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DISCIPLINARY  
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DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**BRIAN GEOGHEGAN,**  
Lawyer (Bar No. 33416).

Proceeding No. 14#00078

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

The undersigned Hearing Officer held a default hearing on March 2, 2015, under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC).

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

1. The Formal Complaint (Bar File No. 2) charged Brian Geoghegan 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 each of the violations charged in the Formal Complaint is admitted and established as follows:

4. Count 1. By failing to communicate with Costello regarding the status of her case,

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1 Geoghegan violated RPC 1.4(a)(3) and RPC 1.4(a)(4).

2 5. Count 2. By failing to respond to written requests for a response to Costello's  
3 grievance, and by failing to appear for his deposition and produce documents as commanded by  
4 an ensuing subpoena, Geoghegan violated RPC 8.4(l) (through violation of ELC 5.3(f) and  
5 5.5(d)).

6 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**  
7 **REGARDING RECOMMENDED SANCTION**

8 6. Under ELC 10.6(a)(4), the Hearing Officer finds that as to each violation,  
9 Geoghegan acted knowingly.

10 7. Geoghegan's actions caused actual harm to his client, Gina Costello, by failing to  
11 communicate to her about the status of her matter. Geoghegan caused stress to Costello when  
12 she could not reach her lawyer, and she had to hire new counsel. Geoghegan's actions also  
13 harmed ODC by impeding the investigation and requiring additional costs and expenses.

14 8. The following standards of the American Bar Association's Standards for  
15 Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively  
16 apply in this case:

17 4.4 Duty to Communicate [Count 1 – RPC 1.4 violations].

18 4.42 Suspension is generally appropriate when:

- 19 (a) a lawyer knowingly fails to perform services for a client and causes  
20 injury or potential injury to a client, or  
21 (b) a lawyer engages in a pattern of neglect and causes injury or potential  
22 injury to a client.

23 7.0 Violations of Duties Owed as a Professional [Count 2 - RPC 8.4(l)]

24 7.2 Suspension is generally appropriate when a lawyer knowingly engages in  
conduct that is a violation of a duty owed as a professional and causes  
injury or potential injury to a client, the public, or the legal system.

The presumptive sanction for Geoghegan's failure to communicate as alleged in Count 1

1 is suspension under ABA Standard 4.42 because he acted knowingly and caused injury or  
2 potential injury to his client.

3 9. By analogy, Geoghegan's failure to cooperate with ODC's investigation alleged in  
4 Count 2 falls under ABA Standard 7.2 resulting in a presumptive sanction of suspension  
5 because he acted knowingly and caused injury or potential injury to the lawyer discipline  
6 system.

7 10. Where, as in this case, the Hearing Officer finds multiple ethical violations, the  
8 "ultimate sanction imposed should at least be consistent with the sanction for the most serious  
9 instance of misconduct among a number of violations." In re Disciplinary Proceeding Against  
10 Peterson, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6). In this  
11 case, the presumptive sanction for each count and for each charged violation is suspension.

12 11. The following aggravating factor set forth in Section 9.22 of the ABA Standards  
13 applies in this case:

14 (d) multiple offenses.

15 12. It is an additional aggravating factor that Geoghegan failed to file an answer to the  
16 Formal Complaint as required by ELC 10.5(a).

17 13. The following mitigating factor set forth in Section 9.32 of the ABA Standards  
18 applies to this case:

19 (a) absence of a prior disciplinary record.

### 20 **RECOMMENDATION**

21 14. Based on the ABA Standards and the applicable aggravating and mitigating  
22 factors, the Hearing Officer recommends that Respondent Brian Geoghegan be suspended for 6-  
23 months. Based on the Eide Declaration (filed under seal), reinstatement should be conditioned  
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1 on a fitness to practice evaluation with an evaluator approved by the Office of Disciplinary  
2 Counsel.

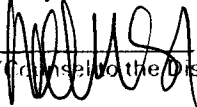
3  
4 DATED this 2nd day of March, 2015.

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7 Robert M. Stein  
8 Hearing Officer

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15 CERTIFICATE OF SERVICE

16 I certify that I caused a copy of the FOF, COL & HD<sup>c</sup> Recommendation  
17 to be delivered to the Office of Disciplinary Counsel and to be mailed  
18 to Brian Keogh Respondent's Counsel  
19 at 2522 N PROCTOR ST #20 TACOMA, WA 98406 Certified/first class mail,  
20 postage prepaid on the 4th day of MARCH, 2015

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Clerk/Counsel to the Disciplinary Board