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NOV 14 2012

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

DISCIPLINARY BOARD

In re

CAROL V. CORNWALL-EDSON

Lawyer (WSBA No. 30255)

Proceeding No. 11#00108

NOTICE OF INTENDED DECISION
PURSUANT TO ELC 11.12(f)

NOTICE OF INTENDED DECISION--ELC 11.12(f)

The Board intends to modify the Hearing Officer's recommendation in a matter that has not been appealed to the board by either party. Respondent is in default. The intended decision is attached to this notice. Disciplinary Counsel may, within 15 days of service of this notice, file a request that the Board reconsider the intended decision. If a timely request is filed, the Board will reconsider its decision. If no timely request for reconsideration is filed, the Board will file an order adopting the intended decision as its final order.

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DISCIPLINARY BOARD ORDER
MODIFYING HEARING OFFICER'S
DECISION

This matter came before the Disciplinary Board at its November 2, 2012 meeting, on automatic review of Hearing Officer John J. Tollefson's decision recommending disbarment and restitution following a default hearing.

Having reviewed the materials submitted by the Association and considering the applicable case law and rules;

IT IS HEREBY ORDERED THAT the Hearing Officer's decision is modified as follows.¹: (1) The presumptive sanction in this matter is suspension, not disbarment. The recommended sanction is reduced from disbarment to a 3 year suspension.

(2) The Board affirms the Hearing Officer's restitution recommendation and adds the related condition that payment by the Lawyers Fund for Client Protection must also be reimbursed with interest prior to reinstatement.

(3) The Board also adds practice-related reinstatement conditions.

Count 1:

The Hearing Officer found that Respondent negligently failed to appear for two court

¹ The vote on this matter was unanimous. Those voting were: Bray, Broom, Butterworth, Carrington, Coy, Dremousis, Evans, Ivarinen, McInville, Meshier, Neiland and Ogura.

1 | hearings for a client.(Findings 8² and 10³) The presumptive sanction is reprimand based on
2 | *ABA Standard 4.43*⁴. *ABA Standard 4.41*⁵ does not apply to this count. The Hearing
3 | Officer cited *ABA Standard 4.41(c)* involving a pattern of misconduct in client matters.
4 | This case involves one client matter. The record does not establish a pattern of misconduct.

4 | **Count 2**

5 | The Hearing Officer found that Respondent negligently failed to communicate with
6 | her client.(Finding 12)⁶ The board affirms the hearing officer's conclusion that the
7 | presumptive sanction is reprimand based on *ABA Standard 4.63*.

7 | **Count 3**

8 | The Hearing Officer found that Respondent intentionally failed to refund the client's
9 | fees and was motivated to obtain a benefit for herself. (Finding 15)⁷ This was a default
10 | hearing. The Formal Complaint alleged that Respondent intentionally failed to refund the
11 | client's fees, but did not allege that she was motivated to obtain a benefit for herself. There
12 | is no evidence in the record to support the finding that Respondent was motivated to obtain
13 | a benefit for herself. This finding is stricken. The presumptive sanction is suspension⁸

12 | ² Finding 8 states: Respondent acted negligently in failing to appear in court for Ms. Garcia's hearings on October
13 | 5, 2010.

13 | ³ Finding 10 states: Respondent acted negligently in failing to appear in court for Ms. Garcia's hearings on October
14 | 5, 2010 and November 11, 2010.

14 | ⁴ *ABA Standard 4.43* states: Reprimand is generally appropriate when a lawyer is negligent and does not act with
15 | reasonable diligence in representing a client, and causes injury or potential injury to a client.

15 | ⁵ *ABA Standard 4.41* states: Disbarment is generally appropriate when: (a) a lawyer abandons the practice and
16 | causes serious or potentially serious injury to a client; or (b) a lawyer knowingly fails to perform services for a
17 | client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with
18 | respect to client matters and causes serious or potentially serious injury to a client.

16 | ⁶ Finding 12 states: Respondent acted negligently when she failed to return Ms. Garcia's telephone calls or
17 | otherwise communicate with her about her case.

