

OCT 31 2017

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

JEROME CHILWELL SCOWCROFT,

Lawyer (WSBA No.15877)

Proceeding No. 16#00110

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 October 19, 2017, 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 31st day of October, 2017.


Marc L. Silverman
Disciplinary Board Chair

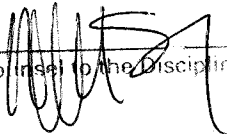
¹ The vote on this matter was 14-0. The following Board members voted: Silverman, Cornelius, Graber, Vovos, Patneau, Startzel, Byerly, Rawlings, Denton, Value, Allen, Louvier, Wang, Harrington.

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CERTIFICATE OF SERVICE

I certify that I caused a copy of the DD Order Regarding SVA Spontaneous Review & Adopting
to be delivered to the Office of Disciplinary Counsel and to be mailed HHS Decision
to Jerome Scowcroft Respondent's Counsel
at 1120 Roosevelt Way NE Seattle, WA 98105 by Certified first class mail
postage prepaid on the 21st day of Oct, 2017

Clerk/Counsel to the Disciplinary Board



FILED
AUG 24 2017
DISCIPLINARY
BOARD

BEFORE THE
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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,

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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).

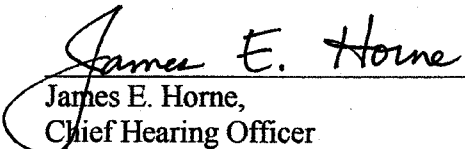
3 17. The following mitigating factor set forth in Section 9.32 of the ABA Standards
4 apply to this case:

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

7 **RECOMMENDATION**

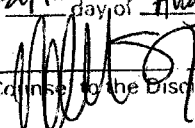
8 18. Based on the ABA Standards and the applicable aggravating and mitigating
9 factors, the Hearing Officer recommends that Respondent Jerome Chilwell Scowcroft be
10 suspended for one year, that he be required to undergo an evaluation of his fitness to practice as
11 a condition of his reinstatement 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 at _____, by Certified first class mail,
24 postage prepaid on the 24th day of Aug, 2017


Clerk/Counselor to the Disciplinary Board

11320 ROOSEVELT WAY NE
SEATTLE, WA 98126

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FILED
JUN 15 2017
DISCIPLINARY
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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

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

Proceeding No. 16#00110
FORMAL COMPLAINT

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent Jerome Chilwell Scowcroft was admitted to the practice of law in the State of Washington on June 2, 1986.

FACTS REGARDING COUNTS 1 - 5

2. Chelsi Marie (Ms. Marie) is disabled and lives in a condominium that had been owned by her late grandfather, Lee Alverson (Mr. Alverson).

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1 3. During his lifetime, Mr. Alverson created a trust that provided for Ms. Marie to live
2 in the condominium.

3 4. After her grandfather's death, Ms. Marie's estranged biological mother began
4 managing the trust.

5 5. In or around February 2013, Respondent met with Ms. Marie.

6 6. At the time Respondent met with Ms. Marie, she was receiving Social Security
7 disability benefits, was in therapy, and possessed a Department of Health and Social Services
8 (DSHS) foster care license under which she provided short-term respite care on a sporadic basis.

9 7. Ms. Marie sought a lawyer to help her confirm her rights under her grandfather's
10 will and/or trust, because her mother was seeking to evict her from the condominium.

11 8. Respondent agreed to try to help Ms. Marie and met with her a number of times
12 between February and August 2013.

13 9. The meetings took place at Ms. Marie's condominium or at her therapist's office
14 with others present, such as Ms. Marie's therapist, her domestic violence advocate Jim Crosby,
15 her close friends and/or family members, who were there to assist her.

16 10. From the outset, Ms. Marie was concerned about the costs of the representation.

17 11. At various times during the representation, Respondent mentioned that his hourly
18 rate was \$150, that he might represent Ms. Marie pro bono, and that he might obtain payment
19 from her grandfather's trust if they brought a successful lawsuit to establish her rights.

