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FILED

DEC 12 2012

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

ALEXANDER W. GAMBREL,

Lawyer (Bar No. 24018).

Proceeding No. 12#00036

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 December 11, 2012.

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

1. The Formal Complaint, a copy of which is attached hereto, charged Alexander W. Gambrel 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) are admitted and established as follows:
4. Count 1: By engaging in a pattern of missing deadlines and causing delay during

1 Mr. Vasquez's litigation against Kitsap Transit, and incurring sanctions imposed by the court,
2 Respondent violated RPC 1.3, RPC 3.2, and RPC 8.4(d).

3 5. Count 2: By failing to communicate with Mr. Vasquez regarding the status of his
4 case, Respondent violated RPC 1.4(a)(3) and (4) and RPC 1.4(b).

5 6. Count 3: By failing to return Mr. Vasquez's file when requested after the litigation
6 concluded, Respondent violated RPC 1.16(d).

7 7. Count 4: By failing to respond to Mr. Vasquez's grievance, Respondent violated
8 RPC 8.4(l) (by violating ELC 5.3(e)).

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

11 **Count 1: Violations of RPC 1.3, RPC 3.2, and RPC 8.4(d)**

12 **Violation of RPC 1.3**

13 8. By missing deadlines and causing delay in Mr. Vasquez's case, Respondent
14 violated RPC 1.3.

15 9. ABA Standard 4.42 applies to Respondent's violations of RPC 1.3.

16 4.42 Suspension is generally appropriate when:

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

21 10. Respondent acted knowingly in failing to meet court deadlines during Mr.
22 Vasquez's litigation and appeal. There was injury to Mr. Vasquez in that he had to pay \$2,000,
23 which consisted of \$1,175 in sanctions that had been imposed against Respondent plus interest.

24 11. The presumptive sanction is suspension.

Violation of RPC 3.2

12. By causing delay in Mr. Vasquez's case, Respondent violated RPC 3.2.

1 13. ABA Standard 6.2 applies to violations of RPC 3.2.

2 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
3 violating a court order or rule, and causes injury or potential injury to a client or
a party, or causes interference or potential interference with a legal proceeding.

4 14. Respondent acted knowingly in failing to expedite Mr. Vasquez's case. In addition
5 to injury to Mr. Vasquez, the delays injured the legal system and interfered with the legal
6 proceedings by requiring additional court time and resources.

7 15. The presumptive sanction is suspension.

8 **Violation of RPC 8.4(d)**

9 16. By missing court deadlines and causing delay in Mr. Vasquez's case, Respondent
10 violated RPC 8.4(d).

11 17. ABA Standard 6.2 applies to violations of RPC 8.4(d).

12 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
13 violating a court order or rule, and causes injury or potential injury to a client or
a party, or causes interference or potential interference with a legal proceeding.

14 18. Respondent acted knowingly in not timely filing documents and otherwise failing
15 to comply with court deadlines. There was injury to the legal system in that his conduct
16 burdened the legal system by taking additional court time and resources.

17 19. The presumptive sanction is suspension.

18 **Count 2: Violations of RPC 1.4(a)(3), RPC 1.4(a)(4), and RPC 1.4(b)**

19 **Violation of RPC 1.4(a)(3)**

20 20. By failing to communicate with Mr. Vasquez regarding the status of his case,
21 Respondent violated RPC 1.4(a)(3).

22 21. ABA Standard 4.42 applies to the violations of 1.4(a)(3).

23 4.42 Suspension is generally appropriate when:
24

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

3
4 22. Respondent acted knowingly in failing to keep Mr. Vasquez informed about the
status of his case. There was injury to Mr. Vasquez as a result of Respondent's failure to
5 communicate in that Mr. Vasquez was unaware of the 9th Circuit Court's decision and had to
6 obtain the information from other sources.

7 23. The presumptive sanction is suspension.

8 **Violation of RPC 1.14(a)(4)**

9 24. By failing to promptly comply with Mr. Vasquez's requests for information,
10 Respondent violated RPC 1.14(a)(4).

11 25. ABA Standard 4.42 applies to the violations of 1.4(a)(3).

12 4.42 Suspension is generally appropriate when:

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

15
16 26. Respondent acted knowingly in not responding to Mr. Vasquez's requests for
information about his case. Mr. Vasquez was injured in that he spent considerable time and
17 energy attempting to contact Respondent without receiving responses from Respondent.

