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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re	Proceeding No. 13#00059
DANA KRISTIN FOSSEDAL,	FINDINGS OF FACT AND
Lawyer (WSBA No. 28392)	CONCLUSIONS OF LAW

The undersigned Hearing Officer held the hearing beginning on March 7, 2016 under Rule 10.13 of the Rules for Enforcement of Lawyer Conduct (ELC). Respondent Dana Kristin Fossedal appeared at the hearing represented by James E. Macpherson. Disciplinary Counsel Linda B. Eide appeared for the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association.

FORMAL COMPLAINT FILED BY DISCIPLINARY COUNSEL

The Formal Complaint filed by Disciplinary Counsel charged Fossedal with the following counts of misconduct:

Count 1 - Fossedal used and converted her client Byron Schoof's funds, in violation of RPC 1.15A(b), RPC 8.4(c), RPC 8.4(b), and RPC 8.4(i) (by committing the crime of theft in the first degree in violation of RCW 9A.56.030(1)(a) and RCW 9A.56.020(1), and with an aggravating factor of abuse of trust in violation of RCW 9.94A.535(3)(n)).

Count 2 - Fossedal failed to notify Schoof of her receipt of his funds, in violation of RPC 1.15A(d).

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1 Count 3 – Fossedal failed to maintain Schoof’s funds in a trust account, in violation
2 of RPC 1.15A(c)(1).

3 Count 4 – Fossedal failed to comply with Schoof’s requests for information and
4 failed to provide Schoof with a written accounting after disbursing his funds and annually,
5 in violation of RPC 1.15A(e), RPC 1.4(a), and RPC 1.4(b).

6 Count 5 – Fossedal failed to deliver to Schoof funds that he was entitled to receive,
7 in violation of RPC 1.15A(f).

8 Based on the pleadings in the case, the testimony and exhibits at the hearing, the
9 Hearing Officer makes the following:

10 **FINDINGS OF FACT**

11 1. Ms. Fossedal was admitted to the practice of law in the State of Washington
12 on November 18, 1998. Ms. Fossedal’s work experience consists of working for small law
13 offices in the early years of her career, and then operating her own practice.

14 2. Ms. Fossedal operated a small law office focusing on family law with, at the
15 time the violations occurred, one associate attorney and one support staff member. Ms.
16 Fossedal personally maintained the firm’s finances. She was the only signatory on both
17 the trust and operating accounts. She signed all checks. When Ms. Fossedal did not go
18 into the office, her husband or another person would bring her checks to sign and deposit.

19 3. Ms. Fossedal’s practice included receiving and disbursing funds from real
20 property sales and other dissolution events. Often, she would disburse large amounts of
21 money. She also routinely handled high volumes of smaller transactions. She had sole
22 check-signing authority and personally signed all checks and approved all deposits.

23 4. Ms. Fossedal asked clients to provide an initial trust deposit and deposited
24 that amount into trust. She then transferred money from trust to her operating account as
25 her firm worked on clients’ cases. She kept track of the amount to transfer from trust to
26 operating based on her own calculations and estimates. Because her practice was
27 relatively high-volume and low hours per client, she had to track a large volume of billing
28 entries among multiple clients in order to determine how much money to transfer from

1 trust to operating accounts.

2 5. No other person reviewed her trust and operating accounts. She did not
3 employ an accountant nor did she have anyone audit her accounts. Her staff was not
4 allowed access.

5 6. Ms. Fossedal had a debit/credit card for her operating account, and on
6 some occasions provided that card to her husband to make purchases. Ms. Fossedal used
7 her operating account for rent, payroll, other business expenses, and, sometimes, for
8 personal expenses like nail salons, pet food, and other personal items.

