

JAN 2 0 2015

DISCIPLINARY BOARD

BEFORE THE DISCIPLINARY BOARD OF THE

WASHINGTON STATE BAR ASSOCIATION

In re

JANY K. JACOB,

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Lawyer (WSBA No. 30722)

Proceeding No. 15#00024

DISCIPLINARY BOARD ORDER DECLINING SUA SPONTE REVIEW AND ADOPTING HEARING OFFICER'S DECISION

This matter came before the Disciplinary Board for consideration of *sua sponte* review pursuant to ELC 11.3(a). On October 14, 2015, the Clerk distributed the attached decision to the Board.

IT IS HEREBY ORDERED THAT the Board declines *sua sponte* review and adopts the Hearing Officer's decision¹.

Dated this 20th day of January, 2016.

Stephanie Bloomfield

CERTIFICATE OF ROARD Chair

The vote on this matter was 14-0. The following Board members voted: Bloomfield, Carney, Davis, Denton, Coy, Fischer, Startzel, Andeen, Berger, Cottrell, Smith, Myers, Egeler and Silverman.

Board Order Declining *Sua Sponte* Review and Adopting Decision
Page 1 of 1

WASHINGTON STATE BAR ASSOCIATION 1325 4th Avenue, Suite 600 Seattle, WA 98101-2539 (206) 727-8207





AUG 2 8 2015

DISCIPLINARY BOARD

BEFORE THE **DISCIPLINARY BOARD** OF THE WASHINGTON STATE BAR ASSOCIATION

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Lawyer (Bar No. 30722)

JANY K. JACOB,

No. 15#00024

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

The undersigned hearing officer makes the following findings of fact, law, and recommendation under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING CHARGED VIOLATIONS

- The Formal Complaint (Bar File No. 2) charged Respondent Jany K. Jacob with 1. misconduct as set forth therein.
- Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth 2. in the Formal Complaint is admitted and established.
- 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:
 - Count 1: By failing to act with reasonable diligence and promptness in

FINDINGS AND CONCLUSIONS - 1

2505 Second Avenue Suite 610 Seattle, WA 98121 + Royer Phone 206 269-1100 Fax: 206 269-7424

representing Ms. Cambridge, Respondent violated RPC 1.3.

- 5. Count 2: By making false representations to Ms. Cambridge about the status of the matter and/or the work she performed, Respondent violated RPC 1.4, 8.4(c), and/or 8.4(i).
- 6. Count 3: By charging and collecting fees for work she never performed, Respondent violated RPC 1.5(a), 8.4(c), and/or 8.4(i).
- 7. Count 4: By failing to return Ms. Cambridge's client file, and/or by failing to return unearned fees, Respondent violated RPC 1.16(d), 8.4(c), 8.4(i), and/or 8.4(l) (by violating ELC 14.1(a)).
- 8. Count 5: By failing to notify Ms. Cambridge of her suspension, Respondent violated RPC 8.4(1) (by violating ELC 14.1(c)).
- 9. Count 6: By failing to cooperate fully and promptly with a grievance investigation, Respondent violated RPC 8.4(d) and/or 8.4(l) (by violating ELC 5.3 and/or 5.5).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING RECOMMENDED SANCTION

- 10. The following standards of the American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply in this case:
- 11. Count 1: ABA Standards std. 4.4 applies to Respondent's violation of RPC 1.3 as charged in Count 1. In failing to act with reasonable diligence and promptness in representing Ms. Cambridge, Respondent acted knowingly and caused serious or potentially

serious injury to her client. Formal Complaint ¶ 10. The presumptive sanction is disbarment under ABA *Standards* std. 4.41.

