

FILED

FEB 13 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

SARAH A. CAMPBELL,

Lawyer (Bar No. 36189).

Proceeding No. 12#00101

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 February 13, 2013.

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

1. The Formal Complaint, attached, charged Sarah A. Campbell 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 violations charged in the
Formal Complaint is admitted and established as follows:

4. By failing to deposit Ms. Maxwell's \$3,500 into her trust account, and by using
those funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC

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1 8.4(b) (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and RPC 8.4(i) (Count 1)

2 5. By failing to deposit Mr. Cox's \$3,500 into her trust account, and by using those
3 funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC 8.4(b)
4 (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and RPC 8.4(i) (Count 2).

5 6. By failing to deposit Mr. Yuhara's \$820 into her trust account, and by using those
6 funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC 8.4(b)
7 (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and RPC 8.4(i) (Count 3).

8 7. To the extent that Respondent's husband misused Respondent's clients' funds, by
9 ordering the misuse of those funds, and by knowing of and ratifying her husband's misuse of
10 her clients' funds, and by knowing of her husband's misuse of her clients' funds at a time when
11 the consequences could have been mitigated or avoided but by failing to take any reasonable
12 remedial action, Respondent violated RPC 5.3(c) (Count 4).

13 8. By making misrepresentations to the Association in connection with Ms. Maxwell's
14 grievance, including that she had deposited Ms. Maxwell's fee into her trust account and that
15 she had directed to her bank to send a refund check to Ms. Maxwell, Respondent violated RPC
16 8.4(c) (Count 5).

17 9. By making misrepresentations to Mr. Cox in connection with his request for a
18 refund, Respondent violated RPC 1.4 and RPC 8.4(c) (Count 6).

19 10. By making misrepresentations to Mr. Yuhara about her contact with the bank on his
20 behalf, Respondent violated RPC 1.4 and RPC 8.4(c) (Count 7).

21 11. By retaining unreasonable fees in the Maxwell, Cox, and Yuhara matters, and by
22 failing to provide a refund of any legal fees to Ms. Maxwell, Mr. Cox, and Mr. Yuhara,
23 Respondent violated RPC 1.5(a), 1.15A(f), and RPC 1.16(d) (Count 8).

1 12. By failing to communicate with Ms. Maxwell, Mr. Cox, and Mr. Yuhara about
2 pertinent matters regarding their cases, including her own inability to attend to their cases due to
3 her medical problems, Respondent violated RPC 1.4 (Count 9).

4 13. By failing to return Ms. Maxwell's file and by failing to promptly file a notice of
5 withdrawal on termination, Respondent violated RPC 1.16(d) (Count 10).

6 14. By failing to represent Mr. Cox and Mr. Yuhara diligently, Respondent violated RPC
7 1.3 (Count 11)..

8 15. By allowing her husband to be an authorized signatory on her trust account,
9 Respondent violated RPC 1.15A(h)(9) (Count 12).

10 16. By failing to provide information in connection with disciplinary investigations that
11 had been subpoenaed and that she had been requested to produce following her deposition,
12 Respondent violated RPC 8.4(l) (though violation of ELC 5.3(e)) (Count 13)

13 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
14 **REGARDING RECOMMENDED SANCTION**

15 17. Respondent acted intentionally with respect Counts 1-5.

16 18. Respondent acted knowingly with respect to Counts 6-9, 11, and 13.

17 19. Respondent acted negligently with respect to Counts 10 and 12.

18 20. Respondent's clients suffered serious injury from her misappropriation of their
19 funds and injury from her misrepresentations to them and the delay of their legal matters.

20 21. The disciplinary system suffered serious injury from Respondent's
21 misrepresentations during the investigation and injury from her failure to cooperate with
22 requests for documents and information.

23 22. The profession suffered injury in the eyes of the public from Respondent's
24 misconduct.

1 23. The presumptive sanction for the violations charged in Counts 1-3 of the Formal
2 Complaint is disbarment under ABA Standards 4.11 and 5.11(a):

3 4.11 Disbarment is generally appropriate when a lawyer knowingly converts
4 client property and causes injury or potential injury to a client.

