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DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JAMES SINCLAIR,

Lawyer (Bar No. 52172)

Proceeding No. 25#00022

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND RECOMMENDATION

The undersigned Hearing Officer held a default hearing through written submissions under Rule 10.6(b)(3) of the Washington Supreme Court’s Rules for Enforcement of Lawyer Conduct (ELC).

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

1. Respondent James Sinclair was admitted to the practice of law in the State of Washington on May 18, 2017.

2. In January 2022, Yaroslav Prikhodko was charged with Driving While Under the Influence (DUI). At arraignment, the court appointed a public defender to represent Prikhodko. Prikhodko failed to appear for a readiness hearing in August 2022, and the court issued a warrant. The public defender withdrew at that time.

1 ***Representation of Prikhodko***

2 3. In September 2022, Respondent agreed to represent Prikhodko on the DUI.

3 4. Respondent represented Prikhodko knowing Respondent lacked the requisite
4 competence to do so.

5 5. During the time Respondent represented Prikhodko, Respondent's law practice
6 was focused on business and corporate law.

7 6. Prior to representing Prikhodko, Respondent had not appeared in a criminal case.

8 7. Respondent understood Prikhodko's objective for the representation to be
9 identifying and raising legal issues that might lead to dismissal.

10 8. Respondent lacked the necessary knowledge and experience to determine whether
11 there were any such issues in Prikhodko's case.

12 9. Respondent was aware that if Respondent was unable to identify a basis for
13 dismissal, Prikhodko wanted to pursue a deferred prosecution or diversion.

14 10. During Respondent's representation of Prikhodko, Respondent was not familiar
15 with Washington law relating to DUI charges and did not take the steps necessary to become
16 competent in this area of practice.

17 11. Respondent's lack of competence caused injury to Prikhodko by delaying
18 resolution of Prikhodko's case and causing Prikhodko significant anxiety.

19 12. Respondent's first court appearance on behalf of Prikhodko was a September 20,
20 2022 hearing to quash the warrant the court had issued for Prikhodko.

21 13. At the hearing, Respondent told the court that Respondent would be Prikhodko's
22 lawyer for the matter.

1 14. At the conclusion of the hearing, the court stated its expectation that Respondent
2 would file a notice of appearance.

3 15. On November 2, 2022, Respondent represented Prikhodko at a pre-trial hearing.

4 16. At the hearing, the court noted that Respondent had not filed a notice of
5 appearance.

6 17. When asked, Respondent told the court Respondent would file a notice of
7 appearance.

8 18. Respondent sought a continuance, stating that Prikhodko had “been accepted into
9 the VA diversion program and we’re doing a request for evidence.”

10 19. Respondent’s statement to the court about the Veteran’s Administration (VA) was
11 false.

12 20. Respondent’s statement to the court about submitting a “request for evidence” was
13 false.

14 21. Respondent knew these statements were false at the time they were made.

15 22. Prikhodko had not been accepted into any VA diversion program.

16 23. Neither Respondent nor Prikhodko had submitted a “request for evidence.”

17 24. At Prikhodko’s next pre-trial hearing on December 14, 2022, Respondent
18 requested another continuance, explaining that they intended to file for a “deferment” and were
19 ready to speak with the prosecutor about that.

20 25. The court asked if Respondent had “just come on board.” Respondent replied:
21 “Just about. A couple of weeks ago.”

22 26. Respondent’s statement to the court in this regard was false.

23 27. Respondent knew the statement was false at the time it was made.

1 28. Respondent had first appeared on behalf of Prikhodko almost two months earlier.

2 29. In addressing the motion to continue, the court stated that the court's normal
3 practice at pre-trial hearings was to set the matter for trial but that because Respondent reported
4 only being on the case for a couple of weeks, the court would continue the pre-trial hearing.

5 30. The court continued Prikhodko's pre-trial hearing to January 25, 2023.

6 31. At the January 25, 2023 pre-trial hearing, the court pointed out that Respondent
7 had not yet filed a notice of appearance.

8 32. Respondent replied that Respondent had "the documents," which had just been
9 signed the previous afternoon, and assured the court that Respondent would file them with the
10 court.

11 33. The court granted Respondent's request for another continuance of the pre-trial
12 hearing.