- 12. Count 2: ABA Standards stds. 4.4 and 4.6 apply to Respondent's violation RPC 1.4, 8.4(c), and 8.4(i) as charged in Count 2. In making false representations to Ms. Cambridge about the status of her matter and the work Respondent claimed to have performed, Respondent knowingly deceived her client with the intent to benefit herself, and caused serious injury or potential serious injury to her client. Formal Complaint ¶ 28. The presumptive sanction is disbarment under ABA Standards stds. 4.41 and 4.61.
- 13. Count 3: ABA Standards stds. 5.1 and 7.0 apply to Respondent's violation RPC 1.5(a), 8.4(c), and 8.4(i) as charged in Count 3. In charging and collecting fees for work she never performed, Respondent engaged in intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on her fitness to practice law. Formal Complaint ¶ 15. Respondent acted with the intent to benefit herself, and she caused serious or potentially serious injury to Ms. Cambridge. Formal Complaint ¶ 14. The presumptive sanction is disbarment under ABA Standards stds. 5.11(b) and 7.1.
- 14. Count 4: ABA Standards stds. 5.1 and 7.0 apply to Respondent's violation RPC 1.16(d), 8.4(c), 8.4(i), and 8.4(l) as charged in Count 4. In failing to return unearned fees and Ms. Cambridge's client file, Respondent engaged in intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on her fitness to practice law. Formal Complaint ¶ 36. Respondent acted with the intent to benefit herself, and caused serious or potentially serious injury to Ms. Cambridge. Formal Complaint ¶ 35. The presumptive sanction is disbarment under ABA Standards stds. 5.11(b) and 7.1.

15. Count 5: ABA Standards std. 7.0 applies to Respondent's violation of RPC 8.4(I) as charged in Count 5. In failing to notify Ms. Cambridge of her suspension, Respondent acted knowingly and caused injury to her client, the public, and the legal system. Formal Complaint ¶ 20. The presumptive sanction is suspension under ABA Standards std. 7.2.

- 16. Count 6: ABA Standards std. 7.0 applies to Respondent's violation of RPC 8.4(d) and 8.4(l) as charged in Count 6. In failing to cooperate fully and promptly with a grievance investigation, Respondent acted knowingly and caused injury to her client, the public, and the legal system. Formal Complaint ¶ 46. The presumptive sanction is suspension under ABA Standards std. 7.2.
- 17. Exhibit 1, the Declaration of Disciplinary Counsel re Prior Disciplinary Action, is admitted.
- 18. The following aggravating factors set forth in ABA Standards std. 9.22 apply in this case:
 - (a) prior disciplinary offenses (Respondent received an 18-month suspension on April 24, 2014 in Proceeding No. 13#00044);
 - (b) dishonest or selfish motive;
 - (c) pattern of misconduct (Respondent was sanctioned for similar misconduct in Proceeding No. 14#00044);
 - (d) multiple offenses;
 - (i) substantial experience in the practice of law (Respondent was admitted to practice in 2000);
 - (i) indifference to making restitution.
- 19. It is an additional aggravating factor that Respondent failed to file an answer to the Formal Complaint as required by ELC 10.5(a) or otherwise participate in the disciplinary proceeding.

FINDINGS AND CONCLUSIONS - 5

20. None of the mitigating factors set forth in ABA *Standards* std. 9.32 applies in this matter.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING RESTITUTION

- 21. During the course of the representation, Elizabeth Cambridge paid Respondent a total of \$6,978 in legal fees and expenses. Formal Complaint ¶ 12.
- 22. Ms. Cambridge also provided Respondent web design services valued at \$6,000 in exchange for legal services. Formal Complaint ¶ 13.
- 23. Respondent failed to provide the legal services for which she was paid, both in money and in services. Formal Complaint ¶ 7-8, 14-15, 49.
- 24. On December 23, 2013, Ms. Cambridge made a request for the return of unearned fees. Formal Complaint ¶ 31.
- 25. Respondent has never returned any of the unearned fees she charged and collected. Formal Complaint ¶ 34.
- 26. An order of restitution for the money and services Respondent received from Ms. Cambridge is appropriate under ELC 13.7(a) because Ms. Cambridge was financially injured by Respondent's misconduct.

RECOMMENDATION

27. Where, as here, there are multiple ethical violations, the ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct. *In re Disciplinary Proceeding Against Petersen*, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993).

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28. Based on the ABA Standards and the applicable aggravating factors, the hearing officer recommends that Respondent Jany K. Jacob be disbarred.

