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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

CATHERINE GWYNNE NOONAN,
Lawyer (Bar No. 30765).

Proceeding No. 17#00029

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

This disciplinary proceeding is before the undersigned Hearing Officer upon written submissions 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. 4) charged Catherine Gwynne Noonan 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:
- 4. **Count 1:** By failing to promptly respond to a subpoena and requests for

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1 information about the grievance filed by Maria Orth, Respondent violated RPC 8.1(b), and
2 RPC 8.4(l) by violating ELC 5.3(f), ELC 5.3(g), and ELC 5.3(h)(3).

3 5. **Count 2:** By converting funds belonging to James Scott for her own use and by
4 committing the crime of Theft, as defined in RCW 9A.56.020, Respondent violated RPC
5 1.15A(b), RPC 8.4(b), and RPC 8.4(c).

6 6. **Count 3:** By failing to promptly comply with requests for information about James
7 Scott's grievance, Respondent violated RPC 8.1(b), and RPC 8.4(l) by violating ELC 5.3(f),
8 ELC 5.3(g), ELC 5.3(h)(3), and ELC 5.5(d).

9 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
10 **REGARDING RECOMMENDED SANCTION**

11 **Counts 1 and 3**

12 7. ABA Standard 7.0 applies to Respondent's violations of RPC 8.1(b), and RPC
13 8.4(l) by violating ELC 5.3(f), ELC 5.3(g), ELC 5.3(h)(3), and ELC 5.5(d).

14 **7.0 Violations of Duties Owed as a Professional**

15 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
16 conduct that is a violation of a duty owed as a professional with the intent to
17 obtain a benefit for the lawyer or another, and causes serious or potentially
18 serious injury to a client, the public, or the legal system.

19 7.2 **Suspension is generally appropriate when a lawyer knowingly engages in**
20 **conduct that is a violation of a duty owed as a professional and causes injury**
21 **or potential injury to a client, the public, or the legal system.**

22 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
23 conduct that is a violation of a duty owed as a professional and causes injury or
24 potential injury to a client, the public, or the legal system.

7.4 Admonition is generally appropriate when a lawyer engages in an isolated
instance of negligence that is a violation of a duty owed as a professional, and
causes little or no actual or potential injury to a client, the public, or the legal
system.

8. Respondent acted knowingly in failing to cooperate with ODC's investigation of
Ms. Orth's and Mr. Scott's grievances, as set forth in Counts 1 and 3.

9. Respondent's failure to cooperate with ODC's investigation caused injury to the

1 legal system as ODC was forced to use its limited resources to investigate the grievances filed
2 by Ms. Orth and Mr. Scott. The disciplinary system depends upon the cooperation of
3 Respondents in carrying out its duty to protect the public. Because of Respondent's lack of
4 cooperation, ODC petitioned the Supreme Court for the Respondent's Interim Suspension,
5 which the Court ordered on January 20, 2017. Respondent's failure to cooperate also erodes
6 the public's confidence in the legal system.

7 10. The presumptive sanction is suspension.

8 **Count 2**

9 11. ABA Standard 4.1 is most applicable to violations of RPC 1.15A in Count 2.

10 **4.1 Failure to Preserve the Client's Property**

11 4.11 **Disbarment is generally appropriate when a lawyer knowingly converts
client property and causes injury or potential injury to a client.**

12 4.12 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.

13 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with
client property and causes injury or potential injury to a client.

14 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with
client property and causes little or no actual or potential injury to a client.

15 12. Respondent acted intentionally in converting Mr. Scott's funds for her own use.

16 13. There was serious injury to Mr. Scott as he was deprived of a large sum of money.

17 14. The presumptive sanction for Respondent's violations of RPC 1.15A is disbarment.

18 15. ABA Standard 5.1 applies to the violations of RPC 8.4(b) and RPC 8.4(c) in Count
19 2.

20 **5.1 Failure to Maintain Personal Integrity**

21 5.11 **Disbarment is generally appropriate when:**

- 22 (a) **a lawyer engages in serious criminal conduct, a necessary element of
23 which includes intentional interference with the administration of
24 justice, false swearing, misrepresentation, fraud, extortion,
misappropriation, or theft; or the sale, distribution or importation of
controlled substances; or the intentional killing of another; or an**

1 attempt or conspiracy or solicitation of another to commit any of
2 these offenses; or

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

6 5.12 Suspension is generally appropriate when a lawyer knowingly engages in
7 criminal conduct which does not contain the elements listed in Standard 5.11 and
8 that seriously adversely reflects on the lawyer's fitness to practice.

9 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any
10 other conduct that involves dishonesty, fraud, deceit, or misrepresentation and
11 that adversely reflects on the lawyer's fitness to practice law.

