

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**MATTHEW O'CONNER,**  
Lawyer (Bar No. 27061).

Proceeding No. 15#00092

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

The undersigned Hearing Officer held a default hearing on February 9, 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 Matthew O'Conner with misconduct as set forth therein. A copy of the Formal Complaint 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 Formal Complaint is admitted and established as follows:

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1 **COUNT 1**

2 4. By failing to take reasonable and prompt action to resolve the dispute over fees  
3 with Mr. Thomason, Respondent violated RPC 1.5(f)(3) and RPC 1.15A(g).

4 **COUNT 2**

5 5. By failing, upon termination, to promptly pay or deliver to Mr. Thomason the  
6 property that he was entitled to receive, Respondent violated RPC 1.15A(f) and RPC 1.16(d).

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

9 6. The following standards of the American Bar Association’s Standards for  
10 Imposing Lawyer Sanctions (“ABA Standards”) (1991 ed. & Feb. 1992 Supp.) presumptively  
11 apply in this case:

12 4.12 Suspension is generally appropriate when a lawyer knows or should know that he  
13 is dealing improperly with client property and causes injury or potential injury to  
14 a client.

15 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
16 conduct that is a violation of a duty owed as a professional and causes injury or  
17 potential injury to a client, the public, or the legal system.

18 7. The following aggravating factor set forth in Section 9.22 of the ABA Standards  
19 applies in this case:

20 (i) substantial experience in the practice of law [Respondent was admitted to  
21 practice in 1997].

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

24 9. The following mitigating factor set forth in Section 9.32 of the ABA Standards  
applies to this case:

(a) absence of a prior disciplinary record.



1 Chair of the Disciplinary Board. See ELC 13.8(a)(2). Respondent shall cooperate with the  
2 appointed practice monitor.

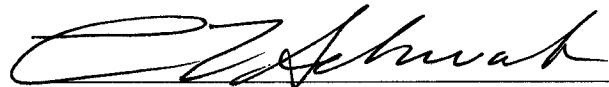
3 18. During the period of probation, Respondent shall meet with the practice monitor at  
4 least once per month. At each meeting, the practice monitor will discuss with Respondent each  
5 of Respondent's client matters, the status of each client matter, Respondent's communication  
6 with each client, upcoming deadlines, and Respondent's intended course of action. Meetings  
7 may be in person or by telephone at the practice monitor's discretion.

8 19. The practice monitor will provide the Probation Administrator with quarterly  
9 reports regarding Respondent's performance on probation.

10 20. If the practice monitor believes that Respondent is not complying with any of his  
11 ethical duties under the RPC or if Respondent fails to attend a monthly meeting, the practice  
12 monitor shall promptly report that to the Probation Administrator.

13 21. Respondent shall be responsible for paying any and all fees, costs and/or expenses  
14 charged by the practice monitor for supervision.

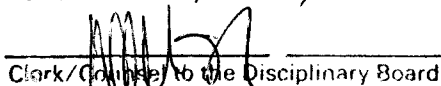
15  
16 DATED this 9th day of February, 2016,

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19 Evan L. Schwab,  
Hearing Officer

20 CERTIFICATE OF SERVICE

21 I certify that I caused a copy of the FOF COL in this PECO recommendation  
22 to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Matthew D. Danner Respondent/Respondent's Counsel  
at 101 Greenwood Ave N Seattle WA 98107 by Certified first class mail  
23 postage prepaid on the 11th day of Feb, 2016

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Clerk/Counsel to the Disciplinary Board

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DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  <b>MATTHEW O'CONNER,</b>  Lawyer (Bar No. 27061).	Proceeding No. 15#00092  FORMAL COMPLAINT
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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 Matthew O'Conner was admitted to the practice of law in the State of Washington on September 23, 1997.

**FACTS REGARDING COUNTS 1 AND 2**

2. On May 17, 2010, John Thomason, the owner of Pacific Rim Automotive, hired Respondent to prepare, but not file, a Chapter 7 bankruptcy petition.

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1           3.   Respondent received \$2,600 from Mr. Thomason. According to the written fee  
2 agreement, \$1,000 was an advance against future hourly fees, and the remainder was a flat fee  
3 to prepare the petition.

4           4.   Respondent worked several hours drafting the Chapter 7 petition for Mr. Thomason  
5 and earned a portion of the flat fee.

6           5.   On September 17, 2012, Mr. Thomason filed a grievance with ODC, alleging that,  
7 after deciding that he did not want to file for bankruptcy, he asked Respondent for a refund of  
8 his advance, but Respondent did not respond. As of September 2012, Mr. Thomason had  
9 terminated Respondent's employment.

10          6.   On October 22, 2012, Pacific Rim Automotive, represented by lawyer William  
11 Kinsel, filed a civil suit in King County District Court No. 125-04091, requesting return of the  
12 \$2,600 fee.

13          7.   On January 4, 2013, Respondent sent Mr. Kinsel a check in the amount of \$1,001,  
14 made payable to Pacific Rim Automotive. This check for \$1,001 was never cashed.

15          8.   On January 30, 2014, Respondent sent Mr. Kinsel a check for \$1,001 (the unearned  
16 advance fee), a check for \$679 (the unearned portion of the flat fee) and a check for \$426  
17 (relating to litigation costs in the King County District Court case).

18          9.   Respondent acted knowingly in failing to take reasonable and prompt action to  
19 resolve the dispute over refunding fees, failing to promptly pay or deliver to Mr. Thomason the  
20 money which the client was entitled to receive, and failing, upon termination of representation,  
21 to promptly refund the fee that had not been earned.

22          10. Respondent caused actual injury to Mr. Thomason, who had to wait more than  
23 sixteen months before he received his money, and had to hire a lawyer to pursue the issue.

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COUNT 1

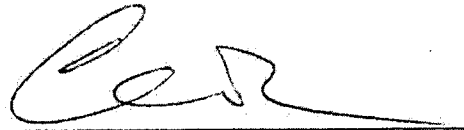
11. By failing to take reasonable and prompt action to resolve the dispute over fees with Mr. Thomason, Respondent violated RPC 1.5(f)(3) and/or RPC 1.15A(g).

COUNT 2

12. By failing, upon termination, to promptly pay or deliver to Mr. Thomason the property that he was entitled to receive, Respondent violated RPC 1.15A(f) and/or RPC 1.16(d).

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

Dated this 17 day of Nov, 2015.



Erica Temple, Bar No. 28458  
Disciplinary Counsel