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DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re
ROBERT JESS TAYLOR-MANNING,
Lawyer (Bar No. 21890).

Proceeding No. 23#00028
FINDINGS OF FACT, CONCLUSIONS OF
LAW AND HEARING OFFICER’S
RECOMMENDATION

The undersigned Hearing Officer held a default hearing on September 22, 2023, under Rule 10.6 of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC).

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

1. Under ELC 10.6(a)(4), each of the facts set forth in the Formal Complaint is admitted and established.
2. Under ELC 10.6(a)(4), each of the violations charged in the Formal Complaint is admitted and established
3. The violations set out in Counts 4 and 5 describe substantially the same conduct. The fee was unreasonable only because the respondent failed to complete the agreed services. As

1 a result, the sanction for both violations should not exceed the sanction that would be imposed for
2 only one of them.

3 4. For the same reasons, the violations set out in Counts 10 and 11 describe
4 substantially the same conduct and do not support a sanction greater than the sanction that would
5 be imposed for one of those violations.

6 **II. FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
7 **REGARDING RECOMMENDED SANCTION**

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

11 **4.1 *Failure to Preserve the Client's Property***

12 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
13 client property and causes injury or potential injury to a client.

14 4.12 Suspension is generally appropriate when a lawyer knows or should know
15 that he is dealing improperly with client property and causes injury or
16 potential injury to a client.

17 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing
18 with client property and causes injury or potential injury to a client.

19 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing
20 with client property and causes little or no actual or potential injury to a
21 client.

22 **4.4 *Lack of Diligence***

23 4.41 Disbarment is generally appropriate when:

24 (a) a lawyer abandons the practice and causes serious or potentially
serious injury to a client; or

(b) a lawyer knowingly fails to perform services for a client and causes
serious or potentially serious injury to a client; or

(c) a lawyer engages in a pattern of neglect with respect to
client matters and causes serious or potentially serious injury to a client.

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.

4.43 Reprimand is generally appropriate when a lawyer is negligent and does
not act with reasonable diligence in representing a client, and causes injury

1 or potential injury to a client.
2 4.44 Admonition is generally appropriate when a lawyer is negligent and does
3 not act with reasonable diligence in representing a client, and causes little
4 or no actual or potential injury to a client.

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15 **6.1 *False Statements, Fraud, and Misrepresentation***

16 6.11 Disbarment is generally appropriate when a lawyer, with the intent to
17 deceive the court, makes a false statement, submits a false document, or
18 improperly withholds material information, and causes serious or
19 potentially serious injury to a party, or causes a significant or potentially
20 significant adverse effect on the legal proceeding.

21 6.12 Suspension is generally appropriate when a lawyer knows that false
22 statements or documents are being submitted to the court or that material
23 information is improperly being withheld, and takes no remedial action,
24 and causes injury or potential injury to a party to the legal proceeding, or
causes an adverse or potentially adverse effect on the legal proceeding.

6.13 Reprimand is generally appropriate when a lawyer is negligent either in
determining whether statements or documents are false or in taking
remedial action when material information is being withheld, and causes
injury or potential injury to a party to the legal proceeding, or causes an
adverse or potentially adverse effect on the legal proceeding.

6.14 Admonition is generally appropriate when a lawyer engages in an isolated
instance of neglect in determining whether submitted statements or
documents are false or in failing to disclose material information upon
learning of its falsity, and causes little or no actual or potential injury to a
party, or causes little or no adverse or potentially adverse effect on the legal
proceeding.

15 **7.0 *Violations of Duties Owed as a Professional***

16 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
17 conduct that is a violation of a duty owed as a professional with the intent
18 to obtain a benefit for the lawyer or another, and causes serious or
19 potentially serious injury to a client, the public, or the legal system.

20 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
21 conduct that is a violation of a duty owed as a professional and causes
22 injury or potential injury to a client, the public, or the legal system.

23 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
24 conduct that is a violation of a duty owed as a professional and causes
injury or potential injury to a client, the public, or the legal system.

7.4 Admonition is generally appropriate when a lawyer engages in an isolated
instance of negligence that is a violation of a duty owed as a professional,
and causes little or no actual or potential injury to a client, the public, or
the legal system.

1 Jeff Fields Grievance (Counts 1 to 7)

2 6. ABA Standard 4.4 applies to the duty to act with reasonable diligence and
3 promptness. Respondent knowingly failed to act with reasonable diligence and promptness in
4 representing client Jeanette Fields. Respondent's conduct caused injury to the client because the
5 client's legal needs were not met, the client suffered stress and aggravation, and there was a delay
6 in activating a power of attorney that would have protected the client. The presumptive sanction
7 for Count 1 is suspension under ABA Standard 4.42(a).

