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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re
JEROME CHILWELL SCOWCROFT,
Lawyer (Bar No. 15877).

Proceeding No. 16#00110
FINDINGS OF FACT, CONCLUSIONS OF
LAW AND HEARING OFFICER'S
RECOMMENDATION

The undersigned Hearing Officer held a default hearing on August 24, 2017 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.2) charged Jerome Chilwell Scowcroft with misconduct as set forth therein. A copy of the Bar File No. 2 is attached to this decision.
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 Bar File No. 2 is admitted and established as follows:
4. **Count 1:** By filing a petition to have Ms. Marie designated a vulnerable adult,

BWA

1 | against her specific wishes, Respondent violated RPC 1.2(a) and RPC 1.4.

2 | 5. **Count 2:** By disclosing Ms. Marie's confidential medical records to APS/DSHS
3 | against her wishes, without explaining her rights under HIPAA and/or without her written
4 | release or informed consent, when the disclosure was not impliedly authorized to carry out the
5 | representation, Respondent violated RPC 1.2(a), RPC 1.4(a)(1), RPC 1.4(a)(2), and RPC 1.6(a).

6 | 6. **Count 3:** By bringing SB to a client meeting during which Ms. Marie's
7 | confidential information and legal strategies were discussed, without obtaining Ms. Marie's
8 | informed consent, Respondent violated RPC 1.6(a).

9 | 7. **Count 4:** By disclosing to Ms. Marie confidential client information he obtained
10 | during his representation of another client, without the other client's informed consent,
11 | Respondent violated RPC 1.6(a).

12 | 8. **Count 5:** By failing to provide, upon request, a written communication of the
13 | scope of representation and/or the basis or rate of the fees and expenses for which Ms. Marie
14 | would be responsible, Respondent violated RPC 1.5(b).

15 | **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
16 | **REGARDING RECOMMENDED SANCTION**

17 | 9. Respondent acted knowingly when he turned over Ms. Marie's medical records to
18 | APS/DSHS, when he brought SB to a client meeting, and when he shared confidential
19 | information about another client, all without permission.

20 | 10. Ms. Marie was harmed by being forced to relinquish her foster care license, losing
21 | the income she could earn by providing services under that license, being deprived of the
22 | enjoyment and satisfaction she derived from that work, and by having her case discussions and
23 | legal strategy shared with a stranger (SB) without her consent. Respondent's other client was
24 | harmed in having his personal information shared with others, and was potentially harmed

1 insofar as the others might use that information to his detriment.

2 11. Respondent acted knowingly in disregarding Ms. Marie's wish not to pursue a
3 vulnerable adult determination and her strong objection to the disclosure of her medical records.

4 12. Respondent acted knowingly when he failed to communicate, in writing, the scope
5 of his representation and the basis or rate of his fee, and expenses for which Ms. Marie would
6 be responsible.

7 13. Ms. Marie, who had limited income, was harmed by the uncertainty as to whether
8 or not she would be responsible for any fees and/or expenses Respondent might seek at the
9 conclusion of the representation.

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

13 ABA Standard 4.2 applies to a lawyer's duty to preserve client confidences.

14 ABA Standard 4.4 is most applicable to a lawyer's duty to consult with the client as to
15 the means by which the client's objectives are to be pursued, and to promptly inform a client of
16 any decision or circumstance with respect to which the client's informed consent is required.

17 ABA Standard 7.0 applies to the duty to communicate in writing, the scope of
18 representation and the basis or rate of the fee and expenses for which the client will be
19 responsible.

20 15. The following aggravating factors set forth in Section 9.22 of the ABA Standards
21 apply in this case:

- 22 (d) multiple offenses;
23 (g) refusal to acknowledge wrongful nature of conduct; and
24 (i) substantial experience in the practice of law [Respondent was admitted to
practice in Washington State in 1986].

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

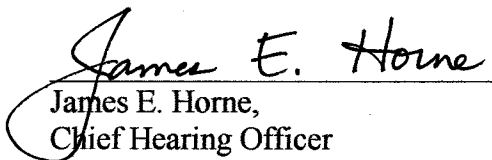
3 17. The following mitigating factor set forth in Section 9.32 of the ABA Standards
4 apply to this case:

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

6
7 **RECOMMENDATION**

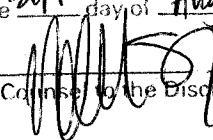
8 18. Based on the ABA Standards and the applicable aggravating and mitigating
9 factors, the Hearing Officer recommends that Respondent Jerome Chilwell Scowcroft be
10 suspended for one year, that he be required to undergo an evaluation of his fitness to practice as
11 a condition of his reinstatement and that, if reinstated, he be placed on probation for a period of
12 two years, during which he would be required to have a practice monitor and to comply with
13 any recommendations, such as counseling, made in the fitness evaluation.

14 DATED this 24th day of August, 2017.

15
16 
17 James E. Horne,
18 Chief Hearing Officer

19 **CERTIFICATE OF SERVICE**

20 I certify that I caused a copy of the FOF, COL & HO's Recommendation
21 to be delivered to the Office of Disciplinary Counsel and to be mailed
22 to JEROME SCOWCROFT, Respondent/Respondent's Counsel
23 by Certified/first class mail,
24 postage prepaid on the 24th day of Aug, 2017


Clerk/Counselor to the Disciplinary Board

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SEATTLE, WA 98125