

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**SCOTT MILLS,**

Lawyer (Bar No. 48548).

Proceeding No. 18#00020

ODC File No(s). 17-01130

STIPULATION TO REPRIMAND

Under Rule 9.1 of the 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 Emily Krueger and Respondent lawyer Scott Mills.

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

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

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to the practice of law in the State of Washington on  
4 January 7, 2015.

5 2. Respondent was admitted to the practice of law in the District of Columbia on  
6 December 12, 2008.

7 **II. STIPULATED FACTS**

8 3. In February 2017, Julieta Penalzoza Allende and Saul Penalzoza (the Penalozas) hired  
9 Respondent to obtain permanent resident status, file for hardship waiver, and file supporting  
10 petitions, including adjustment of status and employment authorization, on behalf of Mr.  
11 Penalzoza.

12 4. Mr. Penalzoza was unlawfully present in the United States (U.S.) without any  
13 documentation.

14 5. The initial step in the process of obtaining permanent resident status for Mr.  
15 Penalzoza was to file an I-130 form (Petition for Alien Relative).

16 6. On February 16, 2017, Respondent and the Penalozas signed a written fee agreement  
17 setting forth a flat fee of \$6,000, with \$3,000 due at the outset of the representation followed by  
18 monthly payments of \$250 starting on April 1, 2017.

19 7. On February 16, 2017, the Penalozas paid Respondent \$3,000.

20 8. On February 16, 2017, the Penalozas gave Respondent a \$535 money order payable  
21 to the U.S. Department of Homeland Security for the I-130 application fee.

22 9. The I-130 form was completed and signed by the Penalozas on February 16, 2017.

23 10. The Penalozas' I-130 form was ready to be filed by the end of February 2017, at the

1 latest.

2 11. Respondent informed the Penalozas that the entire process would take approximately  
3 one year. Respondent told the Penalozas that once the I-130 form was filed, they would receive  
4 a letter with an application number within approximately three weeks of filing.

5 12. Respondent informed the Penalozas that he would file the I-130 form immediately.

6 13. Respondent did not file the I-130 form on behalf of the Penalozas.

7 14. At the beginning of April 2017, the Penalozas sent Respondent the first monthly  
8 payment of \$250 by money order.

9 15. In April 2017, the Penalozas made several telephone calls to Respondent's office and  
10 left messages with the receptionist and on the answering machine.

11 16. Respondent did not return these telephone calls.

12 17. In April 2017, the Penalozas sent Respondent several emails and text messages.

13 18. Respondent did not respond to these emails or text messages.

14 19. As of April 28, 2017, Respondent still had not filed the Penalozas' I-130 form with  
15 the U.S. Citizenship and Immigration Services (USCIS).

16 20. As of April 28, 2017, the I-130 form signed by the Penalozas in February was no  
17 longer valid because USCIS required the filing of an updated version of the I-130 form and a  
18 new I-130A form.

19 21. Respondent did not promptly inform the Penalozas of the change in USCIS  
20 requirements.

21 22. In May 2017, the Penalozas sent Respondent the second monthly payment of \$250  
22 by money order.

23 23. In May 2017, the Penalozas attempted to contact Respondent weekly for an update

1 by telephone, email, and text message.

2 24. Respondent did not respond to the Penalozas.

3 25. In June 2017, the Penalozas sent Respondent the third monthly payment of \$250 by  
4 money order.

5 26. In June 2017, the Penalozas attempted to call Respondent several times and sent him  
6 several emails and text messages.

7 27. Respondent did not return the Penalozas's phone calls or respond to their text  
8 messages or emails.

9 28. In June 2017, the Penalozas went to Respondent's office unannounced. When the  
10 Penalozas asked Respondent about the status of their application, Respondent informed them for  
11 the first time that the immigration forms had changed and, as a result, they would have to  
12 complete and file new forms.

13 29. Respondent had the Penalozas fill out and sign the updated version of the I-130 form  
14 that day in Respondent's office.

15 30. Respondent did not have the Penalozas complete the required I-130A form.

16 31. The Penalozas sent Respondent the fourth monthly payment of \$250 by money  
17 order.

18 32. A few days after completing the updated I-130 form, Ms. Penalozas called  
19 Respondent to obtain an application number.

20 33. Respondent did not give Ms. Penalozas the requested information.

