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**FILED**

AUG 10 2012

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**CAROL V. CORNWALL-EDSON,**

Lawyer (Bar No. 30255).

Proceeding No. 11#00108

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 July 24, 2012 by submission. On August 7, 2012 a supplemental hearing was held regarding the appropriate sanctions.

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

1. The Formal Complaint (Bar File No.2) filed on February 2, 2012, charged Carol V. Cornwall-Edson with five counts of misconduct.

2. Under ELC 10.6(a)(4), the Hearing Officer concludes that violations charged in the Formal Complaint is admitted and established as follows:

**COUNT 1**

3. By failing to appear for court on October 5, 2010 and on November 21, 2010,

1 Respondent violated RPC 1.3 (diligence).

2 **COUNT 2**

3 4. By failing to communicate with Ms. Garcia and return her telephone calls,  
4 Respondent violated RPC 1.4 (communication).

5 **COUNT 3**

6 5. By failing to refund all or part of the \$500 Ms. Garcia paid in fees, after twice  
7 failing to appear in court, Respondent violated RPC 1.5 (unreasonable fees) and RPC 1.16(d)  
8 (failing to refund an unearned advance payment of fees).

9 **COUNT 4**

10 6. By failing to place Ms. Garcia's \$500 advance fees into a trust account,  
11 Respondent violated RPC 1.15A(b) and RPC 1.15A(c) and RPC 1.5(f).

12 **COUNT 5**

13 7. By failing to provide responses to the Association's requests for information  
14 regarding Ms. Garcia's grievance and by giving false testimony during her deposition,  
15 Respondent violated RPC 8.4(l) by failing to comply with her duty to cooperate under ELC  
16 5.3(e).

17 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**  
18 **REGARDING RECOMMENDED SANCTIONS**

18 **Count 1**

19 8. Respondent acted negligently in failing to appear in court for Ms. Garcia's  
20 hearings on October 5, 2010.

21 9. Ms. Garcia suffered actual injury in that it caused her stress by having to appear in  
22 court without her lawyer present and resulted in delay in resolving her case. She was subjected  
23 to potential substantial injury because there was no assurance the judge would believe that she  
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1 had hired a lawyer or would continue the hearing.

2 10. Respondent acted negligently in failing to appear in court for Ms. Garcia's  
3 hearings on October 5, 2010 and November 11, 2010

4 11. The following standards of the American Bar Association's Standards for  
5 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) potentially apply  
6 to Count 1:

7 4.41 Disbarment is generally appropriate when: \*\*\*\* (c) a lawyer engages in a  
8 pattern of neglect with respect to client matters and causes serious or potentially  
9 serious injury to a client.

10 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not  
11 act with reasonable diligence in representing a client, and causes injury or  
12 potential injury to a client.

13 **Count 2**

14 12. Respondent acted negligently when she failed to return Ms. Garcia's telephone  
15 calls or otherwise communicate with her about her case.

16 13. Ms. Garcia was injured or potentially injured in that she was not kept informed  
17 about her case and was unsure as to whether or not Respondent ~~was~~ would perform her  
18 contractual obligation to represent her or to perform the representation diligently (RPC 1.3).

19 14. The following standard of the American Bar Association's Standards for Imposing  
20 Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply to  
21 Count 2:

22 4.63 Reprimand is generally appropriate when a lawyer negligently fails to  
23 provide a client with accurate or complete information, and causes injury or  
24 potential injury to the client.

**Count 3**

15. Respondent acted intentionally in failing to refund all or part of Ms. Garcia's fees.

1 Respondent's motive was to obtain a benefit for herself.

2 16. Ms. Garcia was injured in that she paid Respondent for services she did not receive  
3 and therefore lost \$500.

4 17. The public was harmed because Respondent's conduct jeopardized the reputation  
5 and perception of the legal system as a whole.

6 18. The following standard of the American Bar Association's Standards for Imposing  
7 Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply to

8 Count 3:

9 7.2 Disbarment is generally appropriate when a lawyer knowingly engages in  
10 conduct that is a violation of a duty owed as a professional with the intent to  
11 obtain a benefit for the lawyer or another, and causes injury or potential serious  
injury to a client, the public, or the legal system.

12 **Count 4**

13 19. Respondent knew or should have known she was improperly handling client funds  
14 when she failed to deposit Ms. Garcia's advance fee deposit into a trust account.

15 20. Ms. Garcia was injured by the loss of her \$500.

16 21. The following standard of the American Bar Association's Standards for Imposing  
17 Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply to

18 Count 4:

19 4.12 Disbarment is generally appropriate when a lawyer knowingly converts  
client property and causes injury or potential injury to a client.

20 **Count 5**

21 22. Respondent initially acted negligently in failing to respond to the Association's  
22 requests regarding Ms. Garcia's grievance, and later acted knowingly.

23 23. The public and the legal system were injured by the delay of the investigation and  
24

1 because more resources than necessary had to be expended to conduct the investigation.

2 24. Respondent acted intentionally when she misrepresented to the Association during  
3 her deposition that she went to court twice on Ms. Garcia's behalf and that Ms. Garcia paid her  
4 \$250 at the time of each of the two court hearings.

