

FILED

MAY 14 2013

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

DISCIPLINARY BOARD

In re

STEPHEN LIONEL CONROY,

Lawyer (WSBA No.5074)

Proceeding No. 11#00063

DISCIPLINARY BOARD ORDER
ADOPTING HEARING OFFICER'S
DECISION

This matter came before the Disciplinary Board at its May 3, 2013 meeting, on automatic review of Hearing Officer David Welles Wiley's December 18, 2013 decision recommending disbarment and \$6,091.09 restitution, following a hearing.

The Board reviews the hearing officer's finding of fact for substantial evidence. The Board reviews conclusions of law and sanction recommendations de novo. Evidence not presented to the hearing officer or panel cannot be considered by the Board. ELC 11.12(b).

Having heard oral argument, reviewed the materials submitted, and considered the applicable case law and rules;

IT IS HEREBY ORDERED THAT the Hearing Officer's decision is adopted with the following modifications:¹

- (1) All references to ABA Standard 6.11 are deleted from the sanction analysis on counts 7, 8, 9 and 11.** ABA Standard 6.11 deals with misrepresentations made to a court. The Formal Complaint did not allege misrepresentation to a court. None of the factual findings in the hearing officer's decision establish a

¹ The vote on this matter was 11-0. Those voting were: Bray, Broom, Butterworth, Carrington, Coy, Dremousis, Ivarinen, McInville, Mesher, Neiland and Ogura.

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1 misrepresentation to a court.²

2 **(2) Aggravating factors pattern of misconduct and vulnerable victim are**
3 **stricken.** A pattern of misconduct occurs when a lawyer has committed multiple
4 violations involving multiple clients over an extended period. *In re Disciplinary*
5 *Proceeding Against Cohen*, 150 Wn.2d 744, 760 n. 8, 82 P.3d 224 (2004). Here,
6 the misconduct involves multiple offenses against one client. Consequently, the
7 record does not support finding a pattern of misconduct. Finding that a person is
8 a “vulnerable victim” requires: (1) a physical or mental disability; (2) evidence
9 that the respondent know about the disability; and (3) evidence that the
10 respondent used the knowledge to take advantage of the client. *See e.g. In re*
11 *Disciplinary Proceeding Against Stansfield*, 164 Wn.2d 108, 129, 187 P.3d 254
12 (2008).

13 **(3) The aggravating factor of submitting false evidence is limited to Counts 1-8**
14 **and 11-15.** Submission of false evidence was part of the factual allegation in
15 counts 9 and 10, consequently, this should not have been a separate aggravating
16 factor. *See e.g. In re Disciplinary Proceeding Against Whitt*, 149 Wn.2d 707,
17 720, 72 P.3d 173 (2003).

18 **(4) The aggravating factor of illegal conduct is limited to Counts 1, 2, 5, 6 and**
19 **12-15.** Illegal conduct was part of the factual allegation in counts 3, 4 and 7-11.
20 Consequently, this fact should not have been a separate aggravating factor. *See*
21 *e.g. In re Disciplinary Proceeding Against Whitt*, 149 Wn.2d 707, 720, 72 P.3d
22 173 (2003).

² Disciplinary Counsel requested this correction.

1 These changes do not alter the ultimate sanction recommendation. Disbarment with
2 \$6,091.09 restitution is the appropriate sanction. The Board recommends that the Court
3 condition reinstatement on payment of restitution, including to the Lawyers Fund for
4 Client Protection, if required.

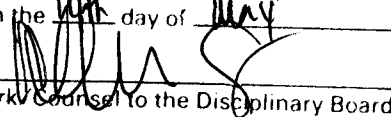
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7 Dated this 14th day of May 2013.

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Nancy Ivarinen
Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the DO Order Adopting HO's Decision
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Stephen Combs Respondent/Respondent's Counsel
at 1203 11th Ave W. Lynnwood, WA 98076 by Certified/first class mail
postage prepaid on the 14th day of May, 2013


Clerk/Counsel to the Disciplinary Board