21 34. On July 7, 2017, Ms. Penalozas sent Respondent an email requesting information  
22 about the status of the application.

23 35. On July 10, 2017, Ms. Penalozas filed a grievance against Respondent.

1 36. On July 20, 2017, Respondent responded to Ms. Penaloza's email from July 7, 2017  
2 and asked her to call him.

3 37. On July 26, 2017, Respondent met with Ms. Penaloza and informed her that the  
4 forms were never filed.

5 38. Respondent represented to Ms. Penaloza that his non-lawyer assistants were at fault  
6 for the paperwork not being filed and the case not being handled properly.

7 39. To the extent Respondent delegated tasks to his non-lawyer assistants in the  
8 Penaloza matter, Respondent failed to make reasonable efforts to ensure that the conduct of his  
9 non-lawyer assistants was compatible with his professional obligations as a lawyer.

10 40. At the July 26, 2017 meeting, Respondent wrote Ms. Penaloza a check for \$4,100.  
11 Respondent returned the \$535 money order and one of the \$250 money orders to Ms. Penaloza.

12 41. Respondent did not cash all of the money orders he received from the Penalozas  
13 because he knew he was behind on their matter.

### 14 III. STIPULATION TO MISCONDUCT

15 42. By failing to diligently represent the Penalozas, Respondent violated RPC 1.3.

16 43. By failing to keep the Penalozas reasonably informed about the status of their case,  
17 by failing to promptly respond to the Penalozas' reasonable requests for information, and by  
18 failing to explain the matter to the extent reasonably necessary to permit the Penalozas to make  
19 informed decisions regarding their representation, Respondent violated RPC 1.4(a)(3), RPC  
20 1.4(a)(4), and RPC 1.4(b).

21 44. By failing to make reasonable efforts to ensure that the conduct of his non-lawyer  
22 assistants was compatible with his professional obligations as a lawyer, Respondent violated  
23 RPC 5.3(a) and RPC 5.3(b).

1 **IV. PRIOR DISCIPLINE**

2 45. Respondent has no prior disciplinary record.

3 **V. APPLICATION OF ABA STANDARDS**

4 46. The following American Bar Association Standards for Imposing Lawyer Sanctions  
5 (1991 ed. & Feb. 1992 Supp.) apply to this case:

6 47. ABA Standard 4.4 is most applicable to the duty to act with diligence and to  
7 communicate with a client. It states:

8 **4.4 Lack of Diligence**

9 Absent aggravating or mitigating circumstances, upon application of the factors set out  
10 in Standard 3.0, the following sanctions are generally appropriate in cases involving  
11 failure to act with reasonable diligence and promptness in representing a client:

12 4.41 Disbarment is generally appropriate when:

- 13 (a) a lawyer abandons the practice and causes serious or potentially serious injury to  
14 a client; or  
15 (b) a lawyer knowingly fails to perform services for a client and causes serious or  
16 potentially serious injury to a client; or  
17 (c) a lawyer engages in a pattern of neglect with respect to client matters and causes  
18 serious or potentially serious injury to a client.

19 4.42 Suspension is generally appropriate when:

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

24 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.

48. ABA Standard 7.0 is most applicable to the duty to supervise subordinate non-  
lawyer staff. It states:

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

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

7 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in  
8 conduct that is a violation of a duty owed as a professional with the intent to  
9 obtain a benefit for the lawyer or another, and causes serious or potentially  
10 serious injury to a client, the public, or the legal system.

11 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
12 conduct that is a violation of a duty owed as a professional and causes injury or  
13 potential injury to a client, the public, or the legal system.

14 7.3 Reprimand is generally appropriate when a lawyer negligently engages in  
15 conduct that is a violation of a duty owed as a professional and causes injury or  
16 potential injury to a client, the public, or the legal system.

17 7.4 Admonition is generally appropriate when a lawyer engages in an isolated  
18 instance of negligence that is a violation of a duty owed as a professional, and  
19 causes little or no actual or potential injury to a client, the public, or the legal  
20 system.

21 49. Respondent initially acted negligently in failing to diligently represent the Penalozas.

22 Over the course of the representation, Respondent's failure to timely file the application on  
23 behalf of the Penalozas became knowing. Respondent's conduct caused actual injury as the  
24 Penalozas's matter was delayed and the Penalozas suffered anxiety and stress as a result of the  
delay. The presumptive sanction is suspension under ABA Standard 4.42.