5 25. The legal system was injured by Respondent's misrepresentations during her  
6 deposition because the Association had to expend additional time and resources to  
7 independently verify that Respondent did *not* appear at Ms. Garcia's hearings, and to verify that  
8 the fees paid by Ms. Garcia occurred at a time that she had not performed any work on Ms.  
9 Garcia's behalf. In addition, Respondent harmed the legal system by attempting to circumvent  
10 the disciplinary process to evade responsibility for her misconduct.

11 26. Respondent's failure to make any effort at restitution demonstrates an intent to  
12 benefit herself at the expense of her client.

13 27. The following standards of the American Bar Association's Standards for  
14 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively  
15 apply to Count 5:

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 to  
18 obtain a benefit for the lawyer or another, and causes injury or potential injury to  
a client, the public, or the legal system.

19 28. Where the Hearing Officer finds multiple ethical violations, the "ultimate sanction  
20 imposed should at least be consistent with the sanction for the most serious instance of  
21 misconduct among a number of violations". In re Disciplinary Proceeding Against Petersen, 120  
22 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

23 29. Proportionality is not an issue in this case because it was not raised in the  
24

1 proceeding.<sup>1</sup>

2 30. The presumptive sanction in this matter is disbarment.

3 31. The following aggravating factors set forth in Section 9.22 of the ABA Standards  
4 apply in this case:

- 5 (b) dishonest or selfish motive;
- 6 (d) multiple offenses;
- 7 (e) bad faith obstruction of the disciplinary proceeding by intentionally  
failing to comply with rules or orders of the disciplinary agency [failure  
to file answer to formal complaint as required by ELC 10.5(a)]<sup>2</sup>;
- 8 (g) refusal to acknowledge wrongful nature of conduct;
- 9 (j) indifference to making restitution.

10 32. The following mitigating factors set forth in Section 9.32 of the ABA Standards  
11 apply to this case:

- 12 (a) absence of a prior disciplinary record.

### 13 RECOMMENDATION

14 1. The presumption sanction can be either suspension or disbarment depending on  
15 whether the injury is “serious or potentially serious”. The finding that the injury caused by  
16 Respondent is serious or potentially serious is based in part on the following quotation from In  
re Disciplinary Proceeding Against Simmerly \_\_\_ P3d. \_\_\_\_ (2012):

17 In *Whitt*, we stated unequivocally that “[f]alsifying information during an attorney  
18 discipline proceeding” itself harms the public and the legal system. 149 Wn.2d at 720.  
19 Specifically, an attorney “harm[s] the public by jeopardizing the reputation and perception  
of the legal system as a whole, and harm[s] the legal system by attempting to circumvent  
the disciplinary process to evade responsibility for her misconduct.” *Id.*

20 2. By twice taking a retainer and failing to appear, Respondent has potentially created

21 <sup>1</sup> In re Disciplinary Proceeding Against Eugster, 166 Wash.2d 293, 324, 317 209 P.3d 435, 450 (2009).  
22 referring to Matter of Disciplinary Proceeding Against Noble, 100 Wash.2d 88, 667 P.2d 608 (1983).

23 <sup>2</sup> ELC 10.5(a) provides: “Failure to file an answer as required may be grounds for discipline and for an order of  
24 default under rule 10.6”. See In re Righter, 992 P.2d 1147, 1149 (Colo. 1999) (lawyer’s “total nonparticipation in  
these proceedings demonstrates a bad faith obstruction of the disciplinary process”).

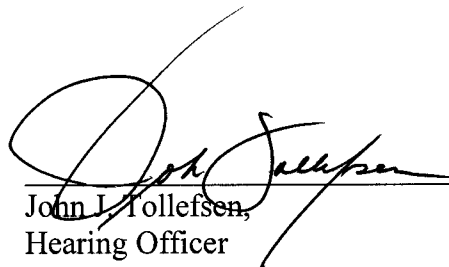
1 a public perception that lawyers are irresponsible and only interested in money. By lying in her  
2 deposition and failing to make restitution, Respondent has harmed the legal system by  
3 attempting to evade the disciplinary process and attempting to evade responsibility for her  
4 misconduct.

5 3. Based on the ABA Standards and the applicable aggravating and mitigating  
6 factors, the Hearing Officer recommends that Respondent Carol V. Cornwall-Edson be  
7 disbarred.

8 **RESTITUTION**

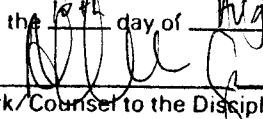
9 4. In addition, I recommend that Respondent be ordered to pay restitution to Blanca  
10 Garcia in the amount of \$500, plus 12% interest from November 30, 2010 to the date of  
11 payment. I further recommend that Respondent's reinstatement to practice be contingent on full  
12 payment of restitution to Ms. Garcia.

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14  
15 DATED this 8<sup>th</sup> day of August, 2012.

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17   
18 John L. Tollefsen,  
Hearing Officer

19  
20 **CERTIFICATE OF SERVICE**

21 I certify that I caused a copy of the FOF COL, Ho 15 Recommendation  
22 to be delivered to the Office of Disciplinary Counsel and to be mailed  
to CAROL CORNWALL-EDSON, Respondent/Respondent's Counsel  
at PO BOX 1003 LA CONCHA, WA 98257 by Certified/first class mail,  
postage prepaid on the 10<sup>th</sup> day of August, 2012

23   
24 Clerk/Counsel to the Disciplinary Board