

1 IN THE SUPREME COURT  
2 OF THE STATE OF OREGON

3 In re: )  
4 Complaint as to the Conduct of ) Case No. [REDACTED]  
5 [REDACTED] ) STIPULATION FOR DISCIPLINE  
6 Accused. )  
7 \_\_\_\_\_ )

8 [REDACTED], attorney at law, (hereinafter, "Accused") and the Oregon State Bar  
9 (hereinafter, "Bar"), hereby stipulate to the following matters pursuant to Oregon State Bar Rule  
10 of Procedure 3.6(c).

11 1.

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

15 2.

16 The Accused was admitted by the Oregon Supreme Court to the practice of law in  
17 Oregon on [REDACTED], and has been a member of the Oregon State Bar continuously since  
18 that time. At all material times, the Accused had an active license, but was not engaged in the  
19 private practice of law, did not have a location at which she engaged in the private practice of  
20 law, and was exempt from mandatory professional liability insurance requirements. For purposes  
21 of this proceeding, the parties deem her residence in Washington County, Oregon as the  
22 appropriate location for establishing jurisdiction and venue.

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1 3.

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

5 4.

6 On March 14, 2009, the State Professional Responsibility Board authorized a formal  
7 disciplinary proceeding against the Accused for alleged violations of RPC 8.4(a)(2) and  
8 RPC 8.4(a)(3) of the Rules of Professional Conduct. The parties intend that this stipulation set  
9 forth all relevant facts, violations and the agreed upon sanction as a final disposition of this  
10 proceeding.

11 FACTS AND VIOLATIONS

12 5.

13 Prior to November 2006, the Accused was in a romantic relationship with another  
14 individual (hereinafter, "L"). In or prior to November 2006, the Accused formed the belief that L  
15 was being unfaithful and was in an intimate relationship with another person (hereinafter, "C").

16 6.

17 Between about November 23, 2006 and January 19, 2007, in reaction to the belief  
18 described in paragraph 5, the Accused, using C's name, communicated with L and others and  
19 asserted that L had engaged in conduct with C constituting sexual harassment. The Accused,  
20 with the intent to harass, intimidate, torment and embarrass C, also made electronic  
21 communications to C, L and others using lewd, lascivious, indecent and obscene words, images  
22 and language, and suggesting the commission of lewd or lascivious acts by C.

23 7.

24 In February 2008, the Accused was charged in the [REDACTED],  
25 Washington with the crimes of Identity Theft in the Second Degree, a felony, in violation of

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1 Washington Revised Statute 9.35.020(1), (3), and Cyberstalking, a misdemeanor, in violation of  
2 Washington Revised Statute 9.61.260(1)(c), (3)(b). On October 9, 2008, the Accused entered  
3 pleas of guilty to both charges and received a monetary sanction on the Identity Theft charge and  
4 a deferred sentence on the Cyberstalking charge.

5 8.

6 The Accused admits that the aforesaid conduct constituted criminal conduct reflecting  
7 adversely on her honesty, trustworthiness and fitness to practice in violation of RPC 8.4(a)(2),  
8 and dishonesty and misrepresentation in violation of RPC 8.4(a)(3) of the Rules of Professional  
9 Conduct.

10 SANCTION

11 9.

12 The Accused and the Bar agree that the ABA *Standards for Imposing Lawyer Sanctions*  
13 (hereinafter, "*Standards*") are to be considered in fashioning an appropriate sanction. The  
14 *Standards* require that the Accused's conduct be analyzed by the following factors: (1) the  
15 ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the  
16 existence of aggravating and mitigating circumstances. *Standards*, § 3.0.

17 (a) **Duties violated.** By committing acts that violated RPC 8.4(a)(2) and  
18 RPC 8.3(a)(3), the Accused violated her duty to the public to maintain personal  
19 integrity. *Standards*, § 5.1.

