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DISCIPLINARY BOARD

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

In re

JEREMY D. BENSON,
Lawyer (Bar No. 34163).

Proceeding No. 13#00057

**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 16, 2013.

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

1. The Formal Complaint, BF 5 (attached), charged Respondent Jeremy D. Benson
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. By failing to remain in communication with Mr. Sneed during critical parts of the

1 representation, advise Mr. Sneed that he was leaving his office for medical reasons, and to tell
2 Mr. Sneed that there were medical or physical limitations on his ability to represent him
3 diligently, Respondent violated RPC 1.4 (Count1).¹

4 5. By accepting compensation from Mr. Samuel, Mr. Sneed's co-defendant in a
5 different criminal matter, without explaining the risks of that course of action to Mr. Sneed, and
6 by providing information to Mr. Samuel about the representation subject to protection under
7 RPC 1.6, Respondent violated RPC 1.8(f) (Count 2).

8 6. By failing to promptly provide Mr. Sneed a written accounting on request,
9 Respondent violated RPC 1.15A(e) and RPC 1.16(d) (Count 3).

10 7. By failing to respond promptly to requests for information concerning the grievances
11 in this matter, by failing to appear at his deposition, by failing to provide requested documents,
12 by failing to respond to requests for an interview, and by failing to respond to the Court's order
13 to show cause, Respondent violated RPC 8.4(l) (though violation of ELC 5.3(e) and ELC
14 5.5(c)) (Count 4).

15 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
16 **REGARDING RECOMMENDED SANCTION**

17 8. With respect to Count 1, Respondent acted negligently. Mr. Sneed suffered harm
18 because he was caused unnecessary frustration and anxiety due to his inability to communicate
19 with Respondent. In re Disciplinary Proceeding Against Lopez, 153 Wn.2d 570, 59, 106 P.3d
20 221 (2005). The presumptive sanction is a reprimand under ABA Standard 4.43:

- 21 • 4.43 **Reprimand** is generally appropriate when a lawyer is negligent and does not
22 act with reasonable diligence in representing a client, and causes injury or potential
injury to a client.

23 ¹ The Formal Complaint also alleged a violation of RPC 1.16(a)(2) in Count 1 but the Association
24 elected not to pursue this violation.

1 9. With respect to Count 2, Respondent acted negligently. Respondent's failure to
2 obtain informed consent and protect privileged information caused Mr. Sneed potential injury.
3 The presumptive sanction is a reprimand under ABA Standard 4.33:

- 4 • 4.33 **Reprimand** is generally appropriate when a lawyer is negligent in determining
5 whether the representation of a client may be materially affected by the lawyer's
6 own interests, or whether the representation will adversely affect another client, and
causes injury or potential injury to a client.

7 10. With respect to Count 3, Respondent acted knowingly. Mr. Sneed suffered injury
8 because he was not given information to which he was entitled and was unable to determine
9 how his funds had been handled and whether he was entitled to a refund of any unearned fees
10 from Respondent. His ability to protect his rights was compromised. The presumptive
11 sanction is suspension under ABA Standards 4.12 and 7.2:

- 12 • 4.12 **Suspension** is generally appropriate when a lawyer knows or should know that
13 he is dealing improperly with client property and causes injury or potential injury to
a client.
- 14 • 7.2 **Suspension** is generally appropriate when a lawyer knowingly engages in
15 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.

16 11. With respect to Count 4, Respondent acted knowingly. The disciplinary system
17 suffered injury because scarce resources were expended to obtain information from Respondent
18 regarding the grievances, and a complete response was never obtained. In addition,
19 Respondent's client and the disciplinary system suffered injury because the Association has
20 been unable to fully evaluate the fee issues raised by the grievances. The presumptive sanction
21 is suspension under Standard 7.2, above.

22 12. In the case of multiple ethical violations, the "ultimate sanction imposed should at
23 least be consistent with the sanction for the most serious instance of misconduct among a
24 number of violations." In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854,

1 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

2 13. The following aggravating factors set forth ABA Standard 9.22 apply:

- 3 (c) a pattern of misconduct;² and
4 (d) multiple offenses.

5 14. It is an additional aggravating factor that Respondent failed to file an answer to the
6 Formal Complaint as required by ELC 10.5(a).

7 15. The following mitigating factors set forth in ABA Standard 9.32 apply:

- 8 (a) absence of a prior disciplinary record; and
9 (c) personal or emotional problems [medical problems].

10 16. On balance, the aggravating and mitigating factors do not provide cause to deviate
11 from the presumptive sanction of suspension.

12 17. The Hearing Officer recommends that Respondent be suspended for a period of six-
13 months.

14 18. The Hearing Officer further recommends that, prior to reinstatement, Respondent be
15 required, at his own expense, to undergo and successfully complete a fitness to practice
16 evaluation conducted by a provider agreeable to the Office of Disciplinary Counsel.
17 Respondent is required to execute all the necessary releases to permit this evaluator to obtain all
18 necessary treatment records and make a report to disciplinary counsel addressing whether
19 Respondent is fit to practice law.