5 5.11 Disbarment is generally appropriate when:

6 (a) a lawyer engages in serious criminal conduct a necessary element of which
7 includes intentional interference with the administration of justice, false
8 swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the
9 sale, distribution or importation of controlled substances; or the intentional
10 killing of another; or an attempt or conspiracy or solicitation of another to
11 commit any of these offenses.

12 24. The presumptive sanction for the violations charged in Count 4 of the Formal
13 Complaint is disbarment under ABA Standard 7.1:

14 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in
15 conduct that is a violation of a duty owed as a professional with the intent to
16 obtain a benefit for the lawyer or another, and causes serious or potentially
17 serious injury to a client, the public, or the legal system.

18 25. The presumptive sanction for the violations charged in Count 5 of the Formal
19 Complaint is disbarment under ABA Standard 5.11(a) and (b) and Standard 7.1:

20 5.11 Disbarment is generally appropriate when:

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

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

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

1 26. The presumptive sanction for the violations charged in Count 6 of the Formal
2 Complaint is disbarment under ABA Standard 4.61:

3 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client
4 with the intent to benefit the lawyer or another, and causes serious injury or
potentially serious injury to a client.

5 27. The presumptive sanction for the violations charged in Count 7 of the Formal
6 Complaint is suspension under ABA Standard 4.62:

7 4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client,
8 and causes injury or potential injury to the client.

9 28. The presumptive sanction for the violations charged in Counts 8 and 13 is
10 suspension under ABA Standard 7.2:

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

14 29. The presumptive sanction for the violations charged in Counts 9 and 11 is
15 suspension under ABA Standard 4.42(a) and (b):

16 4.42 Suspension is generally appropriate when:
17 (a) a lawyer knowingly fails to perform services for a client and causes
18 injury or potential injury to a client, or
19 (b) a lawyer engages in a pattern of neglect and causes injury or potential
20 injury to a client.

21 30. The presumptive sanction for the violations charged in Count 10 is a reprimand
22 under ABA Standard 7.3:

23 7.3 Reprimand is generally appropriate when a lawyer negligently engages in
24 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.

25 31. The presumptive sanction for the violations charged in Count 12 is a reprimand
26 under ABA Standard 4.13:

27 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with
28 client property and causes injury or potential injury to a client.

1 32. The following aggravating factors set forth in ABA Standard 9.22 apply in this case:

- 2 (b) dishonest or selfish motive;
3 (d) multiple offenses;
4 (e) bad faith obstruction of the disciplinary proceeding by intentionally
5 failing to comply with rules or orders of the disciplinary agency;
6 (j) indifference to making restitution.

7 33. The following mitigating factors set forth in ABA Standard 9.32 apply to this case:

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

10 34. In cases of multiple acts of misconduct, the "ultimate sanction imposed should at
11 least be consistent with the sanction for the most serious instance of misconduct among a
12 number of violations." In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854,
13 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

14 35. On balance, the aggravating and mitigating factors do not provide cause to deviate
15 from the presumptive sanction of disbarment.

16 36. Respondent shall pay restitution as follows:

- 17 • restitution to Shannon Maxwell in the amount of \$2,375, plus interest at a rate of
18 12% per annum beginning February 2011;
19 • restitution to Thomas Cox in the amount of \$3,500, plus interest at a rate of 12%
20 per annum beginning June 2011;
21 • restitution to Jason Yuhara in the amount of \$820, plus interest at a rate of 12%
22 per annum beginning July 2011.

23 **RECOMMENDATION**

24 37. Based on the ABA Standards and the applicable aggravating and mitigating factors,
the Hearing Officer recommends that Respondent Sarah A. Campbell be disbarred. The
Hearing Officer further recommends that Respondent be ordered to pay restitution in the
amounts listed herein.

