

FILED

SEP. 23 2016

DISCIPLINARY
BOARD

~~PROPOSED~~

*J. V. Vactor
9/22/16*

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

WALTER M. HACKETT, JR.,
Lawyer (Bar No. 1055).

Proceeding No. 16#00024

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND HEARING OFFICER'S
RECOMMENDATION

The undersigned Hearing Officer held a default hearing on September 13, 2016 under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC).

**FINDINGS OF FACTS AND CONCLUSIONS OF LAW
REGARDING CHARGED VIOLATIONS**

1. The Formal Complaint (Bar File No.2) charged Walter M. Hackett, Jr. with misconduct as set forth therein. A copy of the Formal Complaint is attached to this decision.

2. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the Formal Complaint is admitted and established.

3. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations charged in the Formal Complaint is admitted and established as follows:

4. Count 1: By failing to communicate to his client the basis or rate of the fees and

1 expenses for which she would be responsible. Respondent violated RPC 1.5(b).

2 5. Count 2: By failing to act with reasonable diligence and promptness in
3 representing his client. Respondent violated RPC 1.3 and RPC 3.2.

4 6. Count 3: By failing to respond to his client's reasonable requests for information
5 about her matter and by failing to keep her reasonably informed about the status of her matter.
6 Respondent violated RPC 1.4.

7 7. Count 4: By failing to refund an advance payment of fees and expenses that had
8 not been earned or incurred. Respondent violated RPC 1.15A(f) and RPC 1.16(d).

9 8. Count 5: By failing to respond to ODC's requests for documents and failing to
10 comply with a subpoena for the production of documents. Respondent violated RPC 8.4(l) by
11 violating ELC 1.5, ELC 5.3(f), ELC 5.3(g), and ELC 5.5(d).

12 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
13 **REGARDING RECOMMENDED SANCTION**

14 9. Respondent acted negligently with regard to Counts 1 and 3.

15 10. Respondent acted knowingly with regard to Counts 2, 4, and 5.

16 11. Respondent's conduct caused actual injury to his client, the public, and the legal
17 system.

18 12. The following standards of the American Bar Association's Standards for
19 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively
20 apply in this case:

21 4.1 *Failure to Preserve the Client's Property* [Count 4]

22 4.12 Suspension is generally appropriate when a lawyer knows or should know
that he is dealing improperly with client property and causes injury or potential
injury to a client.

23 4.4 *Lack of Diligence* [Count 2]

24 4.42 Suspension is generally appropriate when:

(a) a lawyer knowingly fails to perform services for a client and causes injury or

1 potential injury to a client, or
2 (b) a lawyer engages in a pattern of neglect and causes injury or potential injury
to a client.

3 **4.6 *Lack of Candor*** [Counts 1, 3]

4 4.6.3 Reprimand is generally appropriate when a lawyer negligently fails to
provide a client with accurate or complete information, and causes injury or
5 potential injury to the client.

6 **7.0 *Violations of Duties Owed as a Professional*** [Count 5]

7 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.

8 13. Where, as in this case, the Hearing Officer finds multiple ethical violations, the
9 “ultimate sanction imposed should at least be consistent with the sanction for the most serious
10 instance of misconduct among a number of violations.” In re Disciplinary Proceeding Against
11 Peterson, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6). In this
12 case, the presumptive sanction is suspension.

13 14. The following aggravating factors set forth in Section 9.22 of the ABA Standards
14 apply in this case:

- 15 (a) prior disciplinary offenses (Respondent received an admonition and a
reprimand in 2005 and was suspended in 2014);
16 (d) multiple offenses;
17 (i) substantial experience in the practice of law (Respondent was admitted to
practice in 1968); and
18 (j) indifference to making restitution.

19 15. It is an additional aggravating factor that Respondent failed to file an answer to the
20 Formal Complaint as required by ELC 10.5(a).

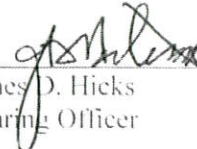
21 16. None of the mitigating factors set forth in Section 9.32 of the ABA Standards
22 apply to this case.

