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**FILED**

JUN 11 2012

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**MARTHA D. FINN,**

Lawyer (Bar No. 33449).

Proceeding No. 11#00093

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 June 8, 2012.

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

1. The Formal Complaint, filed on March 13, 2012, charged Respondent Martha D. Finn 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 are admitted and established as follows:
4. Count 1: By agreeing to file a dissolution petition for Mr. Pugh and Ms. Grover and then failing to do so, Respondent violated RPC 1.3.

1           5.    Count 2: By converting Mr. Pugh's \$250 filing fee funds for her own personal use  
2 and by failing to hold those funds separate from her own property, Respondent violated RPC  
3 1.15A(b) and RPC 1.15A(c).

4           6.    Count 3: By falsely advising Mr. Pugh that she deposited his \$250 filing fee check  
5 into her "attorney account," and by falsely advising the Association that she called Mr. Pugh  
6 after May 6, 2010 to obtain additional information from him, Respondent violated RPC 8.4(c).

7           7.    Count 4: By failing to promptly respond to requests made by the Association for  
8 information relevant to the investigation of Mr. Pugh's grievance, Respondent violated ELC  
9 5.3(e) and thereby violated RPC 8.4(l).

10                           **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**  
11                                   **REGARDING RECOMMENDED SANCTION**

12           8.    In committing the violations found in Counts 1-4, Respondent acted knowingly.

13           9.    As to Count 1, Respondent injured Mr. Pugh and Ms. Grover by delaying the filing  
14 of their dissolution petition. Respondent is subject to discipline, even though she was initially  
15 acting as a mediator, because she provided law related services to Mr. Pugh and Ms. Grover,  
16 i.e., agreeing to file their dissolution petition, in circumstances that were not distinct from her  
17 provision of legal services to clients. RPC 5.7(a)(1). Respondent's conduct also caused harm to  
18 the legal system. "Prolonged delay . . . reflect(s) poorly on the profession and may harm the  
19 interests of clients and others." In re Juarez, 143 Wn.2d 840, 885-886 (2001).

20           10. As to Count 2, Respondent injured Mr. Pugh by converting his funds to her own  
21 use, thereby depriving him of the use of his funds.

22           11. As to Count 3, Respondent's false statements injured Mr. Pugh, whose funds were  
23 used by Respondent for her own purposes, and injured the Association by causing delay and  
24 expenditure of limited Association resources in continued investigation to discover the true

1 nature of what occurred.

2 12. As to Count 4, Respondent's failure to cooperate with the disciplinary  
3 investigation caused additional expenditure of limited Association resources. "[A]n attorney  
4 who disregards [her] professional duty to cooperate with the bar association must be subject to  
5 severe sanctions. Moreover, unless non-cooperation brings such sanctions, attorneys who are  
6 guilty of unprofessional conduct might be tempted to stonewall to prevent serious violations  
7 coming to light." In re Clark, 99 Wn.2d 702, 708, 663 P.2d 1339 (1983).

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

11 ABA Standard 4.1 – Failure to Preserve the Client's Property

- 12 4.11 Disbarment is generally appropriate when a lawyer knowingly  
13 converts client property and causes injury or potential injury to a  
14 client.  
15 4.12 Suspension is generally appropriate when a lawyer knows or should  
16 know that he is dealing improperly with client property and causes  
17 injury or potential injury to a client.  
18 4.13 Reprimand is generally appropriate when a lawyer is negligent in  
19 dealing with client property and causes injury or potential injury to a  
20 client.  
21 4.14 Admonition is generally appropriate when a lawyer is negligent in  
22 dealing with client property and causes little or no actual or potential  
23 injury to a client.  
24

19 ABA Standard 4.4 – Lack of Communication

- 20 4.41 Disbarment is generally appropriate when:  
21 (a) a lawyer abandons the practice and causes serious or  
22 potentially serious injury to a client; or  
23 (b) a lawyer knowingly fails to perform services for a client and  
24 causes serious or potentially serious injury to a client; or  
(c) a lawyer engages in a pattern or neglect with respect to client  
matters and causes serious or potentially serious injury to a  
client.  
4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or  
(b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

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

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

#### ABA Standard 4.6 – Lack of Candor

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

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

4.63 Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

4.64 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client.