1 DATED this 13th day of February, 2013.

2
3 Renee G. Walls
4 Renee G. Walls, Bar No. 29911
5 Hearing Officer

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14 CERTIFICATE OF SERVICE

15 I certify that I caused a copy of the FOF COL & HO's Recommendation
16 to be delivered to the Office of Disciplinary Counsel and to be mailed
to Sarah Campbell Respondent/Respondent's Counsel
at 142 State Ave #1000, Marysville, WA 98270 by Certified/first class mail,
17 postage prepaid on the 13th day of February, 2013

18 [Signature]
19 Clerk/Counsel to the Disciplinary Board

FILED

OCT 23 2012

DISCIPLINARY BOARD

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WASHINGTON STATE BAR ASSOCIATION

In re

SARAH A. CAMPBELL,
Lawyer (Bar No. 36189).

Proceeding No. 12#00101

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 Sarah A. Campbell was admitted to the practice of law in the State of Washington on June 2, 2005.

FACTS COMMON TO ALL CLIENTS

2. In 2009, Respondent opened her own practice in Snohomish County specializing in family law.

3. In October 2010, Respondent was in a car accident in which she injured her hip. As a result of her injuries, Respondent gradually cut back on her law practice.

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1 4. In April 2011, Respondent closed her office and moved her practice into her home.

2 5. In May 2011, Respondent's trust account was closed. At the time it was closed it
3 contained \$6.54.

4 6. Respondent's husband handled Respondent's billing and bookkeeping for her law
5 practice.

6 7. Although Respondent's husband is not a lawyer, he was a signatory on
7 Respondent's trust account at HomeStreet Bank.

8 8. To the extent that Respondent's husband misused Respondent's clients' funds,
9 Respondent ordered the misuse of those funds, and/or knew of and ratified the misuse of her
10 clients' funds, and/or knew of the misuse of her clients' funds at a time when the consequences
11 could have been mitigated or avoided but failed to take any reasonable remedial action.

12 9. Disciplinary counsel took Respondent's deposition on the Maxwell, Cox, and
13 Yuhara matters on April 23, 2012 pursuant to a subpoena duces tecum.

14 10. Respondent produced some but not all of the documents required by the subpoena
15 duces tecum. She agreed to produce the remaining documents, and other information and
16 documents requested by disciplinary counsel during the deposition, by May 23, 2012.

17 11. Respondent never produced any additional information or documents to the
18 Association.

19 **FACTS REGARDING SHANNON MAXWELL**

20 12. In December 2010, Shannon Maxwell hired Respondent to represent her in her
21 dissolution. Ms. Maxwell had been represented by another lawyer but had grown dissatisfied
22 with the representation.

23 13. Respondent told Ms. Maxwell that she had been in a car accident but did not tell
24 her that she would only be working only part time.

1 14. Had Ms. Maxwell known Respondent would not be working full time she would
2 not have hired Respondent as there was some urgency to her situation.

3 15. On December 29, 2010, Ms. Maxwell gave Respondent a check for \$3,500 as an
4 advance fee.

5 16. Also on December 29, 2010, Ms. Maxwell signed a fee agreement that provided
6 that the \$3,500 fee was to be deposited into a trust account and earned fees would be withdrawn
7 from trust after Respondent sent Ms. Maxwell a billing statement.

8 17. On December 29, 2010, Respondent deposited Ms. Maxwell's check into her
9 general account.

10 18. Respondent had no authorization to deposit Ms. Maxwell's funds into her general
11 account.

12 19. At her deposition, Respondent testified that she deposited Ms. Maxwell's funds
13 into her trust account.

14 20. This was not true.

15 21. On January 10, 2011, Respondent appeared at a hearing to enter temporary orders
16 in Ms. Maxwell's case. Respondent did not prepare her own orders but instead used the ones
17 that Ms. Maxwell's former lawyer had prepared.

18 22. On or about January 20, 2011, Respondent sent Ms. Maxwell a billing statement
19 showing total fees of \$1,125.

20 23. After the hearing Ms. Maxwell had trouble getting hold of Respondent and decided
21 to hire other counsel.

22 24. On or about February 21, 2011, Ms. Maxwell asked Respondent to withdraw.