20 12. Concerned about her ability to afford the representation, Ms. Marie asked
21 Respondent for a written agreement that set forth their understanding about the services being
22 provided and his fees.

23 13. Respondent told Ms. Marie a fee agreement was unnecessary and he did not provide

1 one.

2 14. Early in the representation, Respondent suggested applying to Adult Protective
3 Services (APS) to have Ms. Marie designated a vulnerable adult.

4 15. Ms. Marie told Respondent she did not want him to do so because she was
5 concerned that her foster care license would be jeopardized by disclosure of her confidential
6 medical records.

7 16. Without obtaining Ms. Marie's informed consent, or explaining her rights under the
8 Health Insurance Portability and Accountability Act (HIPAA), or obtaining her written waiver
9 for disclosure of her sensitive medical information, Respondent provided Ms. Marie's medical
10 records to APS.

11 17. APS found that Ms. Marie did not meet the definition of a vulnerable adult because
12 of her degree of self-sufficiency.

13 18. Based on the medical information Respondent provided to APS, DSHS threatened to
14 revoke Ms. Marie's foster care license unless she agreed to submit to a \$3,000 evaluation at her
15 own expense.

16 19. Because Ms. Marie could not afford the \$3,000 evaluation, she voluntarily
17 relinquished her foster care license.

18 20. During the representation, Respondent convened a meeting at Ms. Marie's
19 condominium with several of her family members and other potential witnesses who attended in
20 person or via telephone or Skype.

21 21. The purpose of the meeting was to discuss possible legal action to have Ms. Marie's
22 estranged mother removed from administration of her grandfather's trust and/or to seek
23 appointment of another person to manage Ms. Marie's affairs under her grandfather's trust,

1 and/or to determine whether the participants would support and/or be willing to testify at such a
2 proceeding.

3 22. Without prior warning or explanation, and without Ms. Marie's informed consent,
4 Respondent brought a woman (SB) to the meeting.

5 23. Ms. Marie did not know SB and assumed that she was Respondent's paralegal.

6 24. During the meeting, Respondent, Ms. Marie and the invited participants discussed
7 Ms. Marie's case and possible legal strategies.

8 25. SB was present during this discussion.

9 26. Ms. Marie later learned that SB was not Respondent's paralegal, but his girlfriend.

10 27. In or around August 2013, Ms. Marie was frustrated by Respondent's lack of
11 progress in accomplishing her objectives, and she terminated his services.

12 28. On or about October 7, 2014, Ms. Marie filed a grievance against Respondent.

13 29. During the representation, Respondent spoke with Ms. Marie about another of his
14 clients, "TH," by name, and shared details of that individual's divorce, including TH's financial
15 information, without TH's permission.

16 **COUNT 1**

17 30. By filing a petition to have Ms. Marie designated a vulnerable adult, against her
18 specific wishes, Respondent violated RPC 1.2(a) and/or RPC 1.4.

19 **COUNT 2**

20 31. By disclosing Ms. Marie's confidential medical records to APS/DSHS against her
21 wishes, without explaining her rights under HIPAA and/or without her written release or
22 informed consent, when the disclosure was not impliedly authorized to carry out the
23 representation, Respondent violated RPC 1.2(a), RPC 1.4(a)(1), RPC 1.4(a)(2), and/or RPC

1 1.6(a).

2 **COUNT 3**

3 32. By bringing SB to a client meeting during which Ms. Marie's confidential
4 information and legal strategies were discussed, without obtaining Ms. Marie's informed
5 consent, Respondent violated RPC 1.6(a).

6 **COUNT 4**

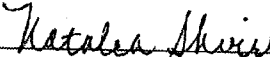
7 33. By disclosing to Ms. Marie confidential client information he obtained during his
8 representation of another client, without the other client's informed consent, Respondent
9 violated RPC 1.6(a).

10 **COUNT 5**

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

14
15 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
16 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
17 restitution, and assessment of the costs and expenses of these proceedings.

18
19 Dated this 15th day of June, 2017.

20 
21 _____
22 Natalea Skvir, Bar No. 34335
23 Disciplinary Counsel