- 29. The hearing officer further recommends that Respondent be ordered to pay restitution to Elizabeth Cambridge in the amount of \$12,978 plus interest at 12% per annum from December 23, 2013.
- 30. As a condition on reinstatement, the hearing officer recommends that Respondent be required to fully comply with the subpoena duces tecum and deposition referenced in Formal Complaint ¶¶ 42-45.

DATED this 28th day of August, 2015.

Steam S. Royen

Sidney Stillerman Royer, Hearing Officer

CERTIFICATE OF SERVICE

certify that I caused a copy of the Findings of facts (conducine of law) trains	^
to be delivered to the Office of Disciplinary Counsel and to be mailed	}
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EXHIBIT 1 1 2 3 4 5 6 BEFORE THE 7 **DISCIPLINARY BOARD** OF THE 8 WASHINGTON STATE BAR ASSOCIATION 9 Proceeding No. 15#00024 In re 10 **DECLARATION OF DISCIPLINARY** JANY K. JACOB, 11 COUNSEL RE PRIOR DISCIPLINARY Lawyer (Bar No. 30722). **ACTION** 12 13 I, Scott G. Busby, declare: 14 I am a disciplinary counsel for the Office of Disciplinary Counsel (ODC) of the 15 Washington State Bar Association (Association). I am competent to testify if called as a 16 witness in these proceedings. I make the statements in this declaration from personal 17 knowledge. 18 Under Rule 10.13(f) of the Rules for Enforcement of Lawyer Conduct (ELC), 19 Respondent's record of prior disciplinary action must be made a part of the hearing record 20 before the hearing officer files a recommendation. 21 I was the disciplinary counsel in *In re Jany K. Jacob*, Proceeding No. 13#00044. 3. 22 In that proceeding, on April 17, 2014, the Washington Supreme Court suspended 23 24

1	Jany K. Jacob from the practice of law for 18 months effective April 24, 2014.							
2	5. Attached as Appendix A are copies of (a) the Findings of Fact, Conclusion of Law							
3	and Hearing Officer's Recommendation, (b) the Disciplinary Board's Notice of Intended							
4	Decision, (c) the Board's Order Adopting Intended Decision Pursuant to ELC 11.12(f), and (d)							
5	the Supreme Court's April 17, 2014 Order.							
6	I certify under penalty of perjury under the laws of the State of Washington that							
7	the foregoing is true and correct.							
8	5/19/15 Seattle WA Aron & Bred.							
9	Date and Place Scott G. Busby, Bar No. 17522 Senior Disciplinary Counsel							
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APPENDIX A

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DISCIPLIMATY ROARD

BEFORE THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSOCIATION

In re

JANY K. JACOB,

Lawyer (Bar No. 30722).

Proceeding No. 13#00044

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 conducted a disciplinary proceeding by written submissions.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING CHARGED VIOLATIONS

- 1. The Formal Complaint (Bar File No. 3) charged Jany K. Jacob with misconduct as set forth therein.
- 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 violations charged in the Formal Complaint are admitted and established as follows:

COUNT 1: By failing to act with reasonable diligence and promptness in

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING OFFICER'S RECOMMENDATION Page 1 WASHINGTON STATE BAR ASSOCIATION 1325 4th Avenue, Suite 600 Seattle, WA 98101-2539 (206) 727-8207

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providing responses to the defendants' discovery requests, and/or by failing to make reasonable efforts to expedite litigation consistent with the interests of Mr. Burleson, Respondent violated RPC 1.3 and/or 3.2.

COUNT 2: By failing to promptly respond to requests for information relevant to Mr. Burleson's grievance, and/or by failing to promptly respond to a discovery request from Disciplinary Counsel, Respondent violated RPC 8.4(I) (by violating ELC 5.3(e) and 5.5(c)).

