

FILED

OCT 28 2016

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

ERIC CARL EINHORN,

Lawyer (WSBA No. 18890)

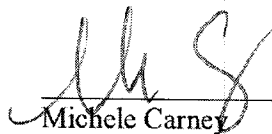
Proceeding No. 16#00041

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 20, 2016, 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.

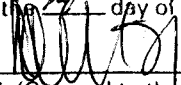
Dated this 28th day of October, 2016.



Michele Carney
Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the ~~Decision Declining Sua Sponte Review~~ to be delivered to the Office of Disciplinary Counsel and to be mailed to ~~Eric Einhorn~~ Respondent/Respondent's Counsel at ~~1550 Dryden Way, NW, Seattle, WA 98107~~ by Certified ~~first class mail~~, postage prepaid on the ~~28~~ day of ~~Oct~~, ~~2016~~.



¹ The vote on this matter was 12-0. The following Board members voted: Carney, Silverman, Denton, Louvier, Andeen, Startzel, Byerly, Smith, Graber, Cottrell, Myers, Cornelius.

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SEP 15 2016
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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

ERIC CARL EINHORN,
Lawyer (Bar No. 18890).

Proceeding No. 16#00041

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

The undersigned Hearing Officer held a default hearing on September 14, 2016 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 Eric Carl Einhorn 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. The Office of Disciplinary Counsel's Exhibit 1 is admitted.
4. 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:

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COUNT 1

5. By failing to act with reasonable diligence and promptness in representing Ms. Gregory, Respondent violated RPC 1.3.

COUNT 2

6. By failing to reasonably consult with Ms. Gregory, by failing to keep her reasonably informed about the status of her matter, and by failing to promptly comply with her reasonable requests for information, Respondent violated RPC 1.4(a).

COUNT 3

7. By converting the \$3,000 advance payment to his own use, Respondent violated RPC 1.15A(b).

COUNT 4

8. By failing to return any part of the \$3,000 advance payment that he received on Ms. Gregory's behalf, Respondent violated RPC 1.15A(f) and RPC 1.16(d).

COUNT 5

9. By charging, collecting, and or retaining \$3,000 for services he did not perform, Respondent violated RPC 1.5(a).

COUNT 6

10. By failing to promptly respond to requests for information relevant to grievances, Respondent violated RPC 8.4(l) (by violating his duties under ELC 1.5, 5.3(f), 5.3(g), and ELC 5.3(h)(3)).

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

- 11. In committing the violations alleged in Counts 1-6, Respondent acted knowingly.
- 12. In committing the violations alleged in Counts 1-6, Respondent caused injury to a

1 client, the public, and the legal system.

2 13. On March 10, 2015, Respondent was suspended for one year by the Washington
3 State Supreme Court under reciprocal discipline.

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

7 15. ABA Standard 4.1 is most applicable to Respondent's duty to preserve a client's
8 property. Respondent knowingly converted the \$3,000 advance payment for his own use.

9 16. The presumptive sanction is disbarment

10 17. ABA Standard 4.4 is most applicable to Respondent's duty to diligently represent
11 Ms. Gregory, to respond to her reasonable requests for information as to the status of her matter,
12 and to otherwise keep her advised as to the status of her matter.

13 18. The presumptive sanction is suspension.

14 19. ABA Standard 7.0 is most applicable to Respondent's duty to charge a reasonable
15 fee and to provide Ms. Gregory a refund when he ended the representation.

16 20. The presumptive sanction is suspension.

17 21. ABA Standard 7.0 is also most applicable to Respondent's duty to cooperate with
18 an ODC disciplinary investigation.

19 22. The presumptive sanction is suspension.

20 23. In case of multiple acts of misconduct, the lower sanctions standard are generally
21 merged into the highest sanction standard. In re Petersen, 120 Wn2d 833, 854 (1993).

22 24. The following aggravating factors set forth in Section 9.22 of the ABA Standards
23 apply in this case:

- 1 (a) prior disciplinary offenses [Respondent was suspended for one year by
- 2 the Washington State Supreme Court under reciprocal discipline];
- 3 (b) dishonest or selfish motive;
- 4 (d) multiple offenses;
- 5 (i) substantial experience in the practice of law [Respondent was admitted to
- 6 practice in Washington State in 1989];
- 7 (j) indifference to making restitution.

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

10 26. No mitigating factors set forth in Section 9.32 of the ABA Standards apply.

11 **RECOMMENDATION**

12 27. Based on the ABA Standards and the applicable aggravating and mitigating
13 factors, the Hearing Officer recommends that Respondent Eric Carl Einhorn be disbarred.

14 28. Reinstatement should be conditioned upon payment of \$3,000 restitution to Ms.
15 Gregory.