12 5.14 Admonition is generally appropriate when a lawyer engages in any other conduct
13 that reflects adversely on the lawyer's fitness to practice law.

14 16. Respondent acted intentionally in committing theft of Mr. Scott's funds for her own
15 use.

16 17. There was serious injury to Mr. Scott as he was deprived of a large sum of money.

17 18. The presumptive sanction for Respondent's violations of RPC 8.4(b) and RPC
18 8.4(c) is disbarment.

19 19. Under In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854, 846
20 P.2d 1330 (1993), the "ultimate sanction imposed should at least be consistent with the
21 sanction for the most serious instance of misconduct among a number of violations."

22 20. Disbarment is the appropriate sanction for Respondent's misconduct in Counts 1, 2,
23 and 3.

24 21. The following aggravating factors set forth in Section 9.22 of the ABA Standards
apply in this case:

- (b) dishonest or selfish motive;
- (d) multiple offenses;
- (g) refusal to acknowledge wrongful nature of conduct;
- (i) substantial experience in the practice of law [Respondent was admitted in
Washington in 2000]; and
- (j) indifference to making restitution.

22. It is an additional aggravating factor that Respondent failed to file an answer to the

1 Formal Complaint as required by ELC 10.5(a).


2 23. The following mitigating factor set forth in Section 9.32 of the ABA Standards
3 applies to this case:

4 (a) absence of a prior disciplinary record.

5 **RECOMMENDATION**

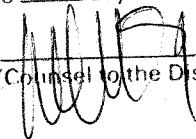
6 24. Based on the ABA Standards and the applicable aggravating and mitigating factors,
7 the Hearing Officer recommends that Respondent Catherine Gwynne Noonan be disbarred and
8 ordered to pay Restitution to James Scott in the amount of \$8,522.88 plus interest at the rate of
9 12% until paid in full.

10
11 DATED this 6 day of October, 2017.

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13 
14 John Arthur Bender, WSBA No. 19540
Hearing Officer

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16 **CERTIFICATE OF SERVICE**

17 I certify that I caused a copy of the FOF, COL & this Recommendation
18 to be delivered to the Office of Disciplinary Counsel and to be mailed
to Catherine Noonan Respondent/Respondent's Counsel
at 1001 4th Ave #5200 Seattle WA 98101 Certified/first class mail
19 postage prepaid on the 6th day of Oct, 2017

20 
Clerk/Counsel to the Disciplinary Board



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In re

CATHERINE GWYNNE NOONAN,

Lawyer (Bar No. 30765).

Proceeding No. 17#00029

FORMAL COMPLAINT

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 Catherine Gwynne Noonan was admitted to the practice of law in the State of Washington on November 27, 2000.

FACTS REGARDING COUNT 1 [Maria Luna Orth Grievance]

- 2. On July 14, 2016, Maria Orth filed a grievance against Respondent.
- 3. On July 25, 2016, ODC sent the grievance and a Request for Response to

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1 Respondent.

2 4. The Request for Response directed Respondent to respond within 30 days of the date
3 of the letter or additional action under ELC 5.3(h) would be taken to compel Respondent's
4 response.

5 5. Respondent did not provide a response within 30 days.

6 6. On September 8, 2016, Disciplinary Counsel Debra Slater sent Respondent a letter
7 under ELC 5.3(h) requiring her to respond to the grievance within ten days or she would be
8 subpoenaed for a deposition.

9 7. Respondent did not respond.

10 8. On October 6, 2016, Respondent was personally served with a Subpoena Duces
11 Tecum requiring her to appear for a deposition on November 16, 2016 at 9:30 a.m. at the offices
12 of the Washington State Bar Association.

13 9. The subpoena also required Respondent to bring her complete client file and
14 financial records, including trust account records, for Ms. Orth.

15 10. Respondent failed to appear for her deposition and failed to provide any of the
16 documents described in the Subpoena Duces Tecum.

17 11. On November 30, 2016, ODC filed a Petition for Interim Suspension in the
18 Washington Supreme Court based upon Respondent's failure to respond to the grievance,
19 failure to appear at the deposition, and failure to produce the requested documents.

20 12. On December 1, 2016, the Washington Supreme Court issued an Order to Show
21 Cause for Respondent to appear on January 19, 2017, and to show cause why the Petition for
22 Interim Suspension should not be granted.

23 13. Respondent was served with the Order to Show Cause and Petition for Interim

1 Suspension on December 30, 2016.

2 14. Respondent did not respond to the Order to Show Cause or indicate her intent to
3 appear at the show cause hearing.

4 15. On January 19, 2017, a unanimous Supreme Court suspended Respondent from the
5 practice of law, pending compliance with disciplinary investigation requests and subpoenas.

