

FILED

JAN 30 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

CLIFFORD KING B'HYMER,

Lawyer (Bar No. 5544).

Proceeding No. 12#00063

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

In accordance with Rule 10.6(b)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the undersigned Hearing Officer held a default proceeding by written submissions.

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

1. The Formal Complaint (Bar File No. 4) charged Respondent Clifford King B'Hymer with misconduct as set forth therein.

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 the violations charged in the Formal Complaint are admitted and established as follows:

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1 **COUNT 1**

2 4. By failing to consult with his clients at all, except indirectly through his nonlawyer
3 assistant, and by failing to explain to his clients, even indirectly, the reasons for and the
4 consequences of failing to appear for their hearings, Respondent violated RPC 1.4.

5 **COUNT 2**

6 5. By ordering his nonlawyer assistant to give his clients legal advice that was both
7 inaccurate and adverse to their interests, and by knowing of and ratifying such conduct,
8 Respondent violated RPC 5.3.

9 **COUNT 3**

10 6. By failing to appear for his clients' hearings, by advising his clients not to appear
11 for their hearings, by failing to notify the tribunal of his intentions, and by failing to provide, in
12 response to the Notice to Show Cause, any explanation of his or his clients' failure to appear,
13 Respondent violated RPC 1.1, 3.2, and 8.4(d).

14 **COUNT 4**

15 7. By failing to promptly provide a full and complete response to a request for
16 information relevant to a grievance, Respondent violated ELC 1.5, ELC 5.3(e), and RPC 8.4(l).

17 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
18 **REGARDING RECOMMENDED SANCTION**

19 8. In committing the violation alleged in Count 1, Respondent acted knowingly.

20 9. In committing the violation alleged in Count 1, Respondent caused injury to his
21 clients by causing them to detrimentally rely on instructions and advice that were adverse to
22 their interests.

23 10. In committing the violation alleged in Count 2, Respondent acted knowingly.

24 11. In committing the violation alleged in Count 2, Respondent caused injury to his

1 clients by causing them to detrimentally rely on instructions and advice that were adverse to
2 their interests.

3 12. In committing the violation alleged in Count 3, Respondent acted knowingly.

4 13. In committing the violation alleged in Count 3, Respondent caused injury to his
5 clients by causing their cases to be dismissed or significantly delayed. Respondent also caused
6 interference with 19 legal proceedings by causing those proceedings to be delayed and some
7 cases dismissed.

8 14. In committing the violation alleged in Count 4, Respondent acted knowingly.

9 15. In committing the violation alleged in Count 4, Respondent caused injury to the
10 legal system by delaying and impeding the investigation of grievances.

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

14 17. The presumptive sanction for Count 1 is suspension under ABA Standards std.
15 4.42.

16 18. The presumptive sanction for Count 2 is suspension under ABA Standards std. 7.2.

17 19. The presumptive sanction for Count 3 is suspension under ABA Standards std.
18 6.22.

19 20. The presumptive sanction for Count 4 is suspension under ABA Standards std. 7.2.

20 21. The following aggravating factors set forth in ABA Standards std. 9.22 apply in
21 this matter:

22 (c) a pattern of misconduct;

23 (d) multiple offenses;

1 (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to
2 comply with rules or orders of the disciplinary agency (i.e., failure to file an answer as required
3 by ELC 10.5(a)); and

4 (i) substantial experience in the practice of law (admitted to practice in 1974).

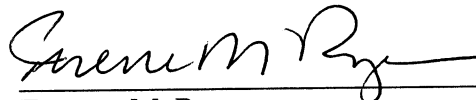
5 22. The following mitigating factor set forth in ABA Standards std. 9.32 applies in this
6 matter:

7 (a) absence of a prior disciplinary record.

8 **RECOMMENDATION**

9 23. Based on the ABA Standards and the applicable aggravating and mitigating
10 factors, the Hearing Officer recommends that Respondent Clifford King B'Hymer be suspended
11 for one year.

12 DATED this 28th day of JANUARY, 2013.

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14 Terence M. Ryan,
15 Hearing Officer

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19 **CERTIFICATE OF SERVICE**

20 I certify that I caused a copy of the PDF, 10/24/13 Recommendation
21 to be delivered to the Office of Disciplinary Counsel and to be mailed
22 to CLIFFORD B'HYMER, Respondent/Respondent's Counsel
23 at 220 6th Street, Clarkston, WA 99403, by Certified first class mail,
24 postage prepaid on the 28th day of JANUARY, 2013


Clerk/Counsel to the Disciplinary Board