16 DATED this 14th day of September, 2016.

17 James E. Horne
18 James E. Horne
19 Chief Hearing Officer

20 **CERTIFICATE OF SERVICE**

21 I certify that I caused a copy of the FOF COL & HO's Recommendation
22 to be delivered to the Office of Disciplinary Counsel and to be mailed
23 to Eric Einhorn Respondent/Respondent's Counsel
24 at 1520 DINTON BLVD, PORTLAND, OR 97208 by Certified first class mail
postage prepaid on the 15th day of September, 2016

[Signature]
Clerk of Counsel to the Disciplinary Board

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BEFORE THE
DISCIPLINARY BOARD
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In re

ERIC CARL EINHORN,
Lawyer (Bar No. 18890).

Proceeding No. 16#00041

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 Eric Carl Einhorn was admitted to the practice of law in the State of Washington on November 16, 1989.

FACTS REGARDING COUNTS 1-6

2. In May 2014, Elizabeth Gregory consulted Respondent about various issues, including issues related to copyrighted materials she had created with her ex-husband during

EW

1 | their marriage.

2 | 3. After consulting with Ms. Gregory, Respondent requested a \$3,000 advance
3 | payment to begin the representation. Respondent agreed that when the case was completed he
4 | would refund any advance payment for fees or expenses not earned or incurred.

5 | 4. Ms. Gregory's father, Gregory Alexander, made the advance payment to
6 | Respondent by check. In June 2014, Respondent cashed the check for \$3,000.

7 | 5. Respondent practiced law in Oregon. At the time he undertook the representation
8 | of Ms. Gregory, Respondent was facing two formal complaints that had been filed by the
9 | Oregon State Bar, unrelated to Ms. Gregory's matter.

10 | 6. On September 3, 2014, Respondent signed a Stipulation for Discipline with the
11 | Oregon State Bar, providing for a one year suspension of his Oregon law license. Based on that
12 | stipulation, the Supreme Court of Oregon suspended Respondent effective December 6, 2014.

13 | 7. Respondent was reciprocally suspended by the Supreme Court of Washington
14 | effective March 17, 2015. Respondent remains suspended from the practice of law in both
15 | Oregon and Washington.

16 | 8. Respondent did not perform any work for Ms. Gregory.

17 | 9. Respondent did not respond to Ms. Gregory's efforts to reach him to ascertain the
18 | status of her matter.

19 | 10. Respondent has never returned any part of the \$3,000 advance payment he
20 | received on Ms. Gregory's behalf.

21 | 11. Respondent converted the \$3,000 advance payment for his own use.

22 | 12. On January 26, 2015, ODC received Mr. Alexander's grievance against
23 | Respondent.

- 1 13. On January 29, 2015, ODC mailed a copy of Mr. Alexander's grievance to
2 Respondent with a request that he provide a written response.
- 3 14. Respondent received a copy of the grievance and ODC's request.
- 4 15. Respondent did not respond to ODC's request.
- 5 16. On February 20, 2015, ODC received Ms. Gregory's grievance and mailed a copy
6 to Respondent with a request that he provide a written response.
- 7 17. Respondent received a copy of the grievance and ODC's request.
- 8 18. Respondent did not respond to ODC's request.
- 9 19. On September 28, 2015, Respondent told Disciplinary Counsel that he was
10 working on his responses to the grievances and that he would provide them by October 7, 2015.
- 11 20. Respondent did not provide responses to the grievances.
- 12 21. On December 28, 2015, ODC filed a Petition for Respondent's Interim Suspension
13 with the Washington Supreme Court based on his failure to cooperate with the disciplinary
14 investigations.
- 15 22. On January 5, 2016, the Court entered an Order to Show Cause requiring
16 Respondent to appear before the Court on February 16, 2016.
- 17 23. Respondent did not appear, and the court entered an order granting ODC's Petition
18 for Interim Suspension effective February 17, 2016.
- 19 24. In committing the violations alleged in Counts 1-6 below, Respondent acted
20 knowingly.
- 21 25. In committing the violations alleged in Counts 1-6 below, Respondent caused
22 injury to a client, the public, and/or the legal system.
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COUNT 1

26. By failing to act with reasonable diligence and promptness in representing Ms. Gregory, Respondent violated RPC 1.3.

COUNT 2

27. By failing to reasonably consult with Ms. Gregory, by failing to keep her reasonably informed about the status of her matter, and/or by failing to promptly comply with her reasonable requests for information, Respondent violated RPC 1.4(a).

COUNT 3

28. By converting the \$3,000 advance payment to his own use, Respondent violated RPC 1.15A(b).

COUNT 4

29. By failing to return any part of the \$3,000 advance payment that he received on Ms. Gregory's behalf, Respondent violated RPC 1.15A(f) and/or RPC 1.16(d).

COUNT 5

30. By charging, collecting, and or retaining \$3,000 for services he did not perform, Respondent violated RPC 1.5(a).

COUNT 6

31. By failing to promptly respond to requests for information relevant to grievances, Respondent violated RPC 8.4(f) (by violating his duties under ELC 1.5, 5.3(f), 5.3(g), and/or ELC 5.3(h)(3)).

THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,

1 restitution, and assessment of the costs and expenses of these proceedings.

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3 Dated this 05th day of April, 2016.

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6 Erica Temple, Bar No. 28458
7 Disciplinary Counsel

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