

FILED

DEC 31 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

HEIDI L. HUNT,
Lawyer (Bar No. 33499).

Proceeding No. 13#00085

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 December 31, 2013.

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

1. The Amended Formal Complaint (Bar File No. 21) charged Heidi L. Hunt 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 Amended Formal Complaint is admitted and established.

3. Under ELC 10.6(a)(4), the Hearing Officer concludes that violations charged in the
Amended Formal Complaint (Bar File No. 21) are admitted and established as follows:

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1 4. Count 1: By failing to appear to represent Carter on November 8, 2012,
2 November 15, 2012, and December 7, 2012, Hunt violated RPC 1.3, RPC 3.2, RPC 8.4(d), and
3 RPC 8.4(j).

4 5. Count 2: By telling the court she did not have time to prepare for the November 8,
5 2012 hearing and by telling the Court she suffered from a specific health condition when she
6 had not been diagnosed with such a condition, Hunt violated RPC 8.4(c) and RPC 3.3(a).

7 6. Count 3: By failing to provide a signed medical release as requested by the
8 Association, Hunt violated RPC 8.4(l) through violation of ELC 1.5 and ELC 5.3(e)(4).

9 7. Count 4: By encouraging the Marysville prosecutor not to offer a plea bargain for
10 her client and by requesting that SND get a significant sentence, Hunt violated RPC 1.1
11 (competence), RPC 1.7 (conflict of interest) and RPC 8.4(d)(conduct prejudicial to the
12 administration of justice).

13 8. Count 5: By failing to respond to the Association's request for a response to the
14 Maryatt grievance, Hunt violated RPC 8.4(l) through violation of ELC 1.5 and ELC 5.3(e)(1).

15 9. Count 6: By failing to appear for Ensley's May 31, 2013 hearing, and by failing to
16 communicate about her case, Hunt violated RPC 1.3, RPC 3.2, and RPC 1.4.

17 10. Count 7: By failing to provide an accounting, and by failing to refund unearned
18 fees, Hunt violated RPC 1.15(A)(e) and RPC 1.15A(f).

19 11. Count 8: By failing to respond to the Association's request for a response to the
20 Ensley grievance, Hunt violated RPC 8.4(l) through violation of ELC 1.5 and ELC 5.3(e)(1).

21 12. Count 9: By abandoning her practice without advising her clients or refunding
22 unearned fees, Hunt violated RPC 1.3(diligence), 1.4(communication), 3.2(expediting
23 litigation), 1.15A(f)(conversion), 1.16(d)(duties on termination), and 8.4(n)(unfitness to practice
24

1 law).

2 13. Count 10: By failing to respond to the WSBA grievance, Hunt violated RPC 8.4(l)
3 through violation of ELC 1.5 and ELC 5.3(e)(1).

4 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
5 **REGARDING RECOMMENDED SANCTION**

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

9 **4.1 Failure to Preserve the Client's Property** [Counts 7 and 9 – RPC 1.15(e)(f)]

10 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client
11 property and causes injury or potential injury to a client.

12 **4.3 Failure to Avoid Conflicts of Interest** [Count 4 – RPC 1.7 violation]

13 4.31 Disbarment is generally appropriate when a lawyer, without the informed
14 consent of client(s):

- 15 (a) engages in representation of a client knowing that the lawyer's interests
16 are adverse to the client's with the intent to benefit the lawyer or another, and
17 causes serious or potentially serious injury to the client.

18 **4.4 Lack of Diligence** [Counts 1, 6, and 9 – RPC 1.3, 1.4, and 3.2 violations]

19 4.41 Disbarment is generally appropriate when:

- 20 (a) a lawyer abandons the practice and causes serious or potentially serious
21 injury to a client; or
22 (b) a lawyer knowingly fails to perform services for a client and causes
23 serious or potentially serious injury to a client; or
24 (c) a lawyer engages in a pattern of neglect with respect to client matters and
causes serious or potentially serious injury to a client.

4.5 Lack of Competence [Count 4 – RPC 1.1 violation]

4.51 Disbarment is generally appropriate when a lawyer's course of conduct
demonstrates that the lawyer does not understand the most fundamental legal
doctrines or procedures, and the lawyer's conduct causes injury or potential
injury to a client.

5.1 Failure to Maintain Personal Integrity [Count 2 – RPC 3.3(a) and 8.4(c) violation]

1 5.11 Disbarment is generally appropriate when:
2 (b) a lawyer engages in any other intentional conduct involving dishonesty,
3 fraud, deceit, or misrepresentation that seriously adversely reflects on the
4 lawyer's fitness to practice.

5 **6.1 False Statements, Fraud, and Misrepresentation** [Count 2 – RPC 3.3(a) and 8.4(c)
6 violation]

7 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the
8 court, makes a false statement, submits a false document, or improperly
9 withholds material information, and causes serious or potentially serious injury
10 to a party, or causes a significant or potentially significant adverse effect on the
11 legal proceeding.