COUNT 3: By failing to promptly respond to requests for information relevant to Mr. Yanamandra's grievance, and/or by failing to promptly respond to a discovery request from Disciplinary Counsel, Respondent violated RPC 8.4(I) (by violating ELC 5.3(e) and 5.5(c)).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING RECOMMENDED SANCTION

- 4. In her numerous and lengthy delays in providing responses to the defendants' discovery requests, Respondent acted knowingly and caused injury or potential injury to her client and another party.
- 5. In failing to promptly respond to requests for information, and in failing to promptly respond to discovery requests from disciplinary counsel, Respondent acted knowingly and caused injury to a client and the legal system.
- 6. The following standards of the American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply in this case:
- 7. ABA <u>Standards</u> stds. 4.4 and 6.2 apply to Respondent's violations of RPC 1.3 and 3.2, respectively. The presumptive sanction for Count 1 is suspension under ABA <u>Standards</u> stds. 4.42 and 6.22.
- 8. ABA <u>Standards</u> std. 7.0 applies to Respondent's violations of RPC 8.4(*I*). The presumptive sanction for Counts 2 and 3 is suspension under ABA <u>Standards</u> std. 7.2.
 - 9. The following aggravating factors set forth in ABA Standards std. 9.22 apply in

1	enable Respondent to return to the practice of law. Respondent (or Respondent's counsel, in
2	Respondent is represented) and disciplinary counsel shall meet to discuss the evaluator's report
3	and what steps can be taken to address the evaluator's concerns. If Respondent and disciplinary
4.	counsel cannot reach an agreement, both parties shall present written materials and arguments to
5	the Disciplinary Board. The Board shall decide whether and the conditions under which
6	Respondent shall return to the active practice of law.
7	DATED this The day of October, 2013.
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9	Nadine D. Scott,
0:	Hearing Officer
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18	CERTIFICATE OF SERVICE I certify that I caused a copy of the William Africas Office of Disciplinary Counsel and to be mailed
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20	at 532 Farmer Vind St. Sold III by Cerutial Australians mail.
21	CITY Clerk/Counselfo the Disciplinary Board
22	The state of the s
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1 **DISCIPLINARY BOARD** BEFORE THE DISCIPLINARY BOARD 2 OF THE WASHINGTON STATE BAR ASSOCIATION 3 Proceeding No. 13#00044 In re NOTICE OF INTENDED DECISION Jany K. Jacob PURSUANT TO ELC 11.12(f) Lawyer (WSBA No.30722) 5 6 NOTICE OF INTENDED DECISION-ELC 11.12(f) 7 The Board intends to modify the Hearing Officer's recommendation in a matter that 8 has not been appealed to the board by either party. Respondent is in default. The 9 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 10 decision. If a timely request is filed, the Board will reconsider its decision. If no 11 timely request for reconsideration is filed, the Board will file an order adopting the intended decision as its final order. 12 13 CERTIFICATE OF SERVICE I certify that I naused a copy of the Natural Interded Decks 6M 14 to be delivered to the Office of Disciplinary Counsel and to be mailed any Jacob opdant/Respondent's Counsel ertified first class mail a 20037 Faunt VIIIV 15 postage prepaid on Clerk/Counsel to the Disciplinary Board 16

NOTICE OF INTENDED DECISION

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WASHINGTON STATE BAR ASSOCIATION 1325 Fourth Avenue – Suite 600 Seattle, WA 98101-2539 (206) 733-5926

1 BEFORE THE DISCIPLINARY BOARD OF THE 2 WASHINGTON STATE BAR ASSOCIATION 3 Proceeding No. 13#00044 In re DISCIPLINARY BOARD ORDER JANY K. JACOB, AMENDING HEARING OFFICER'S Lawyer (WSBA No.30722) DECISION 5 This matter came before the Disciplinary Board at its January 10, 2014, meeting, on 6 automatic review of Hearing Officer Nadine D. Scott's October 7, 2013, Findings Of Fact, 7 Conclusions Of Law And Recommendation, recommending an 18-month suspension and 8 conditioning reinstatement on compliance with deposition subpoenas and successful completion of a fitness-to-practice evaluation, following a default hearing. 9 The Board reviews the hearing officer's finding of fact for substantial evidence. The 10 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). 11 Having reviewed the materials submitted, and considered the applicable case law and 12 rules, the Disciplinary Board finds that there are not sufficient facts in the Hearing Officer's 13 Findings of Fact, Conclusions of Law and Recommendations or the Formal Complaint (the facts of which are deemed admitted by default) to justify imposition of a fitness to practice evaluation 14 by a licensed psychiatrist or psychologist. 15 IT IS HEREBY ORDERED THAT the Hearing Officer's decision is adopted as to the recommended sanction and the requirement that the Respondent comply with the 16 deposition subpoenas but Paragraph 14, requiring a fitness to practice evaluation, is NOT

