

**FILED**  
SEP 17 2015  
DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**SCOTT A. WAAGE,**  
Lawyer (Bar No. 36565).

Proceeding No. 15#00031  
FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND HEARING OFFICER'S  
RECOMMENDATION

This disciplinary proceeding is before the undersigned Hearing Officer upon written submission under Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC).

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

1. The Formal Complaint (Bar File No. 3) charged Scott A. Waage 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 the violations charged in the Formal Complaint (Bar File No. 3) are admitted and established as follows:
4. **Count 1:** By promoting fraudulent tax schemes to Dr. and Mrs. G and falsely

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1 representing to Dr. and Mrs. G that such schemes were legally valid and would reduce their  
2 federal income taxes, and by representing Dr. and Mrs. G in establishing those schemes,  
3 Respondent violated RPC 1.2(d), and RPC 8.4(c), and RPC 8.4(d).

4 5. **Count 2:** Count 2 has been voluntarily dismissed.

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

7 6. ABA Standards 5.1 is most applicable to violations of RPC 1.2(d) and RPC 8.4(c):

8 5.11 Disbarment is generally appropriate when:

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

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

18 7. Respondent acted intentionally in promoting fraudulent tax schemes to Dr. and  
19 Mrs. G, in falsely representing to them that such schemes were legally valid and would reduce  
20 their federal income taxes, and in assisting them in establishing and engaging in fraudulent tax  
21 schemes.

22 8. Respondent's conduct seriously adversely reflects on his fitness to practice law.

23 9. Respondent's conduct caused serious injury to Dr. and Mrs. G. Respondent's  
24 conduct resulted in IRS audits of many of his clients, including Dr. and Mrs. G. His conduct  
resulted in Dr. and Mrs. G being assessed \$314,000 in additional taxes, interest, and penalties as  
a result of the determination by the IRS that the pension plan Respondent established for them  
was in violation of applicable law.

10. The presumptive sanction is disbarment.

11. ABA Standards 7.0 is most applicable to violations of RPC 8.4(d):

1           7.1   **Disbarment is generally appropriate when a lawyer knowingly**  
2                   **engages in conduct that is a violation of a duty owed as a professional**  
3                   **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.**

4           12. Respondent acted intentionally in promoting fraudulent tax schemes to the public,  
5 his clients, and Dr. and Mrs. G.

6           13. There was serious injury to Respondent's clients, the public, and the legal system.  
7 Respondent's clients were audited by the IRS, the tax schemes Respondent had set up for them  
8 were disallowed, and they were assessed additional tax, interest, and penalties. There was  
9 serious injury to the public as there was lost tax revenue in excess of \$10,800,000 as a result of  
10 Respondent's tax schemes. The legal system also suffered serious injury because the IRS was  
11 forced to file a lawsuit against Respondent to stop him from promoting illegal and fraudulent  
12 tax schemes, which burdened the legal system.

13           14. Respondent benefitted financially as a result of his actions. The seminars he  
14 conducted attracted large audiences and generated many clients who paid substantial attorney  
15 fees to Respondent. Dr. and Mrs. G alone paid Respondent \$114,979 in attorney fees for his  
16 work implementing the tax scheme.

17           15. The presumptive sanction is disbarment.

18           16. The following aggravating factors identified in ABA Standard 9.22 apply:

- 19                   (b) dishonest or selfish motive;  
20                   (d) multiple offenses;  
21                   (i) substantial experience in the practice of law [Respondent was admitted in  
                          California in 1993 and Washington in 2005];  
22                   (j) indifference to making restitution.

23           17. The following mitigating factor identified in ABA Standard 9.32 applies:

- 24                   (a) absence of a prior disciplinary record.

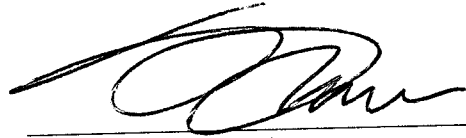
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18. It is an additional aggravating factor that Respondent failed to file an answer to the Formal Complaint as required by ELC 10.5(a).

**RECOMMENDATION**

19. Based on the ABA Standards and the applicable aggravating and mitigating factors, the Hearing Officer recommends that Respondent Scott A. Waage be disbarred.

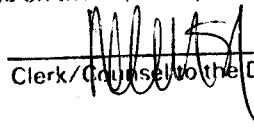
DATED this 14<sup>th</sup> day of September, 2015.



Stephen John Henderson,  
Hearing Officer

**CERTIFICATE OF SERVICE**

I certify that I caused a copy of the FOF, LOR and HO's Recommendation  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Scott Waage ~~Respondent/Respondent's Counsel~~  
at PO Box 4104 Key West FL 32041 by Certified first class mail  
postage prepaid on the 17<sup>th</sup> day of September, 2015

  
Clerk/Counsel to the Disciplinary Board