12 **6.2 Abuse of the Legal Process** [Counts 1 and 4 – RPC 8.4(d) and 8.4(j) violations]

13 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court
14 order or rule with the intent to obtain a benefit for the lawyer or another, and
15 causes serious injury or potentially serious injury to a party or causes serious or
16 potentially serious interference with a legal proceeding.

17 **7.0 Violations of Duties Owed as a Professional** [Counts 3, 5, 8, 9, and 10 – RPC
18 1.16(d), 8.4(n)(l) violations]

19 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
20 conduct that is a violation of a duty owed as a professional with the intent to
21 obtain a benefit for the lawyer or another, and causes serious or potentially
22 serious injury to a client, the public, or the legal system.

23 15. For knowingly converting client funds as charged in Counts 7 and 9, the
24 presumptive sanction is disbarment under ABA Standard 4.11 because Hunt caused injury to
clients when she took their funds and did not complete the representation as agreed.

16 16. The presumptive sanction for Hunt's knowing violation of RPC 1.7 by urging the
17 prosecutor not to offer her client a plea bargain and to impose a significant sentence is
18 disbarment under ABA Standard 4.31 because she caused potentially serious injury to client
19 SND with an intent to benefit herself.

20 17. The presumptive sanction for Hunt's knowing failure to communicate, failure to
21 expedite litigation and failure to act diligently as alleged in Counts 1 and 6 is disbarment under
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1 ABA Standard 4.41(b) because she caused at least potentially serious injury to clients. For
2 Hunt's abandonment of her practice that caused serious injury to numerous clients, the
3 presumptive sanction is disbarment under ABA Standard 4.41(a).

4 18. The lack of competence violation charged in Count 4 falls under ABA Standard
5 4.5. Hunt's attempt to deny client SND a plea bargain and to seek a "significant sentence" for
6 him demonstrates that disbarment is the presumptive sanction and caused potential injury to a
7 client.

8 19. For Hunt's misrepresentations to the court as charged in Count 2, the presumptive
9 sanction is disbarment under ABA Standard 5.11(b) and 6.11. Hunt made false statements to a
10 court intending to benefit herself, thus reflecting adversely on her fitness to practice and causing
11 at least potentially serious interference with a legal proceeding.

12 20. For conduct prejudicial to the administration of justice, and by analogy for willful
13 disobedience of a court order, the presumptive sanction is disbarment under ABA Standard 6.2.
14 As alleged in Counts 1 and 4, Hunt acted at least knowingly and caused at least potentially
15 serious interference with a legal proceeding.

16 21. By analogy, Hunt's failure to cooperate with the Association's investigation and
17 her conduct demonstrating unfitness to practice law fall under ABA Standard 7.0 resulting in a
18 presumptive sanction of disbarment because she acted at least knowingly with an intent to
19 benefit herself and caused at least potentially serious injury to her clients, the public, the lawyer
20 discipline system and the legal system.

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

3 **ADDITIONAL FINDINGS AND CONCLUSIONS REGARDING RESTITUTION**

4 23. Hunt charged a flat fee to the following clients for criminal defense (mostly DUI
5 cases), but she failed to complete the representation and failed to refund unearned fees.

6 (a) Emily Barron paid \$3,000.

7 (b) Casey Camby paid \$3,500.

8 (c) Joel Dazey paid \$2,500.

9 (d) Cameron Frew paid \$3,000.

10 (e) Thomas Gardner paid \$2,500.

11 (f) Steven Gerring paid \$2,500.

12 (g) Vitaliy Golyakov paid \$2,900 (also includes two infraction cases).

13 (h) Collins Guserwa paid \$2,250.

14 (i) Kyle Kammerzell paid \$3,500.

15 (j) David Koehler paid \$1,000.

16 (k) Taylor Lewis paid \$2,400.

17 (l) Darren Steffan paid \$5,000.

18 (m) Phyllis Soldano paid \$2,000.

19 (n) Nicholas Snowdon paid \$1,000.

20 (o) Donald Tucker paid \$3,200.

21 (p) Joseph Wilson paid \$1,166.

22 24. Hunt charged a flat fee to the following clients for traffic infraction defense, but
23 she failed to complete the representation and failed to refund unearned fees:

- 1 (a) James Baldwin paid \$200.
- 2 (b) Richard Bernal paid \$200.
- 3 (c) Charles Blair paid \$350 (two matters at \$175 each).
- 4 (d) Richard Bringmann paid \$175.
- 5 (e) Gabriel Colbern paid \$150.
- 6 (f) Guy Donaldson paid \$200.
- 7 (g) Russell Faria paid \$124.
- 8 (h) Veronica Farley paid \$175.
- 9 (i) T yrone Frair paid \$200.
- 10 (j) Dung Hu ynh paid \$250.
- 11 (k) Sergey Kukhotsky paid \$175.
- 12 (l) Karen Elizabeth Love paid \$250.
- 13 (m) Abdul Mahmood paid \$200.
- 14 (n) Brittany Mars paid \$200.
- 15 (o) Johanna Martinez paid \$200.
- 16 (p) Tristan Morrison paid \$175.
- 17 (q) Eric Nunez paid \$200.
- 18 (r) Christopher O'Connell paid \$200.
- 19 (s) Julie Oresman paid \$175.
- 20 (t) Gar y Reed paid \$200.
- 21 (u) Brian Shipley paid \$200.
- 22 (v) Lynette Shiroma paid \$175.
- 23 (w) Pete Sirois paid \$175 (for his son).
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1 (x) James Stevens paid \$175.