20 (b) **Mental state.** The Accused acted intentionally and knowingly. "Knowledge" is  
21 the conscious awareness of the nature or attendant circumstances of the conduct  
22 but without the conscious objective or purpose to accomplish a particular result.  
23 "Intent" is the conscious objective or purpose to cause a particular result.  
24 *Standards*, p. 7. The Accused's misconduct was not the result of a rash impulse,  
25

1 but involved significant thought, planning and effort. The Accused's conduct  
2 involved repeated acts of misconduct over several months.

3 (c) **Injury.** In determining the appropriate sanction for the Accused's misconduct,  
4 consideration is given to actual and potential injury. *In re Williams*, 314 Or 530,  
5 840 P2d 1280 (1992). The Accused caused actual and potential injury, both to C  
6 by subjecting her to anxiety and embarrassment and to C's employer and law  
7 enforcement, both of which devoted substantial resources to identifying the  
8 Accused.

9 (d) **Aggravating factors.** "Aggravating factors" are considerations that increase the  
10 degree of discipline to be imposed. *Standards*, § 9.22. There are several  
11 aggravating factors in this case. There are multiple offenses and a pattern of  
12 misconduct. *Standards*, § 9.22(d), (c). The Accused acted with selfish and  
13 dishonest motives. *Standards*, § 9.22(b).

14 (e) **Mitigating factors.** Mitigating factors are considerations that may decrease the  
15 discipline that may be imposed. *Standards*, § 9.32. There are several mitigating  
16 factors in this case. The Accused has no prior record of discipline. *Standards*,  
17 § 9.32(a). She cooperated in the investigations of her conduct by law enforcement  
18 and disciplinary authorities. *Standards*, § 9.32(e). According to the Accused's  
19 psychologist who treated her for nearly two years after the instant offenses, the  
20 untreated internalization of emotional pain (feelings of rejection, sense of  
21 inadequacy and shame) that she experienced at the end of her marriage to her  
22 children's father after finding out about his ongoing infidelities likely contributed  
23 substantially to the Accused's inappropriate reaction when it turned out that her  
24 new significant other was sexually promiscuous. *Standards*, § 9.32(c). Other  
25 penalties have been imposed. The [REDACTED] placed the

1 Accused on probation with conditions for her criminal conduct. The Accused is a  
2 practicing certified public accountant and the Oregon Board of Accountancy  
3 suspended the Accused's CPA license for 3 years, all of which was stayed subject  
4 to 5 years probation with conditions for her criminal conduct. *Standards*,  
5 § 9.32(k). The Accused is remorseful. *Standards*, § 9.32(l).

6 10.

7 The *Standards* provide that disbarment is generally appropriate where a lawyer has  
8 engaged in "serious criminal conduct," a necessary element of which includes theft (or other acts  
9 enumerated in the subsection), or where a lawyer engages in intentional conduct involving  
10 dishonesty or misrepresentation that seriously adversely reflects on the lawyer's fitness to  
11 practice. *Standards*, § 5.11(a), (b). Where a lawyer knowingly engages in criminal conduct that  
12 does not contain an element listed in § 5.11(a), but which seriously adversely reflects on the  
13 lawyer's fitness to practice, suspension is generally appropriate. *Standards*, § 5.12. When a  
14 lawyer knowingly engages in any other conduct that involves dishonesty or misrepresentation  
15 that adversely reflects on the lawyer's fitness to practice, reprimand is generally appropriate.  
16 *Standards*, § 5.13.

17 Where dishonesty or misrepresentation was committed but not in the practice of law,  
18 even when it involved criminal conduct, the court has at times imposed reprimands. *See, e.g., In*  
19 *re Carpenter*, 337 Or 226, 95, P3d 203 (2004). The lawyer's conduct in *Carpenter* reflected a  
20 single isolated event. By comparison, the Accused's conduct was repeated and occurred over a  
21 2-month period of time and arose out of jealousy and insecurity that the man with whom she was  
22 having an intimate relationship was having a similar relationship with another woman. The  
23 conduct in both cases occurred entirely in the lawyers' personal lives. *See also, In re Kumley*,  
24 355 Or 639, 75 P3d 432 (2003) (inactive lawyer who filed forms in connection with his  
25 candidacy for an elective office falsely represented that his current occupation was attorney); *In*

1 *re Flannery*, 334 Or 224, 47 P3d 891 (2002) (lawyer, a resident of Washington, used a friend's  
2 Oregon address to renew his Oregon driver license). The Accused's criminal conduct, unlike that  
3 in *Carpenter*, *Kumley* and *Flannery*, involved a series of acts and for that reason reflects more  
4 adversely on her fitness to practice law.