23 **RECOMMENDATION**

24 17. Based on the ABA Standards and the applicable aggravating and mitigating

1 factors, the Hearing Officer recommends that Respondent Walter M. Hackett, Jr. be disbarred
2 and be ordered to pay restitution to Morgan Chambers in the amount of \$290.00 with interest at
3 a rate of 12% per annum, calculated from October 30, 2014.

4
5 DATED this 22ND day of SEPTEMBER, 2016.

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8 _____
9 James D. Hicks
10 Hearing Officer

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14 CERTIFICATE OF SERVICE
15 I certify that I caused a copy of the Findings of Fact, Conc. of Law & H.O. Recommendation.
16 to be delivered to the Office of Disciplinary Counsel and to be mailed
17 to Walter Hackett, Respondent/Respondent's Counsel
18 at 509 1st St. Bremerton, WA 98301, by Certified/first class mail,
19 postage prepaid on the 23rd day of September, 2016
20
21 Sherry Lindner
22 _____
23 Acting Clerk/Counsel to the Disciplinary Board
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FILED
MAY 17 2016
DISCIPLINARY
BOARD

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re	Proceeding No. 16#00024
WALTER M. HACKETT, JR.,	FORMAL COMPLAINT
Lawyer (Bar No. 1055).	

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent Walter M. Hackett, Jr. was admitted to the practice of law in the State of Washington on November 22, 1968.

FACTS REGARDING ALL COUNTS

2. In June 2013, Morgan Chambers hired Respondent to represent her in seeking a divorce from her husband, Ryan Chambers.

1 3. Respondent told Ms. Chambers that her divorce would take longer than six months
2 because her husband resided in New York.

3 4. Respondent requested an advance payment of \$780.

4 5. Respondent did not explain to Ms. Chambers what fees and expenses the \$780
5 would cover or provide Ms. Chambers with any other information regarding the basis or rate of
6 his fees and expenses.

7 6. Respondent did not enter into a written fee agreement with Ms. Chambers.

8 7. Respondent did not send Ms. Chambers any billing statements or accountings.

9 8. In June 2013, Ms. Chambers paid Respondent \$780 in cash.

10 9. In failing to communicate to Ms. Chambers the basis or rate of the fees and
11 expenses for which she would be responsible, Respondent acted negligently and caused injury
12 to Ms. Chambers.

13 10. Respondent told Ms. Chambers that he served her husband with a summons and
14 complaint in New York in August 2013.

15 11. Respondent did not provide Ms. Chambers with copies of any documents.

16 12. Respondent never filed a summons and complaint to commence Ms. Chambers'
17 divorce action.

18 13. Respondent failed to act with reasonable diligence and promptness in representing
19 Ms. Chambers.

20 14. In failing to act with reasonable diligence and promptness, Respondent acted
21 knowingly and caused injury to Ms. Chambers.

22 15. Ms. Chambers met with Respondent on several occasions seeking an update on her
23 matter. Respondent told Ms. Chambers to wait a few more months and her divorce would be

1 done.

2 16. Ms. Chambers later left a voice message for Respondent letting him know that if
3 her case was not progressing, she wanted him to return the \$780 she paid him.

4 17. Respondent did not call Ms. Chambers back and did not return any part of the \$780
5 she paid him.

6 18. In early 2014, Ms. Chambers tried to telephone Respondent on multiple occasions.
7 Respondent did not answer or return her calls.

8 19. Ms. Chambers later visited Respondent's office, only to find the lights off and the
9 door locked.

10 20. Ms. Chambers met with lawyer Kathleen Schultz in June 2014 and asked Ms.
11 Schultz to represent her in the divorce action.

12 21. Ms. Schultz attempted to telephone Respondent, but Respondent's telephone had
13 been disconnected.

14 22. Ms. Schultz encouraged Ms. Chambers to send Respondent a letter to clarify the
15 status of her case before she agreed to represent Ms. Chambers.