23 25. Respondent did not withdraw.
24

1 26. Ms. Maxwell called and sent emails over the next few months repeatedly asking
2 that Respondent withdraw. She also requested her file and a refund. None of this occurred.

3 27. Respondent finally filed a notice of withdrawal in September 2011, after Ms.
4 Maxwell filed a grievance with the Association.

5 28. With respect to the refund, Respondent stated in her response to Ms. Maxwell's
6 grievance that she called her bank on February 21, 2011 and asked the bank to draft a check for
7 \$1,725.99 and send it to Ms. Maxwell.

8 29. This was not true.

9 30. Ms. Maxwell has never received any refund from Respondent.

10 **FACTS REGARDING THOMAS COX**

11 31. In April 2011, Thomas Cox hired Respondent to represent him after he had been
12 served with dissolution papers.

13 32. On April 15, 2011, Mr. Cox gave Respondent a check for \$3,500 as an advance
14 fee.

15 33. Also on April 15, 2011, Mr. Cox signed a fee agreement that provided that the
16 \$3,500 fee was to be deposited into a trust account and earned fees would be withdrawn from
17 trust after Respondent sent Mr. Cox a billing statement.

18 34. On April 17, 2011, Respondent deposited Mr. Cox's check into her general
19 account.

20 35. Respondent had no authorization to deposit Mr. Cox's funds into her general
21 account.

22 36. Mr. Cox had problems contacting Respondent from the beginning. This was
23 concerning to Mr. Cox as his then-wife's lawyer was trying to have him removed from the
24 family home.

1 37. Respondent did no work of any value to Mr. Cox.

2 38. Respondent never filed anything on Mr. Cox's behalf.

3 39. Respondent never sent Mr. Cox any billing statements.

4 40. In June 2011, Respondent sent an email to Mr. Cox and other clients apologizing
5 for her lack of communication and the delay in the cases due to her medical issues. She offered
6 to withdraw.

7 41. Mr. Cox subsequently hired another lawyer to represent him and requested a
8 refund from Respondent.

9 42. Respondent did not send Mr. Cox a refund.

10 43. Over the next six months, Mr. Cox repeatedly renewed his request for a refund.

11 44. In one or more emails in 2011, Respondent told Mr. Cox that she would take care
12 of the refund.

13 45. In an email sent on or about January 10, 2012, Respondent told Mr. Cox that she
14 had contacted her bank and that "unfortunately there is a problem with my account and it has
15 been frozen" due to a fraud attempt on another account at the bank. She said she was "working
16 as quickly as possible to resolve the issue but cannot control the timing of the bank's
17 investigation. . . . This situation is completely out of my control and you are not the only
18 individual being affected."

19 46. None of this was true.

20 47. Mr. Cox has never received any refund from Respondent.

21 **FACTS REGARDING JASON YUHARA**

22 48. On or about November 1, 2010, Jason Yuhara hired Respondent to represent him
23 in his dissolution. He and his wife fully agreed on everything and just needed someone to draft
24 the paperwork.

1 49. When Mr. Yuhara hired Respondent, she said nothing to him about any medical
2 problems.

3 50. Respondent and Mr. Yuhara discussed a fee of \$2000 to be paid in installments.

4 51. Mr. Yuhara made three cash payments to Respondent totaling \$820.

5 52. Mr. Yuhara paid \$500 to Respondent on November 1, 2010.

6 53. Mr. Yuhara paid \$160 to Respondent on January 28, 2011.

7 54. Mr. Yuhara paid \$160 to Respondent on April 11, 2011.

8 55. Respondent did not deposit the cash payments from Mr. Yuhara into her trust
9 account.

10 56. Mr. Yuhara called Respondent repeatedly for status updates but she did not return
11 his calls.

12 57. In July 2011, Mr. Yuhara asked Respondent to send a letter to his bank because he
13 was in the process of modifying his mortgage and the bank had questions about the dissolution.
14 He called her every day for two weeks about the letter but she did not return his calls.

15 58. When Mr. Yuhara finally reached Respondent, she told him she sent the letter to
16 the bank.

17 59. This was not true.

