

FILED

AUG 14 2014

DISCIPLINARY BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**MEYRICK-AYLMER CORTES,**

Lawyer (Bar No. 35362).

Public No. 14#00032

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND SANCTION  
RECOMMENDATIONS

The undersigned Hearing Officer held a default hearing on August 5, 2014 under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC). On August 5, 2014, the Hearing Officer entered an *Order Requesting Additional Input from Association*. Disciplinary Counsel subsequently provided the requested information, which consisted of the transcript of Respondent's deposition taken by Disciplinary Counsel on June 6, 2013, and a *Declaration of Johanna M. Coolbaugh* dated August 7, 2014. In reaching his decision in this matter, the Hearing Officer considered the allegations of the *Formal Complaint* dated June 4, 2014, all of which are deemed admitted and established under ELC 10.6(a)(4), as well as the additional information provided by Disciplinary Counsel detailed above.

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

3 1. The Formal Complaint charged Meyrick-Aylmer Cortes with six counts of  
4 misconduct.

5 2. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the  
6 Formal Complaint is admitted and established.

7 3. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations  
8 charged in the Formal Complaint is admitted and established as follows:

9 A. **Count 1:** By charging an hourly rate beyond the amount specified in his fee  
10 agreement, and by taking unearned funds as fees from the Bland Estate,  
11 Respondent violated RPC 1.5(a) and RPC 8.4(c).

12 B. **Count 2:** By converting funds from the Bland Estate, Respondent violated RPC  
13 1.15A(b), RPC 8.4(b) (by committing the crime of first degree theft in violation of  
14 RCW 9A.56.030), and RPC 8.4(c).

15 C. **Count 3:** By failing to deposit advanced fees paid to him by the Bland Estate into  
16 his client trust account, Respondent violated RPC 1.15A(c).

17 D. **Count 4:** By failing to respond to the Office of Disciplinary Counsel's requests for  
18 documents and information, by failing to cooperate with the Association's  
19 investigation, and by failing to appear for his deposition, Respondent violated RPC  
20 8.4(l) (by violating ELC 1.5, former ELC 5.3(e),<sup>1</sup> former ELC 5.3(f), ELC 5.3(f)-  
21 (h), and ELC 5.5(d)).

22 E. **Count 5:** By failing to deposit Mr. Guinto's fee into his trust account, Respondent  
23 violated RPC 1.15A(c)(2).

24 <sup>1</sup> The ELC were amended effective January 1, 2014. All references to the ELC are to those in place at the time of the misconduct.

1 F. **Count 6:** By failing to refund Mr. Guinto's entire \$5,000 fee in accordance with  
2 the terms of his fee agreement, Respondent violated RPC 1.5(a) and RPC 1.16(d).

3 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**  
4 **REGARDING RECOMMENDED SANCTIONS**

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

8 A. *ABA Standard 7.1* applies to Count 1:

9 7.1 Disbarment is generally appropriate when a lawyer knowingly  
10 engages in conduct that is a violation of a duty owed as a professional  
11 with the intent to obtain a benefit for the lawyer or another, and  
12 causes serious or potentially serious injury to a client, the public, or  
13 the legal system.

14 B. *ABA Standard 5.11* applies to Count 2:

15 5.11 Disbarment is generally appropriate when:

16 (a) a lawyer engages in serious criminal conduct, a necessary  
17 element of which includes intentional interference with the  
18 administration of justice, false swearing, misrepresentation,  
19 fraud, extortion, misappropriation, or theft; or the sale,  
20 distribution or importation of controlled substances; or the  
21 intentional killing of another; or an attempt or conspiracy or  
22 solicitation of another to commit any of these offenses; or

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

C. *ABA Standard 4.12* applies to Counts 3:

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.

D. *ABA Standard 7.2* applies to Count 4:

7.2 Suspension is generally appropriate when a lawyer knowingly  
engages in conduct that is a violation of a duty owed as a professional

1 and causes injury or potential injury to a client, the public, or the legal  
2 system.

3 E. ABA Standard 4.13 applies to Count 5:

4 4.13 Reprimand is generally appropriate when a lawyer is negligent in  
5 dealing with client property and causes injury or potential injury to a  
6 client.