9 7. Ms. Fossedal was in automobile accidents in July 2003, January 2004, and
10 July 2006. As a result of these accidents, Ms. Fossedal suffered neck injuries. She was in
11 constant pain from the injuries from 2006 onward. Ms. Fossedal tried a variety of pain
12 management techniques over the years, including massage, ablation, physical therapy,
13 and medications. Without pain management, the pain was intense and exhausting and
14 Ms. Fossedal was unable to function.

15 8. In 2006, under the care of Dr. Travis, Ms. Fossedal began a treatment
16 regimen of opioid pain medications. The medications were medically necessary to control
17 her pain. She was prescribed and took, in generally increasing amounts, significant doses
18 of Opana, Fentanyl, Vicodin, Gavapentin, and Benzodiazepine. She was also prescribed
19 and took diabetes control medications. Ms. Fossedal did not misuse the medications or
20 seek additional medication for any purpose other than pain management. She followed
21 medical instructions in taking the medications.

22 9. Before 2009, Ms. Fossedal was methodical and focused on details. She was
23 able to complete tasks and worked long hours.

24 10. Ms. Fossedal's grandparents became ill and then died in August, 2009 and
25 Ms. Fossedal traveled to take care of them and handle estate issues after their death. Ms.
26 Fossedal was close to her grandparents and was deeply affected by their death.

27 11. The increasing medications affected Ms. Fossedal's mental state. By late
28 2009, family members and friends testified there was a significant shift in her personality.

1 She was lethargic, slept a lot, and was inactive even when awake. On a family trip to
2 Mount Rainier in fall 2009, she seemed lethargic, avoided activities, and slept in her room
3 more than usual.

4 12. In the beginning of 2009, Ms. Fossedal was working less than previously. By
5 the end of 2009, she was almost never in the office. In 2010, she went to the office once
6 every few weeks, and by 2011, she spent essentially no time there. She communicated
7 with her support staff and associate attorney by phone and email, and clients occasionally
8 by phone and email.

9 13. She had no trials between 2009-2012.

10 14. Ms. Fossedal does not clearly remember most of 2009-2011.

11 15. In or around April 2009, Brian Schoof hired Ms. Fossedal to represent him
12 in the dissolution of his marriage.

13 16. Mr. Schoof and Ms. Fossedal entered into a written agreement, which
14 provided an hourly fee and an advance fee deposit of \$5,000. Ms. Fossedal met with Mr.
15 Schoof, but then assigned her associate Misty Hayes to work with him. Ms. Hayes
16 managed the client file, including attending a mediation. Ms. Fossedal does not know
17 what Ms. Hayes did during Ms. Hayes' management of the case, and does not know if
18 Ms. Hayes took any steps to enforce the agreement reached during mediation.

19 17. Mr. Schoof paid Ms. Fossedal \$2,500 on or about April 14, 2009, and
20 \$2,500 on or about May 1, 2009.

21 18. On or about December 8, 2009, the court entered a Decree of Dissolution
22 (Decree) in the Schoof matter.

23 19. The Decree awarded the family residence to Ms. Schoof, and \$117,225.17 to
24 Mr. Schoof as an equalization payment for his interest in the family residence.

25 20. On or about January 20, 2010, Pacific Northwest Title Company issued a
26 check in the amount of \$117,225.17 to "Dana K. Fossedal c/o Dana K. Fossedal Law
27 Office" in the Schoof matter.

28 21. On or about January 29, 2010, Ms. Fossedal deposited the \$117,225.17

1 check into her Key Bank trust account ending in 8637. Ms. Fossedal personally endorsed
2 the check, but does not remember doing so.

3 22. Ms. Fossedal did not notify Mr. Schoof when she received the \$117,225.17.
4 She did not immediately disburse the funds because Mr. Schoof had ongoing work and
5 she intended to transfer some funds to the operating account as work was completed.

6 23. Ms. Fossedal did not disburse any funds from her Key Bank trust account to
7 Mr. Schoof.

8 24. Due to the increasing medication use, Ms. Fossedal's concentration and
9 ability to focus continued to decline.