16 | ⁷ Original Finding 15 states: Respondent acted intentionally in failing to refund all or part of Ms. Garcia's fees.
17 | Respondent's motive was to obtain a benefit for herself.

17 | ⁸ *ABA Standard 7.2* states: Suspension is generally appropriate when a lawyer knowingly engages in conduct that is
18 | a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal
19 | system.

1 based on ABA Standard 7.2.⁹ *ABA Standard 7.1* does not apply to this count.

2 **Count 4**

3 The hearing officer found that Respondent knew or should have known she was
4 improperly handling client funds when she failed to deposit the client's advance fee
5 deposits into her trust account.(Finding 19)¹⁰ The presumptive sanction is suspension based
6 on ABA Standard 4.12.¹¹ Although the Hearing Officer referred to *ABA Standard "4.12"*,
7 he included the language of Standard 4.11, disbarment for knowing conversion of client
8 funds. The Hearing Officer did not find, and the record does not support, a finding of
9 knowing conversion of client funds. ABA Standard 4.11 does not apply to this count.

10 **Count5**

11 The Hearing Officer found that Respondent was initially negligent and later knowing
12 in her failure to cooperate with the disciplinary investigation. (Finding 22)¹² Respondent
13 made a misrepresentation to disciplinary counsel during the investigation about the number
14 of hearings she attended for the client.(Finding 24)¹³ The presumptive sanction for this
15 misconduct is suspension based on ABA Standard 7.2.

16 The seriousness of Ms. Cornwall-Edson's misconduct, specifically the
17 misrepresentation during the disciplinary investigation, justifies a 3-year suspension. The

14 ⁹ The Hearing Officer included the number 7.2, but used the language from *Standard 7.1*: disbarment is generally
15 appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with
the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client,
the public, or the legal system.

16 ¹⁰ Finding 19 states: Respondent knew or should have known she was improperly handling client funds when she
failed to deposit Ms. Garcia's advance fee deposit into a trust account.

17 ¹¹ ABA Standard 4.12 states: Suspension is generally appropriate when a lawyer knows or should know that he is
dealing improperly with client property and causes injury or potential injury to a client.

¹² Finding 22 states: Respondent initially acted negligently in failing to respond to the Association's requests
regarding Ms. Garcia's grievance, and later acted knowingly.

¹³ Finding 24 states: Respondent acted intentionally when she misrepresented to the Association during her
deposition that she went

1 Board noted that The Association requested that the Hearing Officer recommend a
2 suspension. The Board agrees with the Association that suspension is the appropriate
3 sanction. The Board recommends imposing the following additional conditions on
Respondent's reinstatement. These conditions should be completed prior to reinstatement::

- 4 (1) Payment of restitution to Blanca Garcia in the amount of \$500 plus 12% interest
from November 30, 2010;
- 5 (2) Repayment of any gift made to Blanca Garcia from the Lawyers Fund for Client
6 Protection, plus interest if assessed by the LFCP
- 7 (3) Attend Ethics School.
- 8 (4) Meet with the LOMAP Practice Management Advisor to discuss and implement
9 procedures concerning the following issues:

- Time Management;
- Office Organization;
- Fee Agreements

10 Respondent shall pay for all LOMAP services prior to reinstatement.

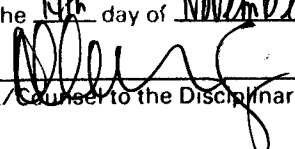
11 Dated this 13th day of November, 2012.

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14 Nancy Ivarinen
15 Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the NOTICE OF INTENDED DECISION (ENC 11-12(F))
to be delivered to the Office of Disciplinary Counsel and to be mailed
to CAROL CORNWALL-ALSON Respondent/Respondent's Counsel
at PO BOX 123 LA COMBE, MA 01927, by Certified first class mail
postage prepaid on the 14th day of NOVEMBER, 2012


Clerk/Counsel to the Disciplinary Board