probation  
20 Administrator. The mental health professional will be provided with the Confidential  
21 Attachment to Stipulation to Reprimand (Exhibit 1). Respondent will follow the treatment

22 <sup>1</sup> This will be filed under seal. The mitigating factor for mental disability (ABA Standard 9.3(i)) does  
23 not apply because Respondent has not demonstrated recovery and rehabilitation and has not  
demonstrated that recurrence is unlikely.

1 recommended by the mental health professional and see the mental health professional as often  
2 as required by the mental health professional.

3 35. Respondent shall have the mental health professional submit quarterly reports to  
4 ODC's Probation Administrator demonstrating compliance with the terms of probation and  
5 fitness to practice. These reports will be due within two weeks of the end of each calendar  
6 quarter.

7 36. Respondent shall be solely responsible for the compensation of the mental health  
8 professional.

#### 9 **VII. RESTITUTION**

10 37. Restitution does not apply.<sup>2</sup>

#### 11 **VIII. COSTS AND EXPENSES**

12 38. In light of Respondent's willingness to resolve this matter by stipulation at an early  
13 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$500 in  
14 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)  
15 if these costs are not paid within 30 days of approval of this stipulation. Reinstatement from  
16 suspension is conditioned on payment of costs in this matter and the costs previously assessed in  
17 connection with the Stipulation to Reprimand.

#### 18 **IX. VOLUNTARY AGREEMENT**

19 39. Respondent states that prior to entering into this Stipulation he had an opportunity to  
20 consult independent legal counsel regarding this Stipulation, that Respondent is entering into  
21 this Stipulation voluntarily, and that no promises or threats have practice.

22 40. Once fully executed, this stipulation is a contract governed by the legal principles

23 <sup>2</sup> Respondent billed Andeberhan for legal services and she paid Respondent's bills.

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

## **X. LIMITATIONS**

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

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

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

44. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary Board shall have available to it for consideration all documents that the parties agree to submit to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that form the record before the Board for its review become public information on approval of the Stipulation by the Board, unless disclosure is restricted by order or rule of law.


45. If this Stipulation is approved by the Disciplinary Board and Supreme Court, it will



1 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
2 Rules for Enforcement of Lawyer Conduct will be made.

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

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

9   
10 Joshua B. Lockett, Bar No. 38719  
11 Respondent

Dated: 8/12/16

12  
13 Jonathan Burke, Bar No. 20910  
14 Senior Disciplinary Counsel

Dated: \_\_\_\_\_

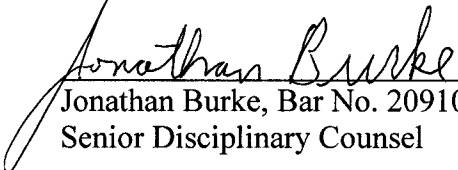
1 be followed by the disciplinary action agreed to in this Stipulation. All notices required in the  
2 Rules for Enforcement of Lawyer Conduct will be made.

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

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

9  
10 \_\_\_\_\_  
Joshua B. Locker, Bar No. 38719  
Respondent

Dated: \_\_\_\_\_

11  
12   
Jonathan Burke, Bar No. 20910  
Senior Disciplinary Counsel

Dated: 8/15/16