13 34. The court announced on the record that that pre-trial hearing was continued to
14 March 7, 2023.

15 35. Respondent was present in court at the time the March 7, 2023 pre-trial hearing
16 date was set.

17 36. On March 2, 2023, Respondent requested a copy of Prikhodko's file from the
18 public defender's office via email.

19 37. The public defender's office responded the next day, referring Respondent to the
20 prosecutor's office for discovery.

21 38. Respondent replied via email stating that: "A discovery request has already been
22 submitted."

1 39. Respondent’s claim that Respondent had already submitted a discovery request
2 was false.

3 40. Respondent knew this claim was false at the time it was made.

4 41. Respondent had not submitted a request for discovery to the prosecutor at that
5 time.

6 42. Respondent’s false statement to the public defender’s office reflects adversely on
7 Respondent’s fitness to practice law.

8 43. The public defender’s office provided Respondent with a publicly filed document
9 establishing probable cause in Prikhodko’s case, which contained a brief summary of the
10 underlying incident.

11 44. The public defender’s office did not provide Respondent with the discovery they
12 had received from the prosecutor’s office, which included documents such as the Vancouver
13 Police Department’s report relating to the DUI investigation.

14 45. Neither Prikhodko, nor Respondent appeared for the pre-trial hearing on March 7,
15 2023.

16 46. The court issued a warrant for Prikhodko’s arrest.

17 47. On March 24, 2023, at Prikhodko’s request, the court scheduled a hearing for
18 April 4, 2023, to address Prikhodko’s request to quash the warrant.

19 48. At the April 4, 2023 hearing, the court asked whether Respondent had entered a
20 notice of appearance.

21 49. Respondent replied: “I have.”

22 50. Respondent’s statement to the court in this regard was false.

23 51. Respondent knew the statement was false at the time it was made.

1 52. After reviewing the court’s records, the court informed Respondent that the court
2 did not see a notice of appearance filed by Respondent and asked if Respondent had just filed it
3 the day before.

4 53. Respondent replied: “I filed it late last week.”

5 54. This claim was false.

6 55. Respondent knew this claim was false at the time it was made.

7 56. At the time of the hearing, Respondent had not yet filed a notice of appearance
8 with the court.

9 57. Respondent assured the court Respondent would file a notice of appearance that
10 day.

11 58. Respondent did not file a notice of appearance that day.

12 59. With respect to the hearing Prikhodko missed on March 7, 2023, Respondent told
13 the court that Respondent and Prikhodko had the hearing calendared for March 27.

14 60. The court set Prikhodko’s bail at \$1,500 and took Prikhodko into custody.

15 61. The court scheduled the next hearing for May 31, 2023.

16 62. Later that day, Respondent posted bail for Prikhodko using Respondent’s own
17 funds.

18 63. Respondent paid the \$180 fee for the bond and provided Respondent’s credit card
19 as security for the bond.

20 64. Respondent was negligent in determining whether providing financial assistance
21 to Prikhodko in this manner could compromise Respondent’s representation.

1 65. By providing financial assistance to Prikhodko, Respondent caused potential
2 injury to Prikhodko, as Respondent had a financial interest in Prikhodko's case that could conflict
3 with Prikhodko's interests.

4 66. At Prikhodko's next pre-trial hearing on May 31, 2023, more than eight months
5 after the representation began, Respondent finally filed a notice of appearance.

6 67. Respondent's notice of appearance did not include a request for discovery.

7 68. Respondent asked the court to continue the case, explaining that Respondent
8 needed access to discovery.

9 69. The court set the matter for a readiness hearing on September 1, 2023, and trial on
10 September 14, 2023.

11 70. Respondent did not send the prosecutor's office a request for discovery at any
12 point during Respondent's representation of Prikhodko.

13 71. The prosecutor's office never provided Respondent with discovery.

14 72. Respondent knowingly failed to act with reasonable diligence in representing
15 Prikhodko, including failing to timely file a notice of appearance, obtain discovery, and appear at
16 scheduled hearings.

17 73. Respondent's lack of diligence caused injury to Prikhodko as the resolution of
18 Prikhodko's case was delayed, resulting in significant anxiety and inconvenience for Prikhodko,
19 and Prikhodko was eventually left to defend a criminal matter without the benefit of counsel.