50. Respondent initially acted negligently in failing to respond to the Penalozas's  
numerous attempts to obtain information about the status of their application. Over the course  
of the representation, Respondent's failure to respond to the Penalozas became knowing.  
Respondent's conduct caused actual injury as the Penalozas suffered anxiety and stress as a  
result of being denied information about the status of their application and the ability to make  
informed decisions regarding their representation. In addition, the Penalozas suffered anxiety

1 and stress as a result of not being able to get in touch with Respondent. The presumptive  
2 sanction is suspension under ABA Standard 4.42.

3 51. Respondent acted negligently in failing to adequately supervise his legal assistants.  
4 Respondent's conduct caused actual injury as the Penalozas suffered anxiety and stress as a  
5 result of the delay in filing their application. The presumptive sanction is reprimand under  
6 ABA Standard 7.3.

7 52. The following aggravating factors apply under ABA Standard 9.22:

8 (d) multiple offenses.

9 53. The following mitigating factors apply under ABA Standard 9.32:

- 10 (a) absence of a prior disciplinary record;  
11 (b) absence of a dishonest or selfish motive;  
(l) remorse.

12 54. It is an additional mitigating factor that Respondent has agreed to resolve this matter  
13 at an early stage of the proceedings.

14 55. Based on the factors set forth above, the presumptive sanction should be mitigated to  
15 reprimand.

## 16 VI. STIPULATED DISCIPLINE

17 56. The parties stipulate that Respondent shall receive a Reprimand for his conduct.

18 57. Respondent shall be subject to probation for a period of 24 months beginning on the  
19 date this stipulation receives final approval.

20 58. The conditions of probation are set forth below. Respondent's compliance with  
21 these conditions will be monitored by the Probation Administrator of the Office of Disciplinary  
22 Counsel ("Probation Administrator"). Failure to comply with a condition of probation listed  
23 herein may be grounds for further disciplinary action under ELC 13.8(b).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

Practice Monitor

- a) During the period of probation, Respondent's practice will be supervised by a practice monitor. The practice monitor must be a WSBA member with no record of public discipline and who is not the subject of a pending public disciplinary proceeding.
- b) The role of the practice monitor is to consult with and provide guidance to Respondent regarding case management, office management, and avoiding violations of the Rules of Professional Conduct, and to provide reports and information to the Probation Administrator regarding Respondent's compliance with the terms of probation and the RPC. The practice monitor does not represent the Respondent.
- c) At the beginning of the probation period, the Probation Administrator will select a lawyer to serve as practice monitor for the period of Respondent's probation.
  - i) Initial Challenge: If, within 15 days of the written notice of the selection of a practice monitor, Respondent sends a written request to the Probation Administrator that another practice monitor be selected, the Probation Administrator will select another practice monitor. Respondent need not identify any basis for this initial request.
  - ii) Subsequent Challenges: If, after selection of a second (or subsequent) practice monitor, Respondent believes there is good cause why that individual should not serve as practice monitor, Respondent may, within 15 days of notice of the selected practice monitor, send a written request to the Probation Administrator asking that another practice monitor be selected. That request must articulate good cause to support the request. If the Probation Administrator agrees, another practice monitor will be selected. If the Probation Administrator disagrees, the Office of Disciplinary Counsel will submit its proposed selection for practice monitor to the Chair of the Disciplinary Board for appointment pursuant to ELC 13.8(a)(2), and will also provide the Chair with the Respondent's written request that another practice monitor be selected.
- d) In the event the practice monitor is no longer able to perform his or her duties, the Probation Administrator will select a new practice monitor at his or her discretion.
- e) During the period of probation, Respondent must cooperate with the named practice monitor. Respondent must meet with the practice monitor at least once per month. Respondent must communicate with the practice monitor to schedule all required meetings.