#### ABA Standard 6.1 – False Statements, Fraud, and Misrepresentation

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.13 Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.14 Admonition is generally appropriate when a lawyer engages in an

1 isolated instance of neglect in determining whether submitted  
2 statements or documents are false or in failing to disclose material  
3 information upon learning of its falsity, and causes little or no actual  
or potential injury to a party, or causes little or no adverse or  
potentially adverse effect on the legal proceeding.

4 ABA Standard 7.0 – Violations of Duties Owed as a Professional

5 7.1 Disbarment is generally appropriate when a lawyer knowingly  
6 engages in conduct that is a violation of a duty owed as a  
7 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.

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

10 7.3 Reprimand is generally appropriate when a lawyer negligently  
11 engages in 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.

12 7.4 Admonition is generally appropriate when a lawyer engages in an  
13 isolated instance of negligence that is a violation of a duty owed as a  
professional, and causes little or no actual or potential injury to a  
client, the public, or the legal system.

14 14. The presumptive sanction for Count 1 is suspension under ABA Standard 4.42(a).

15 15. The presumptive sanction for Count 2 is disbarment under ABA Standard 4.11.

16 16. The presumptive sanction for Count 3 is suspension under ABA Standards 4.62  
17 and 6.12.

18 17. The presumptive sanction for Count 4 is suspension under ABA Standard 7.2.

19 18. Where there are multiple ethical violations, the “ultimate sanction imposed should  
20 at least be consistent with the sanction for the most serious instance of misconduct among a  
21 number of violations.” In re Petersen, 120 Wn2d 833, 854, 846 P.2d 1330 (1993) (quoting  
22 ABA Standards at 6).

23 19. The presumptive sanction for the most serious instance of misconduct charged here  
24

1 is disbarment.

2 20. The following aggravating factors set forth in Section 9.22 of the ABA Standards  
3 apply in this case:

- 4 (b) dishonest or selfish motive;  
5 (d) multiple offenses;  
6 (e) bad faith obstruction of the disciplinary proceeding by intentionally  
7 failing to comply with rules or orders of the disciplinary agency [failure  
8 to file answer to formal complaint as required by ELC 10.5(a)]<sup>1</sup>;  
9 (i) substantial experience in the practice of law [Respondent was admitted to  
10 practice in Michigan in 1981 and admitted in Washington in 2003].

11 21. The following mitigating factor set forth in Section 9.32 of the ABA Standards  
12 applies to this case:


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

14 22. Analysis of the aggravating and mitigating factors does not provide grounds for  
15 varying below the presumptive sanction of disbarment.

16 **RECOMMENDATION**

17 23. Based on the ABA Standards and the applicable aggravating and mitigating  
18 factors, the Hearing Officer recommends that Respondent Martha D. Finn be disbarred.

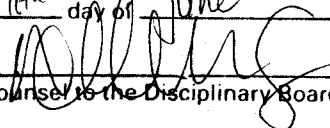
19 DATED this 8th day of June, 2012.

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22   
23 Barbara Ann Peterson,  
24 Hearing Officer #12199

25 <sup>1</sup> ELC 10.5(a) provides: "Failure to file an answer as required may be grounds for discipline and for an  
26 order of default under rule 10.6." See In re Righter, 992 P.2d 1147, 1149 (Colo. 1999) (lawyer's "total  
27 nonparticipation in these proceedings demonstrates a bad faith obstruction of the disciplinary process").

CERTIFICATE OF SERVICE

I certify that I caused a copy of the FOE, COL & HO's Recommendation  
to be delivered to the Office of Disciplinary Counsel and to be mailed  
to Martin Finn Respondent/Respondent's Counsel  
at 10221 S. Extrall & Dr. Wallace Long, MI 48069 by Certified first class mail  
postage prepaid on the 14<sup>th</sup> day of June, 2012

  
Clerk/Counsel to the Disciplinary Board