20 19. If the evaluator concludes that Respondent is not currently fit to practice law, the
21 report should recommend a course of treatment necessary to enable Respondent to return to the
22 practice of law.

23 ² On October 2, 2013, Respondent was suspended for one year based on misconduct with another client.
24 Because that misconduct occurred during the same time period as the conduct at issue here it is not
considered a prior disciplinary offense but is nonetheless relevant as an aggravating factor. See In re
Disciplinary Proceeding Against Cramer, 168 Wn.2d 220, 237 n.7, 225 P.3d 881 (2010); In re
Disciplinary Proceeding Against Anschell, 149 Wn.2d 484, 522, 69 P.3d 844 (2003).

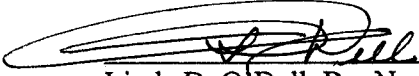
1 20. If the evaluator concludes that Respondent is not currently fit to practice law,
2 Respondent (or Respondent's counsel, if Respondent is then represented) and disciplinary
3 counsel should discuss the evaluator's report and what steps can be taken to address the
4 evaluator's concerns. If Respondent and disciplinary counsel cannot reach an agreement, the
5 both parties should present written materials and arguments to the Disciplinary Board, and the
6 Disciplinary Board shall decide whether and the conditions under which Respondent may return
7 to the active practice of law.

8 21. In addition, the Hearing Officer recommends that Respondent be subject to
9 probation under ELC 13.8 for one year from the date he is reinstated to practice. During the
10 period of probation, Respondent is required to comply with any treatment recommendations
11 arising out of the fitness to practice evaluation process, to provide the Office of Disciplinary
12 Counsel's Probation Administrator with the name and contact information of any treatment
13 provider, and to execute authorizations to allow any treatment provider to release information to
14 the Probation Administrator. Respondent is required to bear all costs associated with
15 compliance with the terms of probation.

16 **RECOMMENDATION**

17 22. As set forth above, based on the ABA Standards and the applicable aggravating
18 and mitigating factors, the Hearing Officer recommends that Respondent Jeremy D. Benson be
19 suspended for six-months, undergo and pass a fitness to practice evaluation prior to
20 reinstatement, and be subject to probation for one year following reinstatement.

21 DATED this 17 day of December, 2013.

22 
23 _____
24 Linda D. O'Dell, Bar No. 19582,
Hearing Officer

FILED

JUL 26 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

JEREMY D. BENSON,

Lawyer (Bar No. 34163).

Proceeding No. 13#00057

FORMAL COMPLAINT

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (the 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 Jeremy D. Benson was admitted to the practice of law in the State of Washington on November 13, 2003.

FACTS REGARDING COUNTS 1-3 (Representation of Travis Sneed)

2. In the spring of 2011, Thomas Samuel hired Mr. Benson to represent his partner, Travis Sneed, in a criminal matter in Spokane County Superior Court. State v. Sneed, Spokane County Superior Court No. 10-1-02188-5. Mr. Sneed was charged with theft and identity theft and was represented by a public defender. Respondent was hired to take over the case.

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1 3. By the time Mr. Benson was hired, Mr. Sneed was incarcerated in Idaho awaiting
2 trial on unrelated fraud charges in federal court. United States v. Sneed, District Court of Idaho
3 No. 2:10 CR 00180 EJL-1. The federal charges encompassed a real estate scheme that
4 involved theft and wire fraud.

5 4. Mr. Samuel was Mr. Sneed's co-defendant in the federal case.

6 5. Mr. Samuel paid Respondent at least \$2,800 on behalf of Mr. Sneed.

7 6. Respondent did not discuss any conflict of interest issues with Mr. Sneed. He did
8 not obtain Mr. Sneed's informed consent to allow him to accept payment from Mr. Samuel, a
9 co-defendant in another criminal matter, on behalf of Mr. Sneed.

10 7. Respondent spoke with Mr. Samuel about Mr. Sneed's legal matters as if Mr.
11 Samuel were the client.

12 8. Respondent did some work on Mr. Sneed's matter but did not file a notice of
13 appearance, so Mr. Sneed remained represented by the public defender.

14 9. Mr. Sneed and Mr. Samuel were unable to reach Respondent for long periods of
15 time during the representation.

16 10. In August 2011, Respondent checked into a three-week in-patient medical facility.
17 He did not tell Mr. Samuel or Mr. Sneed that he would be absent from his office.

18 11. Respondent knew he would be unable to attend to his clients' needs while he was
19 absent from the office.

20 12. When Respondent went on medical leave, his then-law partner, Aaron Rasmussen,
21 tried to help Respondent's pre-existing clients as things came up.

22 13. Mr. Rasmussen fielded frantic calls from Mr. Samuel around the time of Mr.
23 Sneed's federal sentencing in August 2011, and tried to help.