- 1 f) The Respondent must bring to each meeting a current, complete written list of all  
2 pending client legal matters being handled by the Respondent. The list must  
3 identify the current status of each client matter and any problematic issues regarding  
4 each client matter. The list may identify clients by using the client's initials rather  
5 than the client's name.
- 6 g) At each meeting, the practice monitor will discuss with Respondent practice issues  
7 that have arisen or are anticipated. In light of the conduct giving rise to the  
8 imposition of probation, ODC recommends that the practice monitor and  
9 Respondent discuss whether Respondent is diligently making progress on each  
10 client matter and whether Respondent is in communication with each client.  
11 Meetings may be in person or by telephone at the practice monitor's discretion. The  
12 practice monitor uses discretion in determining the length of each meeting.
- 13 h) The practice monitor will provide the Probation Administrator with quarterly  
14 written reports regarding Respondent's compliance with probation terms and the  
15 RPC. Each report must include the date of each meeting with Respondent, a brief  
16 synopsis of the discussion topics, and a brief description of any concerns the  
17 practice monitor has regarding the Respondent's compliance with the RPC. The  
18 report must be signed by the practice monitor. Each report is due within 30 days of  
19 the completion of the quarter.
- 20 i) If the practice monitor believes that Respondent is not complying with any of his  
21 ethical duties under the RPC or if Respondent fails to schedule or attend a monthly  
22 meeting, the practice monitor will promptly communicate that to the Probation  
23 Administrator.
- 24 j) Respondent must make payments totaling \$1,000 to the Washington State Bar  
Association to defray the costs and expenses of administering the probation, as  
follows:
- 25 i) \$250 due within 30 days of the start of the probation;
  - 26 ii) \$250 due within 6 months of the start of the probation period;
  - 27 iii) \$250 due within 12 months of the start of the probation period; and
  - 28 iv) \$250 due within 18 months of the start of the probation period.

29 All payments should be provided to the Probation Administrator for processing.

## 30 VII. RESTITUTION

31 59. Restitution is not required by this stipulation. Respondent refunded \$4,100 to the  
32 Penalozas when the representation was terminated.  
33

1 **VIII. COSTS AND EXPENSES**

2 60. Respondent shall pay attorney fees and administrative costs of \$1,530.49 in  
3 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(1)  
4 if these costs are not paid within 30 days of approval of this stipulation.

5 61. These costs and expenses are separate from the probation costs and expenses set  
6 forth in ¶ 58(j).

7 **IX. VOLUNTARY AGREEMENT**

8 62. Respondent states that prior to entering into this Stipulation he had an opportunity to  
9 consult independent legal counsel regarding this Stipulation, that Respondent is entering into  
10 this Stipulation voluntarily, and that no promises or threats have been made by ODC, the  
11 Association, nor by any representative thereof, to induce the Respondent to enter into this  
12 Stipulation except as provided herein.

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

15 **X. LIMITATIONS**

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

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

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

8           67. Under ELC 3.1(b), all documents that form the record before the Hearing Officer for  
9 his or her review become public information on approval of the Stipulation by the Hearing  
10 Officer, unless disclosure is restricted by order or rule of law.

11           68. If this Stipulation is approved by the Hearing Officer, it will be followed by the  
12 disciplinary action agreed to in this Stipulation. All notices required in the Rules for  
13 Enforcement of Lawyer Conduct will be made.

14           69. If this Stipulation is not approved by the Hearing Officer, this Stipulation will have  
15 no force or effect, and neither it nor the fact of its execution will be admissible as evidence in  
16 the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil  
17 or criminal action.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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



Scott Mills, Bar No. 48548  
Respondent

Dated: 05/03/2018



Emily Krueger, Bar No. 53186  
Disciplinary Counsel

Dated: 05/07/2018

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

Scott Mills,  
  
Lawyer (Bar No. 48548).

Proceeding No. 18#00020

ODC File No(s). 17-01130

ORDER ON STIPULATION TO  
REPRIMAND

On review of the May 7, 2018 Stipulation to Reprimand and the documents on file in  
this matter,

IT IS ORDERED that the May 7, 2018 Stipulation to Reprimand is approved.

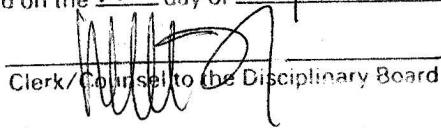
Dated this 8th day of May, 2018.



Randolph O. Petgrave, III  
Chief Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Order on Stipulation to Reprimand  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Scott Mills ~~Respondent's~~ Respondent's Counsel  
at 317 5<sup>th</sup> and St. Tacoma, WA 98402 by Certified/first class mail  
postage prepaid on the 8th day of May, 2018

  
Clerk/Counsel to the Disciplinary Board