6 16. Respondent has not complied and remains suspended from the practice of law.

7 17. Respondent acted knowingly in failing to cooperate with ODC's investigation of Ms.
8 Orth's grievance.

9 18. By failing to cooperate with ODC's investigation of Ms. Orth's grievance,
10 Respondent caused injury or potential injury to a client, the public, and/or the legal system.

11 **FACTS REGARDING COUNTS 2 AND 3 [JAMES SCOTT GRIEVANCE]**

12 19. James Scott hired Respondent to represent him regarding a January 2, 2012 motor
13 vehicle collision.

14 20. Respondent filed a complaint on Mr. Scott's behalf in Pierce County Superior
15 Court on January 22, 2015.

16 21. The parties agreed to a settlement in which Mr. Scott was to receive \$29,000.

17 22. On April 28, 2015, Respondent received a check from Nationwide Insurance in the
18 amount of \$27,018.12, which represented the \$29,000 settlement amount minus a Medicare lien
19 of \$1,981.88.

20 23. The check from Nationwide was made payable to Respondent and Mr. Scott.

21 24. Respondent alone endorsed the check and deposited it into her trust account at
22 Bank of America.

23 25. Respondent paid herself one-third of the total settlement, \$9,666.67, as attorney

1 fees, plus \$1,037.00 as reimbursement of costs she had advanced.

2 26. From the remaining settlement funds, Respondent withheld \$5,041 for payment of
3 Mr. Scott's outstanding medical bills and \$1,500 for payment to the PIP insurer.

4 27. Respondent also withheld \$1,981.88 for payment of the Medicare lien, even
5 though that amount had been deducted by Nationwide from the settlement.

6 28. Respondent withheld a total of \$8,522.88 for payment of medical bills, PIP
7 reimbursement, and the Medicare lien.

8 29. On May 24, 2016, Respondent sent Mr. Scott a cashier's check in the amount of
9 \$9,773.45, representing his share of the settlement.

10 30. Respondent did not pay the Medicare lien, the medical bills, or the PIP
11 reimbursement.

12 31. Respondent did not pay Mr. Scott any of the funds she withheld for the Medicare
13 lien, the medical bills, or the PIP reimbursement.

14 32. In addition to the \$9,666.67 she paid herself as attorney fees and the \$1,037.00 she
15 reimbursed herself for costs, Respondent used \$8,522.88 out of the funds she withheld from the
16 settlement for her own use and benefit.

17 33. Respondent was not entitled to those funds.

18 34. Respondent knowingly converted those funds.

19 35. Respondent wrongfully obtained or exerted unauthorized control over those funds
20 with the intent to deprive another of such funds.

21 36. On October 21, 2017, Mr. Scott filed a grievance against Respondent.

22 37. On October 25, 2017, ODC sent the grievance and a Request for Response to
23 Respondent. The Request for Response directed Respondent to respond within 30 days.

1 38. Respondent did not respond within thirty days.

2 39. On November 30, 2016, ODC sent Respondent a letter under ELC 5.3(h) requiring
3 her to respond to the grievance within ten days.

4 40. Respondent did not respond,

5 41. Respondent still has not responded to the grievance.

6 42. Respondent acted knowingly in failing to cooperate with ODC's investigation of
7 Mr. Scott's grievance.

8 43. By failing to cooperate with ODC's investigation of Mr. Scott's grievance,
9 Respondent caused injury or potential injury to a client, the public, and/or the legal system.

10 **COUNT 1**

11 44. By failing to promptly respond to a subpoena and/or requests for information about
12 Ms. Orth's grievance, Respondent violated RPC 8.1(b) and/or RPC 8.4(l) by violating ELC
13 5.3(f), ELC 5.3(g), and/or ELC 5.3(h)(3).

14 **COUNT 2**

15 45. By converting client property for her own use, and/or by committing the crime of
16 Theft, as defined in RCW 9A.56.020, Respondent violated RPC 1.15A(b), and/or RPC 8.4(b),
17 and/or RPC 8.4(c).

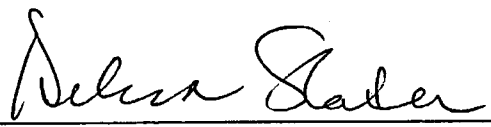
18 **COUNT 3**

19 46. By failing to promptly comply with requests for information about Mr. Scott's
20 grievance, Respondent violated RPC 8.1(b) and/or RPC 8.4(l) by violating ELC 5.3(f), ELC
21 5.3(g), and/or ELC 5.3(h)(3), and/or ELC 5.5(d).

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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 12th day of June, 2017.



Debra Slater, Bar No. 18346
Disciplinary Counsel