5  
6 11.

7 Probation, while not favored by the Supreme Court as a sanction in a contested case (*In*  
8 *re Obert*, 336 Or 640, 89 P3d 1173 (2004)), may be appropriate by agreement of the parties  
9 when the misconduct is caused in whole or in part by problems or circumstances that can be  
10 remedied and monitoring conditions that address the underlying causes of the misconduct can be  
11 imposed. *Standards* § 2.7. See *In re Buehner*, OS Ct S38015 (1992) (180-day suspension, all of  
12 which stayed subject to a 2-year probation with conditions that included mental health treatment  
13 for violations of DR 1-102(A)(2) [criminal conduct] and DR 1-102(A)(3) [dishonesty and  
14 misrepresentation]). Although the Accused has addressed personal and mental health issues,  
15 additional attention to them is required to assure that her understanding and changes in her  
16 behavior are maintained.

17  
18 12.

19 Consistent with the *Standards* and Oregon case law, the parties agree that the Accused's  
20 license to practice law shall be suspended for a period of one (1) year, with 10 months of the  
21 suspension stayed during a one (1) year term of probation, for her violations of RPC 8.4(a)(2)  
22 and RPC 8.4(a)(3). This sanction, including the 60-days of imposed suspension, shall be  
23 effective 3 days after this stipulation is approved by the Supreme Court.

24  
25 13.

During the term of probation, the Accused shall comply with the following conditions:

- 26 (a) The Accused shall comply with all provisions of this stipulation, the Rules of  
27 Professional Conduct applicable to Oregon lawyers, the provisions of ORS

Chapter 9, the conditions of probation in the King County criminal case, and the conditions of probation imposed by the Board of Accountancy;

(b) The Accused shall continue mental health treatment and shall meet monthly with [REDACTED], a clinical psychologist, or such other mental health professional approved by Disciplinary Counsel's Office in writing. The Accused shall comply with the recommendations of the mental health provider;

(c) A member of the State Lawyers Assistance Committee or such other person approved by Disciplinary Counsel in writing shall supervise the Accused's probation (hereinafter, "Supervising Attorney");

(d) The Accused shall meet with the Supervising Attorney at least monthly, and more often as may be requested by the Supervising Attorney, for the purpose of reviewing the Accused's compliance with the terms of the probation. The Accused shall cooperate and shall comply with all reasonable requests of the Supervising Attorney and Disciplinary Counsel's Office that will allow the Supervising Attorney and Disciplinary Counsel's Office to evaluate the Accused's compliance with the terms of this stipulation for discipline;

(e) In the event the Accused fails to comply with any recommendation of Dr. Scherr or other mental health treatment provider, or other condition of this stipulation, the Accused shall immediately notify her Supervising Attorney and Disciplinary Counsel in writing;

(f) At least quarterly, and by such dates as established by Disciplinary Counsel's Office, the Accused shall submit a written report to Disciplinary Counsel, approved in substance by the Supervising Attorney, advising whether she is in compliance or non-compliance with the terms of this stipulation, the King County criminal case probation, the Board of Accountancy probation, the

1 recommendations of mental health treatment providers, and each of them. The  
2 Accused's report shall also identify: the dates and purpose of the Accused's  
3 meetings with the Supervising Attorney, and the dates of meetings and other  
4 consultations between the Accused and all mental health professionals during the  
5 reporting period. In the event the Accused has not complied with any term of  
6 probation in this disciplinary case, the [REDACTED] criminal case, or the Board of  
7 Accountancy, the report shall also describe the non-compliance and the reason for  
8 it, and when and what steps have been taken to correct the non-compliance;