20 74. At the September 1, 2023 readiness hearing, Respondent asked for a continuance,
21 explaining to the court that they had been working with the VA, which had a backlog they were
22 working through.

23 75. This statement was false.

1 76. Respondent knew the statement was false at the time it was made.

2 77. The prosecutor assigned to Prikhodko's case was present for the hearing and asked
3 Respondent: "I believe you just came onto the case, is that right?"

4 78. Respondent replied: "Yes."

5 79. This statement was false.

6 80. Respondent knew the statement was false at the time it was made.

7 81. At the time of the hearing, Respondent had been representing Prikhodko for almost
8 a year.

9 82. Respondent went on to explain that Respondent has been "working with the VA's
10 medical team" for a "more full medical assessment."

11 83. This statement was also false.

12 84. Respondent knew the statement was false at the time it was made.

13 85. Respondent had had no contact with the VA.

14 86. All of Respondent's false statements to the court and prosecutor during
15 Respondent's representation of Prikhodko seriously adversely reflect on Respondent's fitness to
16 practice law and had an adverse effect of the legal proceeding by delaying resolution of the case.

17 87. All of Respondent's false statements to the court and prosecutor during
18 Respondent's representation of Prikhodko were reasonably likely to be relied upon by the court
19 and the prosecutor in the discharge of their official powers and duties.

20 88. Respondent knew at the time all of the statements were made that Respondent's
21 false statements to the court and prosecutor during Respondent's representation of Prikhodko
22 were reasonably likely to be relied upon by the court and the prosecutor in the discharge of their
23 official powers and duties.

1 89. The court continued the readiness hearing to October 23, 2023 and the trial date to
2 November 2, 2023.

3 90. Respondent failed to appear for Prikhodko's October 23, 2023 readiness hearing.

4 91. Respondent did not give the court, prosecutor, or Prikhodko notice that
5 Respondent would not appear for the hearing.

6 92. The court set the readiness hearing over two days to October 25, 2023.

7 93. On October 25, 2023, Respondent appeared and requested a continuance.

8 94. The court continued the readiness hearing to January 8, 2024 and the trial date to
9 January 18, 2024.

10 95. For most of the representation, Respondent mistakenly believed that the prosecutor
11 was intent on bringing Prikhodko's case to trial and was unwilling to negotiate any plea
12 agreement.

13 96. During the representation, Respondent mistakenly believed that the prosecutor's
14 agreement was necessary for Prikhodko to pursue a deferred prosecution.

15 97. Respondent repeatedly delayed Prikhodko's case in hopes of identifying an issue
16 that would persuade the prosecutor to consider a deferred prosecution.

17 98. The prosecutor's agreement is not required for entry of a deferred prosecution
18 (RCW 10.05.010).

19 99. Respondent did not communicate with the prosecutor about settlement until
20 January 8, 2024, the day of Prikhodko's readiness hearing, and over a year after the representation
21 began.

1 100. When Respondent finally asked the prosecutor via email on January 8, 2024,
2 whether they would “oppose a diversion plea,” Respondent learned that the prosecutor had no
3 objection to a deferred prosecution.

4 101. At the January 8, 2024 readiness hearing, Respondent appeared and requested the
5 case be set for change of plea to enter a deferred prosecution.

6 102. The court granted Respondent’s request, striking the trial date and setting the
7 matter for a change of plea hearing on February 7, 2024.

8 103. Although Respondent scheduled the matter for entry of a deferred prosecution,
9 Prikhodko had not yet been evaluated by an approved provider.

10 104. An evaluation report from a state-approved provider is required to enter a deferred
11 prosecution.

12 105. At the change of plea hearing on February 7, 2024, Respondent requested a
13 continuance.

14 106. The court continued the change of plea hearing to March 11, 2024.

15 107. Meanwhile, Respondent had failed to timely renew Respondent’s license to
16 practice law and failed to certify compliance with MCLE requirements by February 1, 2024, as
17 required.

18 108. On February 13 and February 20, 2024, the Washington State Bar Association
19 (WSBA) Regulatory Services Department sent Respondent notices regarding Respondent’s
20 failure to comply with licensing requirements.

21 109. The notices stated that the Washington Supreme Court would enter an order
22 suspending Respondent’s license to practice law if all licensing requirements were not complete
23 by February 26, 2024.

