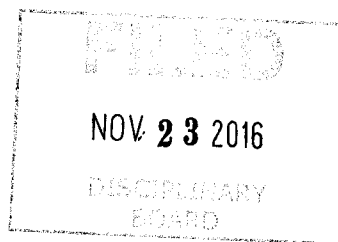


BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION



In re  
MONA LISA CUARTE GACUTAN,  
Lawyer (WSBA No.39344)

Proceeding No. 13#00104  
DISCIPLINARY BOARD ORDER  
ADOPTING HEARING OFFICER'S  
DECISION

This matter came before the Disciplinary Board at its November 7, 2016 meeting, on Respondent's appeal of Hearing Officer Bertha Fitzer's Findings of Fact and Conclusions of Law and Recommendation, recommending disbarment.

The Board reviews the hearing officer's finding of fact for substantial evidence. The Board reviews conclusions of law and sanction recommendations de novo. Evidence not presented to the hearing officer or panel cannot be considered by the Board. ELC 11.12(b).

Having reviewed the materials submitted, and considered the applicable case law and rules

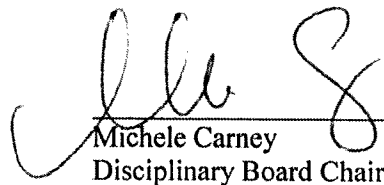
**IT IS HEREBY ORDERED THAT** the Hearing Officer's decision, as amended by the Hearing Officer's April 13, 2015 "Order on ODC's Motion to Modify" and "Order Granting ODC's Motion to Amend Hearing Officer's Findings of Fact, Conclusions of Law, Granting in Part and Denying in Part Respondent's Motion to Modify" (hereinafter, "Order re Motion to Amend and Modify") is also adopted.<sup>1</sup> The Order re Motion to Amend and

<sup>1</sup> The vote on this matter was 12-0. Those voting were: Carney, Silverman, Denton, Louvier, Andeen, Startzel, Byerly, Graber, Cottrell, Patneau, Myers and Cornelius. Rawlings abstained. Smith did not participate.

Modify includes a finding by the Hearing Officer that there was a delay in the adjudication of this matter. The Hearing Officer asked the Board to decide whether the delay was "unjustified."

The Board has considered whether the delay was unjustified and whether delay should be considered as a mitigating factor in this matter. The Board concludes that under the facts of this case, Respondent has not established by a clear preponderance of the evidence that the mitigator of "delay in disciplinary proceedings" applies. See ABA *Standards for Imposing Lawyer Sanctions*, 9.32(j)). To meet her burden, Respondent must show that the delay was "inexcusable or undue" and that the delay prejudiced her. *In Re Disciplinary Proceeding Against Kronenberg*, 155 Wn. 2d 184, 197 (2005). For the reasons outlined in the Order re Motion to Amend and Modify, the delay was not inexcusable or undue. Furthermore, Respondent has not established that she was prejudiced by the delay. The only evidence regarding prejudice in the record was that Respondent continued to practice law in her own law firm pending the outcome in this matter, which supports a finding that rather than being prejudiced by the delay, Respondent benefited from it.

Dated this 23<sup>rd</sup> day of November, 2016.

  
Michele Carney  
Disciplinary Board Chair

CERTIFICATE OF SERVICE

I certify that I caused a copy of the DO NOT ADOPTING HIS DECISION  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to KIVA BULLOCK, Respondent/Respondent's Counsel  
at 710 BENTLEY PL. #3 Seattle WA 98104 by Certified/first class mail,  
postage prepaid on the 22<sup>nd</sup> day of NOV, 2016