8 7. ABA Standard 4.4 applies to the duty to reasonably communicate with a client.
9 Respondent knowingly failed to keep Jeanette reasonably informed about the status of the client's
10 matter and knowingly failed to promptly comply with the client's reasonable requests for
11 information. Respondent's conduct caused injury to the client who suffered stress and
12 aggravation. The presumptive sanction for Count 2 is suspension under ABA Standard 4.42(a).

13 8. ABA Standard 4.1 applies to the duty to preserve client property. Respondent
14 knowingly removed the client's advanced fees from trust before earning them and knowingly
15 failed to give the client reasonable notice prior to removing them from trust. Respondent's
16 conduct caused injury to the client because the funds belonged to the client until Respondent
17 earned them and the client was unaware of when and how Respondent earned the fees prior to
18 removal. The presumptive sanction for Count 3 is disbarment under ABA Standard 4.11.

19 9. ABA Standard 7.0 applies to charging unreasonable or improper fees. Respondent
20 knowingly charged and collected an unreasonable fee by retaining the entire \$3,000 fee after
21 having done little to no work in the client's matter. Respondent's conduct caused injury to the
22 client who was deprived of both funds and legal services. The presumptive sanction for Count 4
23 is suspension under ABA Standard 7.2.

1 10. ABA Standard 7.0 is most applicable to cases involving the failure to refund
2 unearned fees after termination of the representation. Respondent knowingly failed to refund the
3 client's unearned advance fees after the client terminated Respondent's representation.
4 Respondent's conduct caused injury to client, who has been deprived of money paid to
5 Respondent for work that was never performed. The presumptive sanction for Count 5 is
6 suspension under ABA Standard 7.2.

7 11. With regard to Count 6, Disciplinary Counsel argued that the relevant standard is
8 ABA Standard 5.1. That standard deals with violations of duties owed to the public. The violation
9 in this case involved providing false information in a disciplinary investigation. That investigation
10 represented an effort of the legal system, acting under the authority of the Washington Supreme
11 Court, to enforce professional duties of its own members. The standard governing false statements
12 as a violation of duties owed to the legal system is ABA Standard 6.1.

13 12. ABA Standard 6.1 applies to conduct that violates a duty to the legal system and is
14 prejudicial to the administration of justice or involves dishonesty, fraud, deceit, or
15 misrepresentation. Respondent, with the intent to deceive the Office of Disciplinary Counsel,
16 knowingly gave false testimony during a deposition taken in a disciplinary investigation when
17 Respondent testified to not receiving the doctor's letter about the client's husband's incapacity
18 from the client's husband's doctor. Without that letter, Respondent would not have been able to
19 activate the husband's power of attorney, as requested by his client. If the Respondent's statement
20 had been true, it would therefore have been a defense to the claim that he failed to act with
21 reasonable diligence. As a result, Respondent's false statement caused a potentially significant
22 adverse effect on the disciplinary proceeding. The presumptive sanction for Count 6 is disbarment
23 under ABA Standard 6.11.

1 13. ABA Standard 7.0 applies to violations of the duty to cooperate in disciplinary
2 investigations. Respondent knowingly failed to promptly respond to disciplinary's requests for a
3 response to the Fields grievance, causing injury to the lawyer discipline system. The presumptive
4 sanction for Count 7 is suspension under ABA Standard 7.2.

5 Lynda Mehrer Grievance (Counts 8 to 13)

6 14. ABA Standard 4.4 applies to the duty to act with reasonable diligence and
7 promptness. Respondent knowingly failed to act with reasonable diligence and promptness in
8 representing a client, Lynda Mehrer. Respondent's conduct caused injury to the client because
9 the client's legal needs were not met, the client suffered stress and aggravation, and the client's
10 finances were unprotected. The presumptive sanction for Count 8 is suspension under ABA
11 Standard 4.42(a).

12 15. ABA Standard 4.4 applies to the duty to reasonably communicate with a client.
13 Respondent knowingly failed to keep the client reasonably informed about the status of the
14 client's matter and knowingly failed to promptly comply with the client's reasonable requests for
15 information. Respondent's conduct caused injury to the client who suffered stress and
16 aggravation. The presumptive sanction for Count 9 is suspension under ABA Standard 4.42(a).

17 16. ABA Standard 7.0 applies to charging unreasonable or improper fees. Respondent
18 knowingly charged and collected an unreasonable fee by retaining the entire \$4,900 fee knowing
19 that he had done little to no work in the client's matter. Respondent's conduct caused injury to
20 the client who was deprived of both funds and legal services. The presumptive sanction for Count
21 10 is suspension under ABA Standard 7.2.