1 110. Respondent did not complete Respondent’s licensing requirements by February
2 26, 2024.

3 111. On March 1, 2024, the WSBA Regulatory Services Department sent Respondent
4 a pre-suspension notice via certified mail.

5 112. The pre-suspension notice was delivered on March 4, 2024.

6 113. The pre-suspension notice indicated that if Respondent did not comply with all
7 licensing requirements by April 30, 2024, then on May 1, 2024, the WSBA would recommend
8 that the Washington Supreme Court suspend Respondent’s license to practice law.

9 114. On March 11, 2024, Prikhodko appeared in person for the change of plea hearing.

10 115. Respondent failed to appear for the hearing.

11 116. The hearing was scheduled for 8:30 a.m.

12 117. At 8:23 a.m. that morning, Respondent had sent the assigned prosecutor an email
13 stating Respondent had food poisoning and would be unable to attend the hearing.

14 118. Respondent’s email also stated that Respondent intended to file a notice of
15 withdrawal “due to unforeseen circumstances.”

16 119. Respondent’s email did not provide any further explanation regarding the
17 circumstances necessitating Respondent’s withdrawal.

18 120. At 8:27 a.m. that morning, Respondent had sent Prikhodko an email stating
19 Respondent was “out sick today.”

20 121. Respondent’s email to Prikhodko stated Respondent intended to file a notice of
21 withdrawal.

22 122. Respondent’s email did not state any reason for Respondent’s withdrawal.
23

1 123. Respondent did not notify the court that Respondent did not intend to appear for
2 the March 11, 2024 hearing.

3 124. When Respondent failed to appear, the court attempted to reach Respondent by
4 phone but was unsuccessful.

5 125. The court then granted Prikhodko's request to waive the right to counsel and
6 allowed Prikhodko to proceed pro se.

7 126. To date, Respondent has not filed a notice of withdrawal.

8 127. To date, Respondent has not provided Prikhodko with a copy of Prikhodko's client
9 file.

10 128. During the representation, Respondent used an electronic filing system for records
11 relating to Prikhodko's case.

12 129. Shortly after terminating the representation, Respondent cancelled the service that
13 Respondent had been using for business email and digital file storage.

14 130. As a result, Respondent lost access to Respondent's electronic records relating to
15 Prikhodko's case.

16 131. Respondent knowingly failed to provide Prikhodko with Prikhodko's client file
17 upon termination of the representation and failed to preserve records relating to Prikhodko's case.

18 132. In doing so, Respondent caused injury to Prikhodko, who lost the opportunity to
19 benefit from Respondent's work on the case.

20 133. Respondent's license to practice law was suspended on May 1, 2024, for failing to
21 comply with licensing requirements.

1 *Fee Arrangement and Payments*

2 134. Respondent did not have a written fee agreement with Prikhodko.

3 135. Respondent charged Prikhodko a series of flat fees for the representation but did
4 not explain to Prikhodko the scope of work covered by each fee.

5 136. For example, Respondent collected \$1,000 payments from Prikhodko in October
6 and November 2022, which were described on Respondent's invoices as "deposit[s]" for
7 Prikhodko's "defense."

8 137. Services covered by these payments included preliminary legal research by
9 Respondent, but Respondent did not communicate to Prikhodko the specific areas of research
10 covered by the payments.

11 138. Services covered by these payments included in-court representation by
12 Respondent during the time Respondent was conducting preliminary research on the case, but
13 Respondent did not communicate to Prikhodko the number of hearings or the time period covered
14 by the payments.

15 139. In July and August 2023, Respondent charged Prikhodko for work Respondent's
16 invoices described as "[d]efense work" and "for defense."

17 140. Services covered by these payments included "court appearances and
18 negotiations," but Respondent did not communicate with Prikhodko about the time period or
19 number of court appearances covered by the payments.

20 141. Respondent knowingly failed to reasonably communicate with Prikhodko about
21 Respondent's fees and the scope of Respondent's representation.
22
23

1 142. Respondent's lack of reasonable communication caused injury to Prikhodko, who
2 lacked the information necessary to make informed decisions about the cost and scope of the
3 representation.

4 143. Prikhodko paid Respondent a total of \$5,330 during the representation.