CERTIFICATE OF SERVICE

I certify that I caused a copy of the PDFs COL & HD's Recommendation
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Jeremy Pearson Respondent/Respondent's Counsel
at 1705 N Astor Ln. Spokane, WA 99208 by certified / first class mail
postage prepaid on the 20th day of December, 2019

Also sent to:

~~_____~~
~~_____~~
~~_____~~

[Signature]
Clerk/Counsel to the Disciplinary Board

1 14. After Respondent returned from medical leave, he did not have sufficient contact
2 with Mr. Sneed or respond to Mr. Sneed's or Mr. Samuel's reasonable requests for information.

3 15. Respondent's failure to communicate with Mr. Sneed or Mr. Samuel caused his
4 client unnecessary frustration and anxiety.

5 16. Mr. Sneed eventually pleaded guilty to four counts in the federal matter and is
6 serving a sentence in federal prison.

7 17. Mr. Sneed wrote Respondent after the federal sentencing asking for his file and a
8 refund.

9 18. Respondent promised to review the file and provide him with an accounting.

10 19. Respondent has not provided an accounting to Mr. Sneed and knows that he has
11 not done so.

12 20. Respondent's failure to provide an accounting injured his client because Mr.
13 Sneed does not know how his money was spent and has been deprived of information necessary
14 to protect his interests.

15 **COUNT 1**

16 21. By failing to remain in communication with Mr. Sneed during critical parts of the
17 representation, advise Mr. Sneed that he was leaving his office for medical reasons, and/or tell
18 Mr. Sneed that there were medical or physical limitations on his ability to represent him
19 diligently, Respondent violated RPC 1.4 and/or RPC 1.16(a)(2).

20 **COUNT 2**

21 22. By accepting compensation from Mr. Samuel, Mr. Sneed's co-defendant in a
22 different criminal matter, without explaining the risks of that course of action to Mr. Sneed,
23 and/or by providing information to Mr. Samuel about the representation subject to protection
24 under RPC 1.6, Respondent violated RPC 1.8(f).

COUNT 3

23. By failing to promptly provide Mr. Sneed a written accounting on request, Respondent violated RPC 1.15A(e) and/or RPC 1.16(d).

FACTS REGARDING COUNT 4 (Failure to Cooperate)

24. Mr. Samuel and Mr. Sneed both filed grievances against Respondent.

25. Mr. Samuel filed his grievance against Respondent on March 7, 2012.

26. Respondent responded to the grievance on April 26, 2012.

27. On August 22, 2012, an investigator from the Office of Disciplinary Counsel asked Respondent to contact her to discuss the grievance or, at a minimum, send her a copy of his client files for Mr. Samuel and/or Mr. Sneed.

28. Respondent did not respond.

29. On September 26, 2012, disciplinary counsel sent Respondent a certified letter asking that he provide the requested documents by October 9, 2012.

30. The certified letter was signed for on September 28, 2012.

31. Respondent did not respond.

32. On October 10, 2012, disciplinary counsel issued a subpoena duces tecum for Respondent to appear at a deposition on October 26, 2012 and to bring his complete file, including billing records, and any other documents in his possession or control relating to his representation of Mr. Sneed and/or Mr. Samuel.

33. Respondent was personally served with the subpoena duces tecum on October 14, 2012.

34. Respondent did not appear for the deposition.

35. On November 14, 2012, disciplinary counsel filed a petition for Respondent's interim suspension with the Washington Supreme Court based on his failure to cooperate.

1 36. Respondent was personally served with the order to show cause on November 29,
2 2012.

3 37. Respondent did not respond to the Court's order to show case or otherwise
4 respond to the Association's petition.

5 38. On February 13, 2013, the Court suspended Respondent from practice for his
6 failure to cooperate.

7 39. Meanwhile, Mr. Sneed filed his grievance against Respondent on February 4,
8 2013.

9 40. On February 8, 2013, the Association requested Respondent's response within 30
10 days.

11 41. Respondent did not respond to Mr. Sneed's grievance.

12 42. Respondent knowingly failed to cooperate with the Association's investigation into
13 these grievances.

14 43. Respondent's failure to provide the records and other information in response to
15 these grievances has made it impossible for disciplinary counsel to evaluate the fee issues raised
16 by the grievants.

17 **COUNT 4**

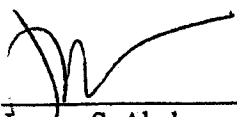
18 44. By failing to respond promptly to requests for information concerning the
19 grievances in this matter, by failing to appear at his deposition, by failing to provide requested
20 documents, by failing respond to requests for an interview, and/or by failing to respond to the
21 Court's order to show cause, Respondent violated RPC 8.4(I) (though violation of ELC 5.3(e)
22 and/or ELC 5.5(c)).

23 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
24 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,

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restitution, and assessment of the costs and expenses of these proceedings.

Dated this 26 day of July, 2013.



Joanne S. Abelson, Bar No. 24877
Senior Disciplinary Counsel