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DISCIPLINARY
BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

BRIAN K. HAMMER,
Lawyer (Bar No. 7642).

Proceeding No. ~~15-00016~~ **10#00063**

ODC File No(s). 14-02171, and
15-00429

RESIGNATION OF BRIAN K. HAMMER
(ELC 9.3(b))

Brian K. Hammer, being duly sworn, hereby attests to the following:

1. I am over the age of eighteen years and am competent. I make the statements in this affidavit from personal knowledge.

2. I was admitted to practice law in the State of Washington on November 10, 1977.

3. There are currently two grievances pending against me: ODC File No. 14-02171 and ODC File No. 15-00429.

4. After consultation with my counsel, Sam B. Franklin and Pamela M. Andrews, I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Rules for Enforcement of Lawyer Conduct (ELC).

5. Attached hereto as Exhibit A is disciplinary counsel's Statement of Alleged

Resignation
Page 1

OFFICE OF DISCIPLINARY COUNSEL
OF THE WASHINGTON STATE BAR ASSOCIATION
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8297

001

1 Misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in
2 disciplinary counsel's statement but, rather than defend against the allegations, I wish to
3 permanently resign from membership in the Association.

4 6. I am submitting with this affidavit a check in the amount of \$1,000 made out to the
5 Washington State Bar Association as payment for expenses and costs.

6 7. I have previously been ordered to pay \$9,150.40 as restitution to Aimee Sorensen
7 in Proceeding No. 15#00016. In addition, I agree to pay restitution as follows: 1) \$300 to
8 Molly Cuthbert; and 2) restitution to clients and third parties of funds obtained in my law
9 practice for which I failed to account. The schedule of restitution is attached to disciplinary
10 counsel's Statement of Alleged Misconduct. I agree that this schedule will be filed under seal,
11 and disclosure of this document will be limited, except to the extent required to allow any
12 hearing officer, the Lawyer's fund for Client Protection, the Disciplinary Board, or the Supreme
13 Court to perform their duties, or to allow disclosure to the clients and third parties.

14 8. I agree to pay any other additional costs or restitution that may be ordered by a
15 Review Committee under ELC 9.3(g).

16 9. I understand that my resignation is permanent and that any future application by
17 me for reinstatement as a member of the Association is currently barred. If the Supreme Court
18 changes this rule or an application is otherwise permitted in the future, it will be treated as an
19 application by one who has been disbarred for ethical misconduct, and that, if I file an
20 application, I will not be entitled to a reconsideration or reexamination of the facts, complaints,
21 allegations, or instances of alleged misconduct on which this resignation was based.

22 10. I agree to (a) notify all other states and jurisdictions in which I am admitted of this
23 resignation in lieu of discipline; (b) seek to resign permanently from the practice of law in those

1 states; and (c) provide disciplinary counsel with copies of this notification and any response(s).

2 I acknowledge that this resignation could be treated as a disbarment by all other jurisdictions.

3 11. I agree to (a) notify all other professional licensing agencies in any jurisdiction
4 from which I have a professional license that is predicated on my admission to practice law of
5 this resignation in lieu of discipline; (b) seek to resign permanently from any such license; and
6 (c) provide disciplinary counsel with copies of any of these notifications and any responses.

7 12. I agree that when applying for any employment, I will disclose the resignation in
8 lieu of discipline in response to any question regarding disciplinary action or the status of my
9 license to practice law.

10 13. I understand that my resignation becomes effective on disciplinary counsel's
11 endorsement and filing of this document with the Clerk, and that under ELC 9.3(e) disciplinary
12 counsel must do so promptly following receipt of this document and payment of costs and
13 expenses.

14 14. When my resignation becomes effective, I agree to be subject to all restrictions that
15 apply to a disbarred lawyer.

16 15. Upon filing of my resignation, I agree to comply with the same duties as a
17 disbarred lawyer under ELC 14.1 through ELC 14.4.

18 16. I understand that, after my resignation becomes effective, it is permanent. I will
19 never be eligible to apply and will not be considered for admission or reinstatement to the
20 practice of law nor will I be eligible for admission for any limited practice of law.

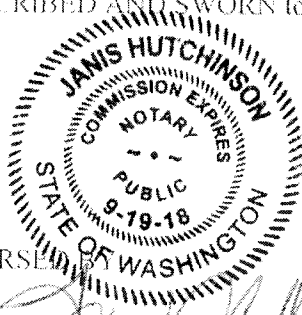
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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

6/6/16 Everett WA
Date and Place

Brian K. Hammer
Brian K. Hammer, Bar No. 7642

SUBSCRIBED AND SWORN to before me this 6th day of June, 2016.



Janis Hutchinson
NOTARY PUBLIC for the state of
Washington, residing at Everett

My commission expires: 9-19-18

ENDORSED BY WASHINGTON
Francesca D'Angelo
Francesca D'Angelo, Disciplinary Counsel
Bar No. 22979

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BEFORE THE
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In re

BRIAN K. HAMMER,
Lawyer (Bar No. 7642).

ODC File No(s). 14-02171 and 15-00429

STATEMENT OF ALLEGED
MISCONDUCT UNDER ELC 9.3(b)(1)

The following constitutes a Statement of Alleged Misconduct under Rule 9.3(b)(1) of the Rules for Enforcement of Lawyer Conduct (ELC).

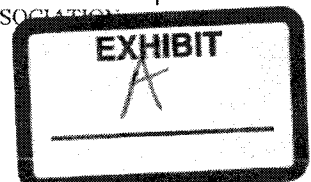
I. ADMISSION TO PRACTICE

1. Respondent Brian K. Hammer (Respondent) was admitted to the practice of law in the State of Washington on November 10, 1977.

II. ALLEGED FACTS

Cuthbert Matter

2. In November 1996, Respondent issued a trust account check to Molly Cuthbert (Cuthbert) in the amount of \$10,911.37 for "buyer proceeds." The check remained uncashed for fourteen years, during which time, Respondent failed to maintain the \$10,911.37 in a trust



1 account.

2 3. In 2010, Cuthbert informed Respondent that she discovered the \$10,911.37
3 uncashed check in a desk drawer. In November 2010, Respondent delivered \$10,611.37 to
4 Cuthbert, after subtracting \$300 for an attorney fee to research the uncashed check.

5 Other Matters

6 4. During the period December 1996 through December 2014, Respondent failed to
7 maintain client and third party funds in a trust account, disbursed client and third party funds for
8 his own use without entitlement, failed to render prompt or accurate accountings to clients and
9 third parties, and failed to deliver to clients and third parties funds they were entitled to receive,
10 as set forth in the attached schedule.

11 **III. ALLEGED MISCONDUCT.**

12 5. By charging Cuthbert unreasonable attorney fees, Respondent violated RPC 1.5(a).

13 6. By failing to deposit and maintain client and third party funds in a trust account,
14 Respondent violated RPC 1.15A(c).

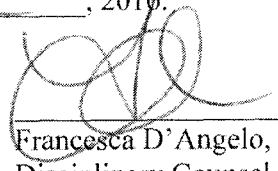
15 7. By disbursing client and third party funds for his own use, without entitlement to
16 the funds, Respondent violated RPC 1.15A(b).

17 8. By failing to provide prompt or accurate accountings to clients and third parties,
18 Respondent violated RPC 1.15A(e).

19 9. By failing to deliver funds that clients and third parties were entitled to receive,
20 Respondent violated RPC 1.15A(f).

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DATED this 21 day of June, 2016.



Francesca D'Angelo, Bar No. 22979
Disciplinary Counsel