

APR 26 2013

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**DENNIS KEITH PFLUG,**

Lawyer (Bar No. 11930).

Proceeding No. 12#00107

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

In accordance with Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC),  
the undersigned Hearing Officer held a default hearing on April 26, 2013.

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

1. The Formal Complaint (Bar File No.2) charged Dennis Keith Pflug 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 violations charged in the  
Formal Complaint (Bar File No. 2) is admitted and established as follows:

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

**Count 1**

10. Respondent initially acted negligently in failing to communicate with Ms. Page and Eric, but his conduct became knowing as the case progressed.

11. Eric and his family were injured in that they were denied information about his case and misled about his “reconsideration” hearing.

12. The following standards of the American Bar Association’s Standards for Imposing Lawyer Sanctions (“ABA Standards”) (1991 ed. & Feb. 1992 Supp.) presumptively apply to Respondent’s violation of RPC 1.4:

ABA Standards §4.42 applies:

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

**Count 2**

13. Respondent acted intentionally in misrepresenting to Ms. Page that he had set a hearing date or would be setting a hearing date for Eric’s reconsideration hearing when he had not done so and never did.

14. Ms. Page was injured in that she was misled for months into believing that a hearing date had been set for Eric’s reconsideration and spent much time and energy preparing for the hearing, while continuing to pay his fees under the false assumption that he was preparing for the reconsideration hearing.

15. The following standards of the American Bar Association’s Standards for Imposing Lawyer Sanctions (“ABA Standards”) (1991 ed. & Feb. 1992 Supp.) presumptively

1 apply to Respondent's violation of RPC 8.4(c), RPC 1.4(a) and RPC 1.4(b):

2 ABA Standards §4.61 applies:

3 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a  
4 client with the intent to benefit the lawyer or another, and causes serious  
injury or potential serious injury to a client.

5 **Count 3**

6 16. Respondent acted intentionally in providing Ms. Page and Eric with false billing  
7 statements that misrepresented that he had attended court hearings that never occurred.

8 17. Eric and Ms. Page were seriously injured in that the statement again misled them  
9 into believing that Respondent was attending to Eric's case, including by attending court  
10 hearings when actually he was not.

11 18. 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 to Respondent's violation of RPC 8.4(c):

14 ABA Standards §4.61 applies:

15 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a  
16 client with the intent to benefit the lawyer or another, and causes serious  
injury or potential serious injury to a client.

17 **Count 4**

18 19. Respondent acted intentionally in billing Ms. Page \$4,300 between July 2010 and  
19 March 1, 2011 while providing minimal services of use to Eric.

20 20. Ms. Page was seriously injured in that she paid for services that were never  
21 performed by Respondent.

22 21. The following standards of the American Bar Association's Standards for  
23 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively  
24

1 apply to Respondent's violation of RPC 1.5:

2 ABA Standards §7.1 applies:

3 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in  
4 conduct that is a violation of a duty owed as a professional with the intent  
5 to obtain a benefit for the lawyer or another, and causes serious or  
6 potentially serious injury to a client, the public, or the legal system.

7 **Count 5**

8 22. Respondent acted knowingly in failing to notify Eric and Ms. Page of his  
9 suspension.

10 23. Eric and Ms. Page were seriously injured in that that were unaware that  
11 Respondent had been suspended and was no longer able to act as Eric's lawyer.

12 24. The following standards of the American Bar Association's Standards for  
13 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively  
14 apply to Respondent's violations of RPC 8.4(l) and ELC 14.1(c)(1) and (2):

15 ABA Standards §7.2 applies:

16 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
17 conduct that is a violation of a duty owed as a professional and causes  
18 injury or potential injury to a client, the public, or the legal system.

19 **Count 6**

20 25. Respondent acted intentionally in failing to cooperate with the Association's  
21 investigation of Ms. Page's grievance.

22 26. The discipline system was injured in that additional resources were expended in  
23 twice attempting to serve Respondent in order to obtain a response to Ms. Page's grievance.  
24 Even after Respondent was personally served, he intentionally failed to appear for his  
deposition or respond to the grievance.

ABA Standards §7.1 applies:

1  
2 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in  
3 conduct that is a violation of a duty owed as a professional with the intent  
4 to obtain a benefit for the lawyer or another, and causes serious or  
5 potentially serious injury to a client, the public, or the legal system.

6 27. Where the Hearing Officer finds multiple ethical violations, the “ultimate sanction  
7 imposed should at least be consistent with the sanction for the most serious instance of  
8 misconduct among a number of violations.” In re Disciplinary Proceeding Against Petersen,  
9 120 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

10 28. The following aggravating factors set forth in Section 9.22 of the ABA Standards  
11 apply in this case:

- 12 (a) prior disciplinary offenses [*in November 2012, Mr. Pflug was suspended*  
13 *for 18 months in Proceeding #12-00087 for failure to communicate,*  
14 *conflicts of interest and failure to turn over a client file to subsequent*  
15 *counsel. In March 2011, Mr. Pflug was suspended for 18 months in*  
16 *Proceeding No. 09#00093 for lack of diligence, failing to communicate*  
17 *with his client, and failing to cooperate with the Association. Mr. Pflug*  
18 *also received a reprimand in April 2003, for failing to competently and*  
19 *diligently represent his clients, and failing to communicate*];  
20 (b) dishonest or selfish motive [*Respondent knowingly misled Eric and Ms.*  
21 *Page about the reconsideration hearing and intentionally billed Ms. Page*  
22 *for work never performed*];  
23 (c) a pattern of misconduct [*based on prior discipline for similar conduct*];  
24 (d) multiple offenses;  
(e) bad faith obstruction of the disciplinary proceeding by intentionally  
failing to comply with rules or orders of the disciplinary agency;

29. No mitigating factors under 9.32 of the ABA Standards apply to this case.

### RESTITUTION

30. Respondent is ordered to pay \$4,300 in restitution to Ms. Page.

31. Respondent’s reinstatement to practice is conditioned on his payment in full of  
restitution ordered.

1 **RECOMMENDATION**

2 32. Based on the ABA Standards and the applicable aggravating and mitigating  
3 factors, the Hearing Officer recommends that Respondent Dennis Keith Pflug be disbarred and  
4 the Mr. Pflug pay Ms. Page \$4,300 in restitution. Reinstatement is conditioned on proof of  
5 payment of all restitution ordered as well as all costs and expenses associated with this matter.

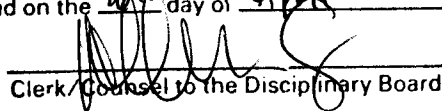
6  
7 DATED this 26 day of April, 2013.

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10 Anthony A. Russo,  
11 Hearing Officer

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13 **CERTIFICATE OF SERVICE**

14 I certify that I caused a copy of the FOF COL & HO's Recommendation  
15 to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Dennis Pflug Respondent/Respondent's Counsel  
at 10757 22nd Ave SW Seattle, WA 98148 by Certified first class mail  
16 postage prepaid on the 26th day of April, 2013

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18 \_\_\_\_\_  
19 Clerk/Counsel to the Disciplinary Board