18 60. The bank denied Mr. Yuhara's mortgage modification because he failed to provide
19 documentation supporting his representation that his wife's income should not be included
20 because they were separated.

21 61. Mr. Yuhara fired Respondent and asked for a refund.

22 62. Mr. Yuhara subsequently hired a new lawyer who completed the dissolution.

23 63. Respondent did no work of any value to Mr. Yuhara.
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1 64. Respondent never filed any documents on Mr. Yuhara's behalf.

2 65. Respondent never sent Mr. Yuhara any billing statements.

3 66. Mr. Yuhara has never received any refund from Respondent.

4 **COUNT 1**

5 67. By failing to deposit Ms. Maxwell's \$3,500 into her trust account, and/or by using
6 those funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC
7 8.4(b) (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and/or RPC 8.4(i).

8 **COUNT 2**

9 68. By failing to deposit Mr. Cox's \$3,500 into her trust account, and/or by using those
10 funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC 8.4(b)
11 (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and/or RPC 8.4(i).

12 **COUNT 3**

13 69. By failing to deposit Mr. Yuhara's \$820 into her trust account, and/or by using
14 those funds for her own purposes without authorization, Respondent violated RPC 1.15A, RPC
15 8.4(b) (through violation of RCW 9A.56.020(1)(a)), RPC 8.4(c), and/or RPC 8.4(i).

16 **COUNT 4**

17 70. To the extent that Respondent's husband misused Respondent's clients' funds, by
18 ordering the misuse of those funds, and/or by knowing of and ratifying her husband's misuse of
19 her clients' funds, and/or by knowing of her husband's misuse of her clients' funds at a time
20 when the consequences could have been mitigated or avoided but by failing to take any
21 reasonable remedial action, Respondent violated RPC 5.3(c).

22 **COUNT 5**

23 71. By making misrepresentations to the Association in connection with Ms.
24 Maxwell's grievance, including that she had deposited Ms. Maxwell's fee into her trust account

1 and/or that she had directed to her bank to send a refund check to Ms. Maxwell, Respondent
2 violated RPC 8.4(c).

3 **COUNT 6**

4 72. By making misrepresentations to Mr. Cox in connection with his request for a
5 refund, Respondent violated RPC 1.4 and/or RPC 8.4(c).

6 **COUNT 7**

7 73. By making misrepresentations to Mr. Yuhara about her contact with the bank on
8 his behalf, Respondent violated RPC 1.4 and/or RPC 8.4(c).

9 **COUNT 8**

10 74. By retaining unreasonable fees in the Maxwell, Cox and/or Yuhara matters, and/or
11 by failing to provide a refund of any legal fees to Ms. Maxwell, Mr. Cox, and/or Mr. Yuhara,
12 Respondent violated RPC 1.5(a), 1.15A(f), and/or RPC 1.16(d).

13 **COUNT 9**

14 75. By failing to communicate with Ms. Maxwell, Mr. Cox, and/or Mr. Yuhara about
15 pertinent matters regarding their cases, including her own inability to attend to their cases due to
16 her medical problems, Respondent violated RPC 1.4.

17 **COUNT 10**

18 76. By failing to return Ms. Maxwell's file and/or by failing to promptly file a notice
19 of withdrawal on termination, Respondent violated RPC 1.16(d).

20 **COUNT 11**

21 77. By failing to represent Mr. Cox and/or Mr. Yuhara diligently, Respondent violated
22 RPC 1.3.

23 **COUNT 12**

24 78. By allowing her husband to be an authorized signatory on her trust account,

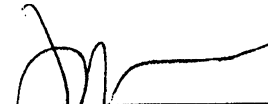
1 Respondent violated RPC 1.15A(h)(9).

2 **COUNT 13**

3 79. By failing to provide information in connection with disciplinary investigations
4 that had been subpoenaed and/or that she had been requested to produce following her
5 deposition, Respondent violated RPC 8.4(l) (though violation of ELC 5.3(e)).

6
7 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
8 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
9 restitution, and assessment of the costs and expenses of these proceedings.

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11 Dated this 23rd day of October, 2012.

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