10 25. In 2010-2011, Ms. Fossedal would sleep for extended periods of time, and
11 was unable to focus or concentrate during the short periods of time she was awake. On a
12 Mt. Rainier trip in 2010, she fell asleep at the dining table, was unable to conduct
13 conversations, and otherwise was asleep in her room. On another occasion, it took her an
14 hour and a half to eat an order of French fries because she kept falling asleep. On the few
15 occasions when she needed to leave the house for a court appearance, she would need to
16 start sleeping a couple of days in advance in order to complete the hearing. She withdrew
17 from social contact and was irritable when forced to interact. She would pass out mid-
18 sentence, and when she regained consciousness was not aware that she had been out.
19 When asleep, she could not be aroused even by violent shaking, and slept so deeply she
20 would occasionally be incontinent. Ms. Fossedal rarely left her house. She appeared
21 confused, and was regularly unable to determine what time it was even when shown a
22 clock. She was unable to complete even simple tasks, and missed details when doing so.

23 26. On or about September 3, 2010, Ms. Fossedal issued Check 1083 in the
24 amount of \$122,434.96 from her Key Bank trust account and deposited it into her Chase
25 Bank trust account ending in 8320.

26 27. Following the \$122,434.96 disbursal, the balance in Fossedal's Key Bank
27 trust account was \$40.00.

28 28. In 2011, Ms. Fossedal had little contact with her family, and on the Mt.

1 Rainier trip did not come out of her room to go to meals and appeared to be sleeping
2 almost constantly.

3 29. In Feb, 2011, she was diagnosed with the Epstein-Barr virus. Epstein-Barr
4 can lead to physical exhaustion and the need for increased sleep.

5 30. In March, 2011, she was fifteen months delinquent on billing and had lost
6 her status with the CLC client referral service. She does not believe she had any new
7 clients in 2011 or 2012. By 2011, she was transferring funds from trust to her operating
8 account by estimating the number of hours worked on each client. She was not sending
9 bills or keeping track of hours worked.

10 31. On March 29, 2011, Ms. Fossedal's associate, Misty Hayes, sent Ms.
11 Fossedal a letter expressing concern with the firm's billing practices. Ms. Fossedal
12 responded by email and told Ms. Hayes that Ms. Fossedal alone was responsible for
13 billing. Ms. Fossedal sent the letter to insulate Ms. Hayes from any liability for billing
14 problems.

15 32. Ms. Fossedal deposited and disbursed funds from her Chase Bank trust
16 account until the balance dropped to \$24.74 on or about September 16, 2011.

17 33. Some of the disbursements from Ms. Fossedal's Chase Bank trust account
18 were made by transfer to Ms. Fossedal's Chase Bank account ending in 9005, which was
19 not a trust account.

20 34. Ms. Fossedal did not disburse any funds from her Chase Bank trust account
21 to Mr. Schoof.

22 35. Ms. Fossedal did not deliver any of the \$117,225.17 that she received in
23 connection with Mr. Schoof's case to Mr. Schoof.

24 36. Ms. Fossedal used Mr. Schoof's funds for her own benefit, directly or
25 indirectly, without authorization to do so.

26 37. Ms. Fossedal did not provide Mr. Schoof with a written accounting of the
27 funds that she received or disbursed in his case.

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1 38. Mr. Schoof attempted to contact Ms. Fossedal to learn the status of his
2 funds.

3 39. Ms. Fossedal either did not respond to Mr. Schoof's efforts to contact her
4 or, when she responded, did not provide substantive information regarding Mr. Schoof's
5 funds.

6 40. About May 11, 2012, Mr. Schoof filed a grievance with the WSBA. In May,
7 2012, Ms. Fossedal received notice of the grievance, including a letter requesting her
8 response within ten days or the Association would subpoena records.

