

FILED

JUL 31 2013

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

DISCIPLINARY BOARD

In re
TOM YOUNGJOHN,
Lawyer (WSBA No.)

Proceeding No. 12#00068
DISCIPLINARY BOARD ORDER
MODIFYING HEARING OFFICER'S
DECISION

This matter came before the Disciplinary Board at its July 12, 2013 meeting, on automatic review of Hearing Officer Malcolm L. Edward's March 25, 2013 decision recommending a 6-month suspension and reprimands, following a hearing.

The Board reviews the hearing officer's finding of fact for substantial evidence. The Board reviews conclusions of law and sanction recommendations de novo. Evidence not presented to the hearing officer or panel cannot be considered by the Board. ELC 11.12(b).

Having heard oral argument, reviewed the materials submitted, and considered the applicable case law and rules;

IT IS HEREBY ORDERED THAT the Hearing Officer's decision is adopted with the following modifications:¹

The sanction for Count 3 is reduced to a reprimand based on ABA Standard 7.3.

The Hearing Officer's sanction analysis for Count 3 states:

Respondent knew he had a duty to withdraw and failed to take steps to do so while insisting that Mr. Hewitt agree to the amount

¹ The vote on this matter was 11-0. Those voting were: Bray, Broom, Butterworth, Carrington, Coy, Dremousis, Ivarinen, McInville, Mesher, Neiland and Ogura.

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1 of the refund Respondent would pay Mr. Hewitt. The motion to
2 withdraw was not filed until Respondent file his Bar complaint.
3 This caused Mr. Hewitt injury by delaying or potentially delaying
4 the time for disposition of his immigration matter and by
5 lengthening the period of time his status was in limbo. This was
6 aggravated by the fact Mr. Hewitt was legally unable to work and
7 earn an income until his immigration matter was concluded.

8 Mr. Youngjohn did know that he needed to file a motion for withdrawal, and he did
9 so—after a 3 month delay. The delay is the basis for the sanction. The Hearing Officer
10 found that the delay was based on the fact that Respondent did not have the money to make
11 an immediate refund to the client and that he believed the client should retain another
12 immigration lawyer prior to his withdrawal motion. When he did file the motion, the
13 immigration judge asked that Respondent and the client work out their communication
14 issues. They did work out their issues and the case resolved favorably. The Board finds that
15 the Hearing Officer’s decision supports finding that Mr. Youngjohn was negligent in
16 delaying filing a motion to withdraw from the client’s case based on his own financial
17 interests and his concern that the client should find new counsel first. The Board also notes
that the Hearing Officer based his sanction analysis, in part, on RPC 8.4(d). The Formal
Complaint only charged a violation of RPC 8.4(d) in Count 5. The Hearing Officer
dismissed Count 5.

ABA Standard 7.3 applies to this Count. Reprimand is generally appropriate when a
lawyer negligently engages in 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. The Board
recommends that the Court impose a reprimand.


Dated this 31st day of July 2013.



Nancy Ivarinen
Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the DB Order Modifying HO's Decision
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Tom Young John Respondent/ Respondent's Counsel
at 1645 S. 310th St. Federal Way, WA 98003 by Certified/first class mail
postage prepaid on the 31st day of July, 2013


Clerk/Counsel to the Disciplinary Board