9 (g) The Accused hereby waives any privilege or right of confidentiality to the extent  
10 necessary to permit disclosure by [REDACTED] or any other mental health  
11 treatment providers of the Accused's compliance or non-compliance with this  
12 stipulation and their treatment recommendations to the Accused's Supervising  
13 Attorney, Disciplinary Counsel's Office, and the State Lawyers Assistance  
14 Committee. The Accused agrees to execute any additional waivers or  
15 authorizations necessary to permit such disclosures;

16 (h) The Accused expressly authorizes [REDACTED], and other mental health  
17 treatment providers, to communicate with and to release information otherwise  
18 protected from disclosure by state and federal law to the Accused's Supervising  
19 Attorney, Disciplinary Counsel's Office, the State Lawyers Assistance  
20 Committee, and each of their respective representatives, to the extent necessary to  
21 disclose the Accused's participation, compliance and non-compliance with the  
22 terms of his agreement and any treatment recommendations;

23 (i) The Accused is represented in this proceeding by Marc Blackman. The Accused  
24 and Marc Blackman hereby authorize direct communication between the Accused  
25 and Disciplinary Counsel's Office, the Accused's Supervising Attorney and



representatives of the State Lawyers Assistance Committee, and each of them,  
after the date this stipulation is approved by the Supreme Court for the purposes  
of administering and monitoring the Accused's compliance with this stipulation;

(j) The Accused is responsible for the cost of all professional services required under  
the terms of this stipulation and the terms of probation;

(k) In the event the Accused fails to comply with any condition of her probation,  
Disciplinary Counsel may initiate proceedings to revoke the Accused's probation  
pursuant to BR 6.2(d), and impose the stayed period of suspension. In such event,  
the probation and its terms shall be continued until resolution of any revocation  
proceeding;

(l) The Accused's reinstatement after the imposed term of her suspension is  
governed by BR 8.3. In the event the Accused is reinstated under that rule and  
thereafter fully complies with the terms of this agreement and successfully  
completes her probation, she shall be unconditionally reinstated without further  
order of the Disciplinary Board or the Supreme Court.

14.

The Accused acknowledges that reinstatement is not automatic on expiration of the  
period of imposed suspension. She is required to comply with the applicable provisions of Title 8  
of the Bar Rules of Procedure. The Accused also acknowledges that she cannot hold herself out  
as an active member of the Bar or provide legal services or advice until she is notified that her  
license to practice has been reinstated.

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This Stipulation for Discipline has been reviewed by the Disciplinary Counsel's Office, the sanction was approved by the State Professional Responsibility Board, and this stipulation shall be submitted to the Supreme Court for consideration pursuant to the terms of BR 3.6.

DATED this [REDACTED] day of [REDACTED], [REDACTED].

OREGON STATE BAR

By: [Signature]  
Jeffrey D. Sapiro, OSB No. 783627  
Disciplinary Counsel

APPROVED:

[Signature]  
Marc D. Blackman, OSB No. 730338

I, [REDACTED], being first duly sworn, say that I am the Accused in the above-entitled proceeding and that I attest that the statements contained in the stipulation are true and correct as I verily believe.

Subscribed and sworn to before me this 7 day of [REDACTED], [REDACTED]

[REDACTED]  
[REDACTED]  
Notary Public for Oregon  
My commission expires: [REDACTED]

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1 I, Jeffrey D. Sapiro, being first duly sworn, say that I am Disciplinary Counsel for the  
2 Oregon State Bar and that I attest that I have reviewed the foregoing Stipulation for Discipline  
3 and that the sanction was approved by the SPRB for submission to the Supreme Court on the  
4 18th day of December, 2009.

5 Jeffrey D. Sapiro

6 Subscribed and sworn to before me this [REDACTED] day of [REDACTED], [REDACTED]

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Notary Public for Oregon

My commission expires: [REDACTED]