9 41. Ms. Fossedal never filed a written response. She did look at her own client
10 accounts, and realized that she couldn't account for where Mr. Schoof's funds went. At
11 that point, she realized he was never paid. She was shocked and horrified by the failure to
12 pay Mr. Schoof and was unable to account for why the money was never disbursed.

13 42. In August of September 2012, Ms. Fossedal broke her leg on two occasions
14 and was admitted to the hospital. She also incurred an infection that required further
15 hospitalization. She was also admitted during that time period for sleep apnea.

16 43. Ms. Fossedal entered detox in May, 2012 at her own initiative under the
17 care of a new physician, Dr. Rudolph. She completely stopped taking all other opiod
18 medications and instead began taking Suboxone to manage her pain. Suboxone is an opiod
19 medication without the side effects of many other opiods. It controls pain, but is not
20 addictive nor does it strongly affect focus, energy, or cognitive ability. It generally does
21 not require increasing dosage like other opiods. There is no currently known reason why a
22 Suboxone patient cannot continue taking Suboxone indefinitely.

23 44. Following detox and on her new medication Ms. Fossedal's ability to focus
24 has returned. She is able to concentrate on details, sleeps a normal amount, and can
25 complete tasks.

26 45. Ms. Fossedal currently works for Dawn Econi providing personal care for
27 Ms. Econi's mother. She is an employee and is paid \$20 per hour. She has had no other
28 employment from 2011 to the present.

1 46. On March 5, 2014, Ms. Fossedal was charged under King County Superior
2 Court Case No. 14-1-01339-2, with Theft in the First Degree in violation of RCW
3 9A.56.030(1)(a) and RCW 9A.56.020(1), and with an aggravating factor of abuse of trust
4 in violation of RCW 9.94A.535(3)(n).

5 47. On July 16, 2014, Ms. Fossedal pled guilty as charged. She filed a Statement
6 of Defendant on Plea of Guilty with the court that read as follows:

7 Between March 1, 2011 and April 30, 2012 in King County, Washington, with
8 intent to deprive another of property, to wit: U.S. currency, I executed
9 unauthorized control over money belonging to Brian Schoof, and the thefts
10 were a series of transactions which were part of a criminal episode and
11 continuing criminal impulse in which the sum taken exceeded \$5,000. I was
12 his attorney in a family law matter, received a settlement on his behalf and
13 spent money from that settlement in excess of the costs associated with
14 representation to which I was entitled. I used my position of trust, confidence,
15 and fiduciary duty as his attorney to facilitate the commission of the theft.

16 48. The order setting restitution in the criminal case requires Ms. Fossedal to
17 pay \$131,065.67 to be applied against the default judgment referenced below. Ms.
18 Fossedal has not made any restitution payments. Mr. Schoof hired lawyer Hans Juhl and
19 sued Fossedal in August 2012. He obtained a default judgment and collected less than
20 \$4,000 by garnishing the wages of Steven Fossedal, Dana Fossedal's husband. But that
21 collection was applied to Mr. Schoof's outstanding fees to Attorney Juhl.

22 49. In 2014, Ms. Fossedal filed for bankruptcy under U.S. Bankruptcy Court for
23 Western Washington at Seattle Case No. 14-13071-TWD. She listed the default
24 judgment she owed Mr. Schoof as an unsecured debt on her bankruptcy schedules. Ms.
25 Fossedal was unrepresented by counsel and believed that she was required to do so.

26 50. Mr. Schoof hired another lawyer who brought an adversary proceeding in
27 July 2014, U.S. Bankruptcy Court for the Western District of Washington (Seattle) Case
28 No. 14-01304-TWD, to contest the dischargeability of the debt based on fraud and
defalcation. That case was dismissed in November 2014, without prejudice with the
condition that the dismissal order would be vacated if Fossedal moved to reopen the main

1 bankruptcy case. The main bankruptcy case was closed in August 2014 without a
2 discharge to the debtors, Dana and Steven Fossedal. The bankruptcy case was closed at
3 Ms. Fossedal's instigation because Ms. Fossedal's husband got a job that paid enough to
4 avoid bankruptcy.