Board Order Amending Decision-Page 2

FILED

JAN 3 0 2014

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2	BEFORE THE DISCIPLINARY BOARD OF THE					
3	WASHINGTON STATE BAR ASSOCIATION					
4	In re Proceeding No. 13#00044 Jany K. Jacob ORDER ADOPTING INTENDED					
5	DECISION PURSUANT TO ELC 11.12(f) Lawyer (WSBA No.30722)					
6						
7	On January 14, 2014, the Board issued a Notice of Intended Decision. Respondent					
8	is in default. Disciplinary Counsel did not file a request for reconsideration.					
9	IT IS HEREBY ORDERED THAT the attached decision is adopted as the Board's order in this matter.					
10						
11	Dated this 30 th day of January, 2014.					
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13	Andrew O. Carrington, Chair Disciplinary Board					
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15	I certify that I caused a copy of the Manual					
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17	Ciery Compsel to the Disciplinary Board					

ORDER ADOPTING INTENDED DECISION

WASHINGTON STATE BAR ASSOCIATION 1325 Fourth Avenue – Suite 600 Seattle, WA 98101-2539 (206) 733-5926

1 BEFORE THE DISCIPLINARY BOARD OF THE 2 WASHINGTON STATE BAR ASSOCIATION 3 Proceeding No. 13#00044 In re DISCIPLINARY BOARD ORDER JANY K. JACOB. AMENDING HEARING OFFICER'S Lawyer (WSBA No.30722) DECISION 5 6 This matter came before the Disciplinary Board at its January 10, 2014, meeting, on automatic review of Hearing Officer Nadine D. Scott's October 7, 2013, Findings Of Fact, 7 Conclusions Of Law And Recommendation, recommending an 18-month suspension and 8 conditioning reinstatement on compliance with deposition subpoenas and successful completion of a fitness-to-practice evaluation, following a default hearing. 9 The Board reviews the hearing officer's finding of fact for substantial evidence. The 10 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). 11 Having reviewed the materials submitted, and considered the applicable case law and 12 rules, the Disciplinary Board finds that there are not sufficient facts in the Hearing Officer's 13 Findings of Fact, Conclusions of Law and Recommendations or the Formal Complaint (the facts of which are deemed admitted by default) to justify imposition of a fitness to practice evaluation 14 by a licensed psychiatrist or psychologist. 15 IT IS HEREBY ORDERED THAT the Hearing Officer's decision is adopted as to the recommended sanction and the requirement that the Respondent comply with the 16 deposition subpoenas but Paragraph 14, requiring a fitness to practice evaluation, is NOT

Board Order Amending Decision-Page 2

THE SUPREME COURT OF WASHINGTON

IN RE:) BAR NO. 30722		RECT
JANY K. JACOB,)		RECEIVED APR 1 7 2014
ATTORNEY AT LAW.)	ORDER	

This matter came before the Supreme Court on the Washington State Bar Association (WSBA) Disciplinary Board's order in the matter of Jany K. Jacob, wherein the Disciplinary Board adopted the Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation of suspension. The Court reviewed the Disciplinary Board's order and the Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation and the Court determined unanimously that the order should be entered. Now, therefore, it is hereby

ORDERED:

Jany K. Jacob is suspended from the practice of law for 18 months. Pursuant to ELC 13.2, the effective date of suspension is 7 days from the date of this order. Costs and expenses, pursuant to ELC 13.9, as approved by the disciplinary board, and restitution, pursuant to ELC 13.7, as approved by the disciplinary board, will be paid by Jany K. Jacob.

DATED at Olympia, Washington, this _____day of April, 2014.

Washington State Supreme Court

For the Court

APR 17 2014

Ronald R. Carperite Clerk CHIEF JUSTICE

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