

IN THE SUPREME COURT  
OF THE STATE OF OREGON

In re: )  
)  
Complaint as to the Conduct of ) Case Nos. 21-20 & 21-21  
)  
SHANON GRAY, )  
)  
Respondent. )

Counsel for the Bar: Rebecca Salwin

Counsel for the Respondent: David J. Elkanich

Disciplinary Board: None

Disposition: Violation of RPC 1.5(c)(3), RPC 1.15-1(c), RPC 1.6(a).  
Stipulation for Discipline. 30-day suspension.

Effective Date of Order: January 21, 2022

**ORDER APPROVING STIPULATION FOR DISCIPLINE**

This matter having been heard upon the Stipulation for Discipline entered into by Shanon Gray (Respondent) and the Oregon State Bar (Bar), and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Respondent is suspended for 30-days, effective January 21, 2022, for violations of RPC 1.5(c)(3), RPC 1.15-1(c), and RPC 1.6(a).

DATED this 19th day of January, 2022.

/s/ Mark A. Turner  
Mark A. Turner  
Adjudicator, Disciplinary Board

**STIPULATION FOR DISCIPLINE**

Shanon Gray, attorney at law (Respondent), and the Oregon State Bar (Bar) hereby stipulate to the following matters pursuant to Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

Respondent was admitted by the Oregon Supreme Court to the practice of law in Oregon on October 4, 2001, and has been a member of the Bar continuously since that time, having his office and place of business in Clackamas County, Oregon.

3.

Respondent enters into this Stipulation for Discipline freely, voluntarily, and with the advice of counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On March 26, 2021, the State Professional Responsibility Board (SPRB) authorized formal disciplinary proceedings against Respondent. On April 29, 2021, a formal complaint was filed against Respondent pursuant to the authorization of the State Professional Responsibility Board (SPRB), alleging violation of RPC 1.5(c)(3), RPC 1.15-1(c), and RPC 1.6(a) of the Oregon Rules of Professional Conduct. The parties intend that this Stipulation for Discipline set forth all relevant facts, violations and the agreed-upon sanction as a final disposition of the proceeding.

#### **Facts**

#### **Case No. 21-20**

#### **James M. Murphy Matter**

5.

In 2017, Respondent provide a client an unsigned fee agreement and then received a \$3,000 check, as part of an earned-upon-receipt attorney fee, to represent the client on a criminal matter. Respondent did not maintain the funds in a trust account, but instead deposited them into his operating account. At no point did Respondent or the client sign any agreement for the earned-upon-receipt attorney fee.

## Case No. 21-21

### John Edward Schlosser Matter

6.

In 2019, Respondent began representing a client on a criminal matter. On May 15, 2020, Respondent filed a motion and memorandum for withdrawal from the representation. In his motion and memorandum, Respondent disclosed that his client had limited to no contact with him. Respondent also revealed that he had advised his client about upcoming court dates and to contact Respondent, which advice his client had ignored. He wrote that the client was “now in warrant status and I am not sure when he will be back in custody.” Respondent also disclosed that his client had been failing to make full payments of attorney fees.

### Violations

7.

Respondent admits that in the Murphy matter, he collected a non-refundable fee, which he did not maintain in a lawyer trust account, and did so without a required written fee agreement signed by the client, in violation of RPC 1.5(c)(3) and RPC 1.15-1(c). Respondent admits that in the Schlosser matter, he revealed information relating to the representation of his client without authorization, in violation of RPC 1.6(a).

### Sanction

8.

Respondent and the Bar agree that in fashioning an appropriate sanction in this case, the Disciplinary Board should consider the *ABA Standards for Imposing Lawyer Sanctions* (ABA Standards). The ABA Standards require that Respondent’s conduct be analyzed by considering the following factors: (1) the ethical duty violated; (2) the attorney’s mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances. ABA Standard 3.0.

- a. **Duty Violated.** Respondent violated his duty to avoid improper disclosure of information relating to his representation of his client in the Schlosser matter. ABA Standard 4.2. Respondent also violated his duty owed as a legal professional related to his handling of legal fees in the Murphy matter. ABA Standard 7.0.
- b. **Mental State.** “Intent” is the conscious objective or purpose to accomplish a particular result. “Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result. “Negligence” is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow,

which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation. ABA Standards at 9. Respondent negligently charged and collected an earned-upon-receipt fee, and negligently deposited the fee into his operating account, without a signed fee agreement. Respondent knowingly revealed information relating to his representation of his client, when he filed his motion and memorandum for withdrawal.