5 51. ODC Auditor Cheryl Heuett reconstructed Ms. Fossedal's bank accounts
6 and traced Schoof's \$117,225.17 from its initial deposit on January 29, 2010 to Fossedal's
7 Key Bank Trust Account #8637 to her Chase Bank Trust Account #8320 on September 3,
8 2010 to her law firm's Chase Bank Operating Account #9005 on September 16, 2011 with
9 some subsequent transfers to her personal Chase account #0268 As of September 16,
10 2011, and September 21, 2011, the balances in the latter two accounts were \$27.12 and
11 \$66.49. The trust account balances dropped to \$40 at Key Bank and \$24.72 at Chase
12 Bank after the cited transfers.

13 52. The Washington State Bar Association's Lawyers' Fund for Client
14 Protection made a gift to Mr. Schoof in August 2015 of \$117,225.17.

15 53. Ms. Fossedal's motive was neither selfish nor dishonest. Instead, she
16 willfully failed to maintain proper control over her accounts, even though she knew she
17 was incapable of managing them. She was not aware, although she should have been
18 aware, that Mr. Schoof's money was used for firm and personal expenses.

19 CONCLUSIONS OF LAW

20 Violations Analysis

21 The Hearing Officer finds that ODC proved the following by a clear preponderance
22 of the evidence:

23 54. By using and converting Schoof's funds, Fossedal violated RPC 1.15A(b),
24 RPC 8.4(c), RPC 8.4(b), and RPC 8.4(i) (by committing the crime of theft in the first
25 degree in violation of RCW 9A.56.030(1)(a) and RCW 9A.56.020(1), and with an
26 aggravating factor of abuse of trust in violation of RCW 9.94A.535(3)(n)) as charged in
27 Count 1.

1 55. By failing to notify Schoof of her receipt of his funds, Fossedal violated RPC
2 1.15A(d) as charged in Count 2.

3 56. By failing to maintain Schoof's funds in a trust account, Fossedal violated
4 RPC 1.15A(c)(1) as charged in Count 3.

5 57. By failing to comply with Schoof's requests for information and by failing to
6 provide Mr. Schoof with a written accounting after disbursing his funds and annually,
7 Fossedal violated RPC 1.15A(e), RPC 1.4(a), and RPC 1.4(b) as charged in Count 4.

8 58. By failing to deliver to Schoof funds that he was entitled to receive,
9 Fossedal violated RPC 1.15A(f) as charged in Count 5.

10 Sanction Analysis

11 59. A presumptive sanction must be determined for each ethical violation. *In re*
12 *Anschell*, 149 Wn.2d 484, 69 P.3d 844, 852 (2003). The following standards of the
13 American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA
14 Standards") (1991 ed. & Feb. 1992 Supp.) are presumptively applicable in this case:

15 60. ABA Standards 4.1 and 5.1 are most applicable to Fossedal's theft and
16 conversion of client funds and other trust account violations. Fossedal acted knowingly
17 and intentionally in committing theft and conversion of client funds and, at least,
18 knowingly in committing other trust account violations. The injury to Schoof was serious
19 because he was denied funds he was entitled to receive. The presumptive sanction is
20 disbarment under ABA Standard 4.11 (Failure to Preserve the Client's Property) and
21 ABA Standard 5.11 (Failure to Maintain Personal Integrity). The cited Standards provide
22 as follows:

23 Disbarment is generally appropriate when a lawyer knowingly converts client
24 property and causes injury or potential injury to a client.

