

FILED
FEB 25 2015
DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
DONALD FREDERICK MANSFIELD,
Lawyer (WSBA No.6553)

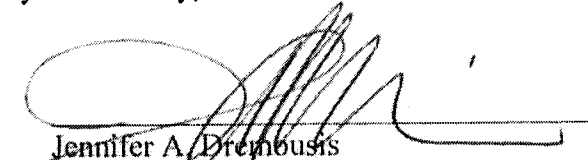
Proceeding No. 14#00033

**DISCIPLINARY BOARD ORDER
DECLINING *SUA SPONTE* REVIEW AND
ADOPTING HEARING OFFICER'S
DECISION**

This matter came before the Disciplinary Board for consideration of *sua sponte* review pursuant to ELC 11.3(a). On February 12, 2015, the Clerk distributed the attached decision to the Board.

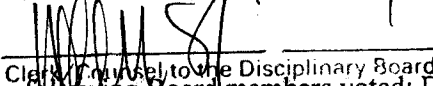
IT IS HEREBY ORDERED THAT the Board declines *sua sponte* review and adopts the Hearing Officer's decision¹.

Dated this 25 day of February, 2015.


Jennifer A. Dremousis
Chair, Disciplinary Board

CERTIFICATE OF SERVICE

I certify that I caused a copy of the Order Declining Sua Sponte Review & Adopting Decision to be delivered to the Office of Disciplinary Counsel and to be mailed by to Donald Mansfield Respondent's Counsel at 2214 75th Ave. Ct. W. - Van. Pl., WA 98147 by Certified/first class mail postage prepaid on the 25th day of February, 2015


Clerk of Counsel to the Disciplinary Board

¹ The vote on this matter was 14-0. The following Board members voted: Dremousis, Bloomfield, Davis, Carney, Coy, McInvaile, Fischer, Andeen, Berger, Cottrell, Smith, Mesher, Egeler and Myers.

022

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

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 | **COUNT 1**

2 | 4. By failing to respond to Mr. Pinckney's calls, letters, and/or e-mails, Respondent
3 | violated RPC 1.4(a) and 1.4(b).

4 | **COUNT 2**

5 | 5. By failing to cooperate with ODC's investigation, Respondent violated RPC 8.4(l)
6 | and former Rule 5.3(e) and former Rule 5.5(c) of the Rules for Enforcement of Lawyer
7 | Conduct.

8 | **COUNT 3**

9 | 6. By converting client funds, Respondent violated RPC 8.4(b) (by committing the
10 | crime of first and/or second degree theft in violation of RCW 9A.56.040 and /or RCW
11 | 9A.56.030), RPC 8.4(c), RPC 8.4(i), and RPC 1.15A(b).

12 | **COUNT 4**

13 | 7. By failing to maintain client funds in a trust account, Respondent violated RPC
14 | 1.15A(c)(1).

15 | **COUNT 5**

16 | 8. By failing to pay Mr. Pinckney funds that belonged to him, Respondent violated
17 | RPC 1.15A(f) and RPC 1.16(d).

18 | **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
19 | **REGARDING RECOMMENDED SANCTION**

20 | **Count 1**

21 | 9. Respondent acted knowingly in failing to respond to Mr. Pinckney's requests for
22 | information and in failing to return Mr. Pinckney's files.

23 | 10. Mr. Pinckney was injured in that he expended significant amounts of time and effort
24 | trying to obtain information about the disposition of his settlement funds, to no avail.

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

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;
- 11 (i) substantial experience in the practice of law [Respondent was admitted in
12 1976].

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

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

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

18 RECOMMENDATION

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

22 RESTITUTION

23 29. In addition, I recommend that Respondent be ordered to pay restitution to Derrick
24 Pinckney in the amount of \$14,000 plus 12% interest per annum from September 12, 2011, the
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

4
5 MS Hath
6 Octavia Y. Hathaway,
7 Hearing Officer

11 CERTIFICATE OF SERVICE

12 I certify that I caused a copy of the PDF, COL & HD's Recommendation
13 to be delivered to the Office of Disciplinary Counsel and to be mailed
14 to DOMINA MARSHALL ~~Respondent's~~ Respondent's Counsel
15 at 1014 75th Ave. S.W. Wall. Pl., WA 98148, by Certified first class mail,
16 postage prepaid on the 8th day of JANUARY, 2015

17
18
19
20
21
22
23
24
DOMINA MARSHALL
Clerk/Counsel to the Disciplinary Board