22 17. ABA Standard 4.1 applies to the duty to preserve client property and ABA Standard
23 7.0 is most applicable to cases involving the failure to refund unearned fees after termination of
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1 the representation. Respondent knowingly failed to refund the client's unearned advanced fees
2 and knowingly failed to deliver to the client the funds that client was entitled to receive, causing
3 injury to the client who was deprived of both funds and services. The presumptive sanction for
4 Count 11 is suspension under ABA Standards 4.12 and 7.2.

5 18. ABA Standard 7.0 applies to violations of the duty to cooperate in disciplinary
6 investigations. Respondent knowingly failed to promptly respond to disciplinary counsel's
7 requests for a response to the Mehrer grievance, causing injury to the lawyer discipline system.
8 The presumptive sanction for Count 12 is suspension under ABA Standard 7.2.

9 19. As explained in paragraph 11, ABA Standard 6.1 applies to conduct that violates a
10 duty to the legal system and is prejudicial to the administration of justice or involves dishonesty,
11 fraud, deceit, or misrepresentation. Respondent knowingly gave false testimony during a
12 deposition taken in a disciplinary investigation when Respondent testified to attempting to contact
13 the client to offer a refund. If the Respondent's statement had been true, it would still not have
14 been any defense to the claims under investigation. An unfulfilled offer to make restitution would
15 not even constitute a substantial mitigating factor. As a result, Respondent's conduct caused little
16 or no adverse or potentially adverse effect on the disciplinary proceeding. The presumptive
17 sanction for Count 13 is admonition under ABA Standard 6.14.

18 20. Under In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854, 846
19 P.2d 1330 (1993), the "ultimate sanction imposed should at least be consistent with the sanction
20 for the most serious instance of misconduct among a number of violations." In this case, the
21 presumptive sanction for the most serious instances of Respondent's misconduct is disbarment.
22 Therefore, the presumptive sanction is disbarment.

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

- 3 (c) A pattern of misconduct. The similarity of the misconduct in Counts 1
4 through 6 to that in Counts 8 through 13 constitutes a pattern of
5 (d) Multiple offenses. This factor applies to all counts.
6 (h) Vulnerability of victim [Lynda Mehrer was 73 years, had physical health
7 issues (broke hip and was hospitalized), and had been the victim of fraud
8 during the time of Respondent's representation]. This factor applies to
9 counts 8 through 13.
10 (i) Substantial experience in the practice of law [Respondent was admitted in
11 Washington in 1992]. This factor applies to all counts.

12 22. Respondent's failure to file an Answer does not constitute an additional aggravating
13 factor. Under ELC 10.6, that failure prevented Respondent from either contesting the violations
14 or offering evidence of mitigating factors. The Findings and Conclusions set out above therefore
15 already reflect that failure.

16 23. The following mitigating factor set forth in Section 9.32 of the ABA Standards
17 applies to this case:

- 18 (a) Absence of a prior disciplinary record. This factor applies to all counts.

19 24. There is strong reason to suspect that the offenses in this case resulted from personal
20 or emotional problems. There is no other apparent reason why Respondent would engage in this
21 pattern of misconduct after 29 years of practicing law with no known ethical violations. The same
22 problems may explain why the respondent failed to file an Answer to the Formal Complaint. Due
23 to that failure, however, the respondent could not present any evidence of such problems.
24 Consequently, the Hearing Officer does not find that this mitigating factor existed.

 25. The aggravating and mitigating factors do not provide cause to deviate from the
presumptive sanction of disbarment.

1 **III. RECOMMENDATION**

2 26. Based on the ABA Standards and the applicable aggravating and mitigating factors,
3 the Hearing Officer recommends that Respondent Robert Jess Taylor-Manning be disbarred and
4 pay restitution to Jeanette Fields in the amount of \$3,000 plus interest at a rate of 12% per annum
5 beginning March 7, 2022, and to Lynda Mehrer in the amount of \$4,900 plus interest at a rate of
6 12% per annum beginning June 1, 2022.

7 DATED this 26th day of September, 2023.

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10 Seth A. Fine
11 Hearing Officer
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CERTIFICATE OF SERVICE

I certify that I caused a copy of the Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation to be emailed to the Office of Disciplinary Counsel and to Respondent Robert Jess Taylor-Manning at rtm@pnwelderlaw.com , on the 26th day of September, 2023.



Darlene Neumann,
Acting Clerk to the Disciplinary Board