25 5.11 Disbarment is generally appropriate when:

- 26 (a) a lawyer engages in serious criminal conduct, a necessary element
27 of which includes intentional interference with the administration
28 of justice, false swearing, misrepresentation, fraud, extortion,
misappropriation, or theft; or the sale, distribution or importation

1 of controlled substances; or the intentional killing of another; or an
2 attempt or conspiracy or solicitation of another to commit any of
3 these offenses; or

- 4 (b) a lawyer engages in any other intentional conduct involving
5 dishonesty, fraud, deceit, or misrepresentation that seriously
6 adversely reflects on the lawyer's fitness to practice.

7 61. ABA Standard 4.4 is most applicable to Fossedal's RPC 1.4 violations. The
8 presumptive sanction under the cited Standard follows:

9 4.41 Disbarment is generally appropriate when:

- 10 (a) a lawyer abandons the practice and causes serious or potentially
11 serious injury to a client; or
12 (b) a lawyer knowingly fails to perform services for a client and causes
13 serious or potentially serious injury to a client; or
14 (c) a lawyer engages in a pattern of neglect with respect to client
15 matters and causes serious or potentially

16 62. When multiple ethical violations are found, the "ultimate sanction imposed
17 should at least be consistent with the sanction for the most serious instance of misconduct
18 among a number of violations." *In re Petersen*, 120 Wn.2d 833, 854 (1993).

19 63. Based on the Findings of Fact and Conclusions of Law and application of
20 the ABA Standards, the appropriate presumptive sanction is disbarment.

21 64. The Hearing Officer has considered the following aggravating factors set
22 forth in Section 9.22 of the ABA Standards

- 23 (b) Dishonest or selfish motive. This factor does not apply because, as a
24 finding of fact, the Hearing Officer concludes that Ms. Fossedal's motive
25 was neither dishonest nor selfish.
26 (c) A pattern of misconduct. This factor does not apply because Ms.
27 Fossedal's misconduct was limited to one failure to transfer a client's
28 trust funds. *Matter of Disciplinary Proceeding Against Johnson*, 114 Wn. 2d
737, 745 (1990) is distinguishable. In *Johnson*, the attorney converted
client funds by making multiple withdrawals from a client trust deposit
without authorization. In this case, even though the funds were
ultimately disbursed to pay law firm operating expenses and Ms.
Fossedal's personal expenses in multiple withdrawals, the misconduct in
question is a single transaction: failing to disburse funds to Mr. Schoof
and instead keeping the money in Ms. Fossedal's accounts.
(d) Multiple offenses. This factor is present because the ODC charged Ms.

1 Fossedal with multiple offenses and has met its burden of proof as to
2 each charged offense. However, this factor has little weight because the
3 offenses stem from one act of misconduct.

4 (g) Refusal to acknowledge wrongful nature of conduct. This factor does not
5 apply because Ms. Fossedal pled guilty as charged and admitted in her
6 answer in this proceeding that she had committed the charged violations,
7 and testified credibly that her conduct was wrongful.

8 (i) Substantial experience in the practice of law. This factor applies because
9 Ms. Fossedal was admitted in 1998 and successfully ran her own family
10 law practice for years.

11 (j) Indifference to making restitution. This factor applies because Ms.
12 Fossedal paid no restitution despite the means to make at least small
13 payments.

14 65. The Hearing Officer has considered the following aggravating factors set
15 forth in Section 9.32 of the ABA Standards and finds as follows:

16 (a) Absence of a prior disciplinary record. This factor applies because Ms.
17 Fossedal has no disciplinary record. This factor is entitled to some
18 weight, but is not sufficient to warrant a departure from the presumptive
19 sanction standing alone.

20 (b) Absence of a dishonest or selfish motive. This factor applies because Ms.
21 Fossedal's motive—as opposed to her intent or knowledge—was not
22 dishonest or selfish. This factor is entitled to substantial weight, but is
23 not sufficient to warrant a departure from the presumptive sanction
24 standing alone.

25 (c) Personal or emotional problems. This factor applies, and is entitled to
26 some weight, but is not sufficient to warrant a departure from the
27 presumptive sanction standing alone.