16 23. Ms. Chambers wrote to Respondent asking him to contact her with information
17 regarding her case.

18 24. Ms. Chambers delivered the letter to Respondent's office but received no reply.

19 25. In failing to respond to Ms. Chambers' reasonable requests for information about
20 her matter and/or in failing to keep her reasonably informed about the status of her matter,
21 Respondent acted negligently and caused injury to Ms. Chambers.

22 26. Ms. Chambers again contacted Ms. Schultz and hired her to handle the divorce.

23 27. Ms. Schultz filed a divorce action on Ms. Chambers' behalf on September 9, 2014,

1 and served Mr. Chambers in New York.

2 28. On June 10, 2014, Ms. Chambers filed a grievance against Respondent.

3 29. On October 30, 2014, Respondent stated to ODC that he was willing to refund Ms.
4 Chambers \$290 for filing fees because he had not spent it and that he would prepare a billing
5 statement to account for the remainder of her fees.

6 30. Respondent did not refund the \$290, or any other portion of the \$780, to Ms.
7 Chambers.

8 31. In failing to refund an advance payment of fees and expenses that had not been
9 earned or incurred, Respondent acted knowingly and caused injury to Ms. Chambers.

10 32. On October 30, 2014, ODC requested that Respondent provide Ms. Chambers'
11 client file, a copy of a check refunding \$290 to Ms. Chambers, and a copy of his billing
12 statement accounting for the remainder of his fees.

13 33. On October 30, 2014, Respondent agreed to provide these materials to ODC, but
14 he failed to do so.

15 34. On December 22, 2014, ODC reminded Respondent that he had agreed to send Ms.
16 Chambers' client file, a copy of the \$290 refund check, and copy of the billing statement.

17 35. Respondent stated to ODC that he would provide those materials by the end of that
18 week, but he failed to do so.

19 36. On February 24, 2015, ODC issued a subpoena requiring Respondent to produce
20 his complete client file and whatever documents he had relating to his representation of Ms.
21 Chambers and all financial records relating to funds he received in connection with his
22 representation of Ms. Chambers. The subpoena required that Respondent produce those
23 documents by March 27, 2015.

1 37. Respondent was served with the subpoena by first-class mail on February 24,
2 2015.

3 38. Respondent did not produce the subpoenaed documents.

4 39. In failing to comply with ODC's requests for documents and/or failing to comply
5 with a subpoena for the production of documents, Respondent acted knowingly and caused
6 injury to a client, the public, and/or the legal system.

7 **COUNT 1**

8 40. By failing to communicate to Ms. Chambers the basis or rate of the fees and
9 expenses for which she would be responsible, Respondent violated RPC 1.5(b).

10 **COUNT 2**

11 41. By failing to act with reasonable diligence and promptness in representing Ms.
12 Chambers, Respondent violated RPC 1.3 and/or RPC 3.2.

13 **COUNT 3**

14 42. By failing to respond to Ms. Chambers' reasonable requests for information about
15 her matter and/or by failing to keep her reasonably informed about the status of her matter,
16 Respondent violated RPC 1.4.

17 **COUNT 4**

18 43. By failing to refund an advance payment of fees and expenses that had not been
19 earned or incurred, Respondent violated RPC 1.15A(f) and/or RPC 1.16(d).

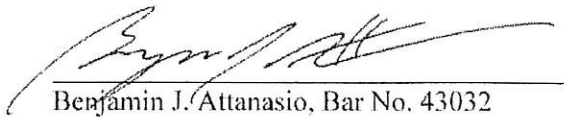
20 **COUNT 5**

21 44. By failing to respond to ODC's requests for documents and/or failing to comply
22 with a subpoena for the production of documents, Respondent violated RPC 8.4(I) by violating
23 ELC 1.5, ELC 5.3(f), ELC 5.3(g) and/or ELC 5.5(d).

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THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation, restitution, and assessment of the costs and expenses of these proceedings.

Dated this 17th day of May, 2016.


Benjamin J. Attanasio, Bar No. 43032
Disciplinary Counsel