- c. **Injury.** Injury can be either actual or potential. *In re Williams*, 314 Or 530, 547, 840 P2d 1280 (1992). Respondent caused actual injury by revealing detrimental and confidential information about his client to the court's public record.
- d. **Aggravating Circumstances.** Aggravating circumstances include:
  - 1. Prior disciplinary offenses. In 2014, Respondent was admonished for use of an earned-upon-receipt fee without the required fee agreement. A prior admonition can be considered a prior disciplinary offense when it involves the same or similar conduct. *In re Bertoni*, 363 Or 614, 644-45, 426 P3d 64 (2018). ABA Standard 9.22(a).
  - 2. Multiple offenses. ABA Standard 9.22(d).
  - 3. Substantial experience in the practice of law. Respondent was admitted to practice law in Oregon in 2001. ABA Standard 9.22(i).
- e. **Mitigating Circumstances.** Mitigating circumstances include:
  - 1. Absence of a dishonest or selfish motive. ABA Standard 9.32(b).
  - 2. Cooperative attitude toward proceedings. ABA Standard 9.32(e).
  - 3. Delay in disciplinary proceedings. ABA Standards 9.32(j). The conduct in the Murphy matter occurred in 2017 but was not reported to the Bar until 2020.
  - 4. Remorse. Respondent has expressed remorse for his conduct. ABA Standard 9.32(l).

## 9.

Under ABA Standard 4.22, suspension is generally appropriate when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed, and this disclosure causes injury or potential injury to the client. 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. ABA Standard 7.4

10.

Respondent's aggravating factors outweigh his mitigation factors. Prior cases demonstrate that a suspension is warranted where a lawyer's disclosure of client information causes injury to the client or is accompanied by aggravating factors. *See, e.g., In re Quillinan*, 20 DB Rptr 288 (2006) (attorney stipulated to a 90-day suspension for violations of RPC 1.6(a), 1.9(c)(1) and RPC 1.9(c)(2) when she revealed, on a listserv for local attorneys, that her former client was "difficult" and was now "attorney shopping"); *In re Williamson*, 31 DB Rptr 173 (2017) (attorney violated RPC 1.5(c)(3), 1.6(a), and 1.8(a) when he used an improper non-refundable fee agreement, entered an improper business transaction with a client without the required written disclosures, and, upon being terminated by his client, filed a motion to withdraw that disclosed his client's criminal history and noted that his client had failed to appear at the attorney's office that morning; a suspension was presumptive, but due to significant mitigating factors, including a lack of prior discipline, attorney stipulated to a public reprimand for the violations).

Consistent with the ABA Standards and Oregon case law, the parties agree that Respondent shall be suspended for 30 days for violation of RPC 1.5(c)(3), RPC 1.15-1(c), and RPC 1.6(a), the sanction to be effective January 21, 2022.

11.

In addition, on or before February 21, 2022, Respondent shall pay to the Bar its reasonable and necessary costs in the amount of \$592.45, incurred for Respondent's deposition. Should Respondent fail to pay \$592.45 in full by February 21, 2022, the Bar may thereafter, without further notice to him, obtain a judgment against Respondent for the unpaid balance, plus interest thereon at the legal rate to accrue from the date the judgment is signed until paid in full.

12.

Respondent acknowledges that he has certain duties and responsibilities under the Rules of Professional Conduct and BR 6.3 to immediately take all reasonable steps to avoid foreseeable prejudice to his clients during the term of his suspension. In this regard, Respondent has arranged for William Chad Stavley (OSB No. 034656), an active member of the Bar, to either take possession of or have ongoing access to Respondent's client files and serve as the contact person for clients in need of the files during the term of his suspension. Respondent represents that William Stavley has agreed to accept this responsibility.

13.

Respondent acknowledges that reinstatement is not automatic on expiration of the period of suspension. He is required to comply with the applicable provisions of Title 8 of the Bar Rules of Procedure. Respondent also acknowledges that he cannot hold himself out as an

active member of the Bar or provide legal services or advice until he is notified that his license to practice has been reinstated.

14.

Respondent acknowledges that he is subject to the Ethics School requirement set forth in BR 6.4 and that a failure to complete the requirement timely under that rule may result in his suspension or the denial of his reinstatement. This requirement is in addition to any other provision of this agreement that requires Respondent to attend continuing legal education (CLE) courses.

15.

Respondent represents that, in addition to Oregon, he also is admitted to practice law in the jurisdictions listed in this paragraph, whether his current status is active, inactive, or suspended, and he acknowledges that the Bar will be informing these jurisdictions of the final disposition of this proceeding. Other jurisdictions in which Respondent is admitted: None.

16.

Approval of this Stipulation for Discipline as to substance was given by the SPRB on December 11, 2021. Approval as to form by Disciplinary Counsel is evidenced below. The parties agree the stipulation is to be submitted to the Adjudicator on behalf of the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 14th day of January, 2022.

/s/ Shanon Gray  
Shanon Gray, OSB No. 012668

APPROVED AS TO FORM AND CONTENT:

/s/ David J. Elkanich  
David J. Elkanich, OSB No. 992558

EXECUTED this 14th day of January, 2022.

OREGON STATE BAR

By: /s/ Rebecca Salwin  
Rebecca Salwin, OSB No. 201650  
Assistant Disciplinary Counsel