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FILED

JAN 08 2015

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

DONALD F. MANSFIELD,
Lawyer (Bar No. 6553).

Proceeding No. 14#00033

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

The undersigned Hearing Officer held a default hearing on January 8, 2015 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. 3) charged Donald F. Mansfield 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 each of the violations charged in the Formal Complaint (Bar File No. 3) is admitted and established as follows:

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

- 4 4.42 Suspension is generally appropriate when:
5 (a) a lawyer knowingly fails to perform services for a client and causes
6 injury or potential injury to a client, or
7 (b) a lawyer engages in a pattern of neglect and causes injury or potential
8 injury to a client.

7 **Count 2**

8 12. Respondent knowingly failed to cooperate with the ODC investigation of Mr.
9 Pinckney's grievance.

10 13. The Association was harmed in that it incurred expenses in serving Respondent with
11 a non-cooperation subpoena and in arranging for and paying a court reporter for a deposition
12 that did not occur due to Respondent's failure to appear.

13 14. The legal system was also harmed as Respondent's failure to cooperate caused the
14 Association to petition the Supreme Court for his interim suspension for non-cooperation. This
15 in turn caused the court to expend time and resources to review, hear and rule on the matter.

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

- 19 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
20 conduct that is a violation of a duty owed as a professional and causes
21 injury or potential injury to a client, the public, or the legal system.

21 **Count 3**

22 16. Respondent acted intentionally in converting Mr. Pinckney's settlement funds for his
23 own use thereby committing the crime of theft in the first degree.
24

1 17. Mr. Pinckney was harmed in that he has never received the settlement funds he is
2 entitled to.

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

6 5.11 Disbarment is generally appropriate when:

- 7 (a) a lawyer engages in serious criminal conduct, a necessary element of
8 which includes intentional interference with the administration of justice,
9 false swearing, misrepresentation, fraud, extortion, misappropriation, or
10 theft; or the sale, distribution or importation of controlled substances; or
11 the intentional killing of another; or an attempt or conspiracy or
12 solicitation of another to commit any of these offenses; or
13 (b) a lawyer engages in any other intentional conduct involving dishonesty,
14 fraud, deceit, or misrepresentation that seriously adversely reflects on the
15 lawyer's fitness to practice.

16 **Count 4**

17 19. Respondent acted knowingly in failing to maintain funds belonging to Mr. Pinckney
18 in his trust account and instead using them for his own purposes.

19 20. Mr. Pinckney was harmed in that he has never received the funds that belong to him.

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

- 23 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
24 client property and causes injury or potential injury to a client.

Count 5

22 22. Respondent acted intentionally in failing to pay Mr. Pinckney funds that belonged to
23 him and instead used them for his own purposes.

24 23. Mr. Pinckney was harmed in that he has never received the funds from his settlement

1 that belong to him.

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

5 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
6 client property and causes injury or potential injury to a client.

7 25. The following aggravating factors set forth in Section 9.22 of the ABA Standards
8 apply in this case:

- 9 (b) dishonest or selfish motive;
10 (d) multiple offenses;
(i) substantial experience in the practice of law [Respondent was admitted in
11 1976].

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

14 27. The following mitigating factors set forth in Section 9.32 of the ABA Standards
15 applies to this case:

- 16 (a) absence of a prior disciplinary record.

17 RECOMMENDATION

18 28. Based on the ABA Standards and the applicable aggravating and mitigating factors,
19 the Hearing Officer recommends that Respondent Donald F. Mansfield be disbarred.
20 Reinstatement is conditioned on full payment of costs and restitution.

21 RESTITUTION

22 29. In addition, I recommend that Respondent be ordered to pay restitution to Derrick
23 Pinckney in the amount of \$14,000 plus 12% interest per annum from September 12, 2011, the
24 date the check was deposited to Respondent's trust account. I further recommend that

1 Respondent's reinstatement to practice be contingent on full payment of restitution to Mr.
2 Pinckney.

3 DATED this 8th day of January 2015

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5 MA Hat
6 Octavia Y. Hathaway,
7 Hearing Officer

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11 CERTIFICATE OF SERVICE

12 I certify that I caused a copy of the FOF, COL & HD's Recommendation
13 to be delivered to the Office of Disciplinary Counsel and to be mailed
14 to Donald Mansfield ~~Respondent's~~ Respondent's Counsel
15 at 6214 75th Ave. N.W. W. Pl. WA 98147, by Certified first class mail,
16 postage prepaid on the 8th day of JANUARY, 2015

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MOUSA
Clerk/Counsel to the Disciplinary Board