18 27. The presumptive sanction is suspension.

19 **Violation of RPC 1.4(b)**

20 28. By failing to explain Mr. Vasquez's case to him to the extent necessary to permit
21 Mr. Vasquez to make informed decisions regarding the representation, Respondent violated
22 RPC 1.4(b).
23
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1 29. ABA Standard 4.42 applies to the violations of 1.4(a)(3).

2 4.42 Suspension is generally appropriate when:

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

5 30. Respondent acted knowingly in failing to explain Mr. Vasquez's case to him.
6 There was injury to Mr. Vasquez in that he was deprived of the opportunity to decide how his
7 case should proceed.

8 31. The presumptive sanction is suspension.

9 **Count 3: Violation of RPC 1.16(d)**

10 32. By failing to return Mr. Vasquez's file after the litigation concluded and when
11 requested, Respondent violated RPC 1.16(d).

12 33. ABA Standard 7.0 applies to the violations of RPC 1.16 and RPC 8.4(I).

13 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
14 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.

15 34. Respondent acted knowingly in failing to return Mr. Vasquez's file to him. There
16 was injury to Mr. Vasquez as he spent much time and effort attempting to obtain his files from
17 Respondent and still did not receive his property.

18 35. The presumptive sanction is suspension.

19 **Count 4: Violation of RPC 8.4(I)**

20 36. By failing to respond to Mr. Vasquez's grievance, Respondent violated RPC 8.4(I).

21 37. ABA Standard 7.0 applies to the violations of RPC 8.4(I).

22 7.2 Suspension is generally appropriate when a lawyer knowingly engages in
23 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.

1 38. Respondent acted knowingly in failing to cooperate in the investigation of the
2 grievance filed by Mr. Vasquez. His conduct caused injury to the public and the legal system
3 by delaying investigation of the grievance and increasing the resources necessary to conduct
4 the investigation.

5 39. The presumptive sanction is suspension.

6 **Aggravating and Mitigating Factors.**

7 40. The following aggravating factors identified in ABA Standards 9.22 apply in this
8 matter:

- 9 (a) prior disciplinary offenses [Respondent was suspended from the practice of
10 law for a period of two years effective July 1, 2011]; and
11 (i) substantial experience in the practice of law [Respondent was admitted to
12 practice in Washington State in 1994].

13 41. No mitigating factors identified in ABA Standards 9.32 apply in this matter

14 **RECOMMENDATION**

15 42. Based on the ABA Standards and the applicable aggravating and mitigating
16 factors, the Hearing Officer recommends that Respondent Alexander W. Gambrel be
17 suspended for a period of six months.

18 43. Respondent's reinstatement is conditioned upon a showing that he is fit to practice
19 law and only is taking appropriate prescribed medication. Fitness to practice is established by
20 the opinion of a health professional agreed to by both parties. Respondent shall sign all
21 necessary releases and pay all costs of this process prior to reinstatement.

22 **RESTITUTION**

23 44. The Hearing Officer recommends that Respondent pay the following restitution:


24 Benito Vasquez \$2,000

45. The Hearing Officer recommends that the amount of restitution bear interest at the

1 rate of 12% per annum and that Respondent's reinstatement be conditioned upon payment in
2 full of the restitution.

3 46. In the event that the Lawyer's Fund for Client Protection of the Washington State
4 Bar Association (LFCP) compensates any individual entitled to restitution, Respondent shall
5 reimburse the LFCP for those amounts and reinstatement shall be conditioned upon
6 reimbursement.

7
8 DATED this 11 day of December, 2012.

9
10 
11 _____
12 Anthony A. Russo,
13 Hearing Officer

14 CERTIFICATE OF SERVICE

15 I certify that I caused a copy of the F.O.F. COL & H.O.C. Recommendation
16 to be delivered to the Office of Disciplinary Counsel and to be mailed
17 to Alexander Lambert, Respondent/Respondent's Counsel
18 at 2011 STEEP STANKE DR. BELLEVUE, WA 98004, by Certified/first class mail,
19 postage prepaid on the 17th day of December, 2012

20 _____
21 Clerk/Counsel to the Disciplinary Board

22 Also Sent to:

23 [REDACTED]
24 [REDACTED]