28 (e) Full and free disclosure to disciplinary board or cooperative attitude
toward proceedings. This factor applies, and is entitled to some weight,
but is not sufficient to warrant a departure from the presumptive
sanction standing alone.

(g) Character or reputation. Ms. Fossedal's friends and family testified
credibly to her reputation for kindness and diligence. This factor is
entitled to some weight, but is not sufficient to warrant a departure from
the presumptive sanction standing alone.

(h) Physical disability. This factor applies because of Ms. Fossedal's
significant pain. It must be considered in conjunction with factor (i),
because the combination of the pain and medications taken to manage it
mitigate Ms. Fossedal's misconduct. Standing either alone or in
combination with factor (i), this factor is sufficient to warrant a departure
from the presumptive sanction.

- 1 (i) Mental disability or chemical dependency including alcoholism or drug
2 abuse when:
3 a. There is medical evidence that the respondent is affected by a
4 chemical dependency or mental disability;
5 b. The chemical dependency or mental disability caused the
6 misconduct;
7 c. The respondent's recovery from the chemical dependency or
8 mental disability is demonstrated by a meaningful and sustained
9 period of successful rehabilitation; and
10 d. The recovery arrested the misconduct and recurrence of that
11 misconduct is unlikely.

This factor is present because each element is met. This factor must be considered in conjunction with factor (h), because the combination of the pain and medications taken to manage it mitigate Ms. Fossedal's misconduct. Standing either alone or in combination with factor (h), this factor is sufficient to warrant a departure from the presumptive sanction.

- 12 (l) Remorse. Ms. Fossedal showed genuine remorse. But this factor is
13 entitled to little weight, because she made no efforts to repay Mr. Schoof
14 despite having the means to make at least some payments. This factor is
15 not sufficient to warrant a departure from the presumptive sanction
16 standing alone.
17 (m) Remoteness of prior offenses. This factor does not apply because Ms.
18 Fossedal has no prior offenses.

17 RECOMMENDATION

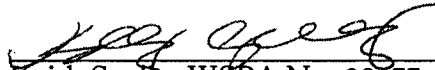
18 66. Based on the ABA Standards and the applicable aggravating and mitigating
19 factors, the Hearing Officer recommends that Respondent Dana Kristin Fossedal be
20 suspended for a period of three years. Upon completion of the suspension, Ms. Fossedal
21 must be supervised for a period of two years. Supervision shall include the following
22 requirements:

- 23 (a) Ms. Fossedal must be supervised by a practicing attorney in a manner
24 approved by the ODC.
25 (b) Ms. Fossedal must undergo trust- and operating-account audits every six
26 months. These audits shall be performed, at the discretion of ODC, either by
27 ODC or by an auditor approved by ODC and paid by Ms. Fossedal.

28 67. Ms. Fossedal must also pay \$117,225.17 to the Lawyers' Fund for Client

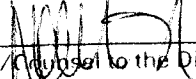
1 Protection. Repayment shall be set at a minimum rate of \$100 per month while Ms.
2 Fossedal is suspended from the practice of law. Upon resumption of practice as an
3 attorney, Ms. Fossedal must pay at least 10% of her after-tax income as restitution until
4 the balance is paid in full.

5
6 DATED this 28th day of March, 2016.

7
8 
9 Keith Scully, WSBA No. 28677
10 Hearing Officer

11
12
13 CERTIFICATE OF SERVICE

14 I certify that I caused a copy of the JOE I. COLE & A.O.'s Recommendation
15 to be delivered to the Office of Disciplinary Counsel and to be mailed
16 to JAMES MACPHERSON, Respondent/Respondent's Counsel
17 at _____ by Certified/first-class mail
18 postage prepaid on the 28th day of MARCH, 2016

19 
20 Clerk/Counsel to the Disciplinary Board

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29 210 4th AVE NW
30 Bainbridge Island, WA 98110