7 F. ABA Standard 7.2 applies to Count 6:

8 7.2 Suspension is generally appropriate when a lawyer knowingly  
9 engages in conduct that is a violation of a duty owed as a professional  
10 and causes injury or potential injury to a client, the public, or the legal  
11 system.

12 5. Because the presumptive sanction for Counts 1 and 2 are disbarment, the ultimate  
13 sanction should be disbarment. *In re Petersen*, 120 Wn2d 833, 854 (1993).

14 6. The following aggravating factors set forth in Section 9.22 of the ABA Standards  
15 apply in this case:

- 16 (b) dishonest or selfish motive;
- 17 (d) multiple offenses;
- 18 (e) bad faith obstruction of the disciplinary proceeding by intentionally  
19 failing to comply with rules or orders of the disciplinary agency;
- 20 (g) refusal to acknowledge wrongful nature of conduct;
- 21 (j) indifference to making restitution.

22 7. The following mitigating factors set forth in Section 9.32 of the ABA Standards apply  
23 in this case:

- 24 (a) absence of a prior disciplinary record (according to Disciplinary  
Counsel).

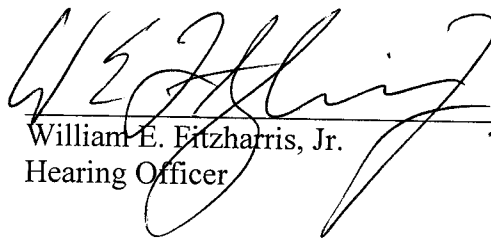
8. The Association presented evidence that on May 30, 2013 Respondent was ordered by  
King County Superior Court Commissioner Carlos Velategui to disgorge unearned attorneys  
fees in the amount of \$28,000, payable to the Estate of Edward Bland (Cause No. 11-4-01004-  
7), which he has failed to pay.

1 **SANCTION RECOMMENDATIONS**

2 9. Based on the ABA Standards and the applicable aggravating and mitigating factors,  
3 the Hearing Officer recommends that Respondent Meyrick-Aylmer Cortes be disbarred.

4 10. Respondent should be required to pay restitution in the amount of \$28,000 to the  
5 Estate of Edward Bland, pursuant to the 5/30/13 King County Superior Court order described in  
6 paragraph 9, above.

7 DATE: August 13, 2014.

8   
9 William E. Fitzharris, Jr.  
10 Hearing Officer

11 **CERTIFICATE OF SERVICE**

12 I hereby certify under penalty of perjury under the laws of the State of Washington that on this  
13 date I caused to be served a copy of each of the document(s) listed below on each of the persons  
14 identified below in the manner indicated below:

- Findings of Fact, Conclusions of Law, and Sanction Recommendations

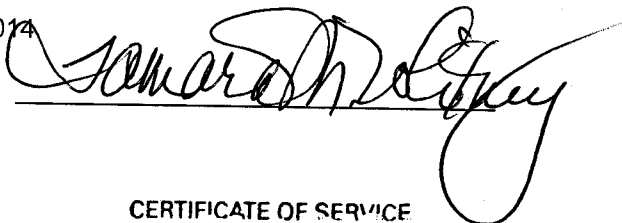
15 Original to:

16 Allison Sato  
17 Clerk to the WSBA Disciplinary Board  
18 1325 Fourth Avenue, Suite 600  
19 Seattle, WA 98101-2539  
20 (X) First class mail  
21 ( ) Fax to (206) 727-8319

22 Courtesy Copies to:

23 Francesca D'Angelo  
24 Disciplinary Counsel  
Washington State Bar Association  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539  
( ) First class mail  
( ) Fax to (206) 727-8325  
(x) Email to francescad@wsba.org

19 Signed at Seattle, WA on August 13, 2014

20 

21 **CERTIFICATE OF SERVICE**

22 I certify that I caused a copy of the PDF, copy of this recommendation  
23 to be delivered to the Office of Disciplinary Counsel and to be mailed  
24 to Meyrick-Aylmer Cortes Respondent/Respondent's Counsel  
at 1002 12th Ave SE Seattle, WA 98108 by certified/first class mail  
postage prepaid on the 13th day of August, 2014