2 25. Hunt acted intentionally when she abandoned her practice without arranging for
3 her clients continued representation, without communicating with her clients, and without
4 making arrangements to refund unearned fees.

5 26. Hunt caused actual serious harm to criminal defense clients in that she converted
6 client funds, and clients had to pay additional funds to new lawyers, at least if they had the
7 ability to pay another lawyer.

8 27. Other criminal defense clients proceeded unrepresented or with appointed counsel.

9 28. Hunt caused actual serious harm to traffic infraction clients in that she converted
10 client funds. These clients also suffered harm because they had been told by Hunt's office that
11 they need not appear in court. When Hunt abandoned their cases and no one appeared at their
12 court dates, courts issued Failure to Appear notices and/or made findings that the infraction had
13 been committed. These clients incurred fines and the Department of Licensing issued notices it
14 would suspend the drivers' licenses of those who failed to appear. Some clients also suffered
15 increased insurance premiums because of such adjudications.

16 **AGGRAVATING AND MITIGATING FACTORS**

17 29. The following aggravating factors set forth in Section 9.22 of the ABA Standards
18 apply in this case:

- 19 (a) prior disciplinary offenses [Hunt received an Admonition in July 2009 for
20 advancing and guaranteeing clients' traffic fines];
21 (b) dishonest or selfish motive;
22 (c) a pattern of misconduct;
23 (d) multiple offenses;
24 (g) refusal to acknowledge wrongful nature of conduct;
(i) substantial experience in the practice of law [Hunt was admitted to
practice law in May 2003]; and
(j) indifference to making restitution.

1 30. It is an additional aggravating factor that Respondent failed to file an answer to the
2 Formal Complaint and Amended Formal Complaint as required by ELC 10.5(a).

3 31. None of the mitigating factors set forth in Section 9.32 of the ABA Standards
4 apply to this case.

5 32. Considering the aggravating factors and lack of mitigating factors, I find no basis
6 to depart from the presumptive sanction of disbarment for each count as set forth above.

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8 **RECOMMENDATION**

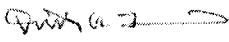
9 33. Based on the ABA Standards and the applicable aggravating and mitigating
10 factors, the Hearing Officer recommends that Respondent Heidi L. Hunt be disbarred from the
11 practice of law. Reinstatement should be conditioned on the payment of costs and restitution to
12 the following and/or to the Lawyers' Fund for Client Protection if the Fund reimbursed Hunt
13 clients: \$3,000 to Emily Barron; \$3,500 to Casey Camby; \$2,500 to Joel Dazey; \$3,000 to
14 Cameron Frew; \$2,500 to Thomas Gardner; \$2,500 to Steven Gerring; \$2,900 to Vitaliy
15 Golyakov; \$2,250 to Collins Guserwa; \$3,500 to Kyle Kammerzell; \$1,000 to David Koehler;
16 \$2,400 to Taylor Lewis; \$5,000 to Darren Steffan; \$2,000 to Phyllis Soldano; \$1,000 to
17 Nicholas Snowdon; \$3,200 to Donald Tucker; \$1,166 to Joseph Wilson; \$200 to James
18 Baldwin; \$200 to Richard Bernal; \$350 to Charles Blair; \$175 to Richard Bringmann; \$150 to
19 Gabriel Colbern; \$200 to Guy Donaldson; \$124 to Russell Faria; \$175 to Veronica Farley; \$200
20 to Tyrone Frair; \$250 to Dung Huynh ; \$175 to Sergey Kukhotsky; \$250 to Karen Elizabeth
21 Love; \$200 to Abdul Mahmood; \$200 to Brittany Mars; \$200 to Johanna Martinez; \$175 to
22 Tristan Morrison; \$200 to Eric Nunez; \$200 to Christopher O'Connell; \$175 to Julie Oresman;
23 \$200 to Gary Reed; \$200 to Brian Shipley; \$175 to Lynette Shiroma; \$175 to Pete Sirois; and

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1 \$175 to James Stevens.

2 DATED this 31st day of December, 2013.

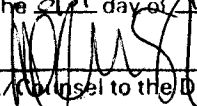
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David A. Thorner WSBA 4783
Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the FOF, COL & HO's Recommendation
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Hendi Hunt, Respondent/Respondent's Counsel
at PO BOX 1704 OMAHA NE 68104, by ~~certified~~ first class mail,
postage prepaid on the 31st day of December, 2013


Clerk/Counsel to the Disciplinary Board