5 144. Although Respondent received at least some of these payments in advance of
6 performing the agreed upon legal services and/or incurring costs on Prikhodko's behalf,
7 Respondent did not deposit any of the payments into a trust account.

8 145. Respondent should have known that Respondent was required to deposit the
9 advance payments in a trust account.

10 146. Respondent caused potential financial injury to Prikhodko by failing to protect
11 Prikhodko's funds in a trust account.

12 147. Respondent also charged Prikhodko for some services that were never performed.

13 148. For example, Respondent charged Prikhodko \$1,000 for a medical opinion, but
14 Respondent never obtained a medical opinion.

15 149. After terminating the representation, Respondent did not refund any unearned
16 funds to Prikhodko.

17 150. Respondent acted knowingly in charging unreasonable fees and in failing to refund
18 unearned fees.

19 151. In doing so, Respondent caused financial injury to Prikhodko.

20 ***Failure to cooperate with the disciplinary investigation***

21 152. On April 15, 2024, Prikhodko filed a grievance against Respondent.

22 153. On April 29, 2024, ODC sent Respondent a letter with a copy of the grievance,
23 asking that Respondent provide a preliminary written response to the grievance within 30 days.

1 154. Respondent did not submit a preliminary written response to the grievance within
2 30 days.

3 155. On July 2, 2024, ODC sent a letter to Respondent directing Respondent to provide
4 a written response to the grievance on or before July 12, 2024.

5 156. Respondent did not provide a written response to the grievance on or before
6 July 12, 2024.

7 157. On August 9, 2024, ODC issued a subpoena duces tecum requiring Respondent to
8 appear for deposition on August 29, 2024, and to provide ODC with a copy of Prikhodko's client
9 file.

10 158. On August 27, 2024, Respondent provided ODC with a partial response to ODC's
11 subpoena for Prikhodko's client file.

12 159. The records Respondent provided did not include any records of communications
13 with Prikhodko or the prosecutor, even though they had engaged in email correspondence and
14 exchanged text messages.

15 160. Respondent also failed to provide records of Respondent's work on Prikhodko's
16 case (aside from general invoices which did not describe the specific work performed), even
17 though Respondent acknowledged such records existed.

18 161. On August 28, 2024, Respondent provided ODC with a preliminary written
19 response to Prikhodko's grievance.

20 162. Respondent appeared for the deposition on August 29, 2024.

21 163. During the deposition, Respondent testified that Respondent could regain access
22 to Respondent's electronic records but needed additional time to do so.
23

1 164. Respondent requested an additional 30 days to provide the remaining records
2 Respondent was required to produce under ODC's subpoena duces tecum.

3 165. ODC requested that Respondent provide the remaining records by September 30,
4 2024.

5 166. ODC requested that Respondent also provide a digital copy of Respondent's
6 Google calendar.

7 167. Respondent did not provide ODC with any additional records on or before
8 September 30, 2024.

9 168. To date, Respondent has not provided ODC with the additional records
10 Respondent is required to produce under ODC's subpoena duces tecum or the requested copy of
11 Respondent's calendar.

12 169. Respondent acted knowingly in failing to cooperate with ODC's investigation of
13 the grievance.

14 170. Respondent's failure to cooperate with the disciplinary investigation caused injury
15 to the legal profession and the public, by preventing ODC from fully investigating the misconduct
16 committed by Respondent in Prikhodko's case.

17 **COUNT 1**

18 171. By failing to provide Prikhodko with competent representation, Respondent
19 violated RPC 1.1.

20 **COUNT 2**

21 172. By making false statements to the court and the prosecutor, Respondent violated
22 RPC 3.3(a)(1), RPC 8.4(b) (by violating RCW 9A.76.175), RPC 8.4(c) and/or RPC 8.4(d).

23 **COUNT 3**

173. By making a false statement to the public defender's office about having submitted

1 a discovery request, Respondent violated RPC 4.1(a) and RPC 8.4(c).

2 **COUNT 4**

3 174. By paying the fee for Prikhodko's bond and/or by providing a credit card guarantee
4 as security for the bond, Respondent violated RPC 1.8(e).

5 **COUNT 5**

6 175. By failing to act with reasonable diligence in representing Prikhodko, Respondent
7 violated RPC 1.3 and RPC 3.2.

8 **COUNT 6**

9 176. By terminating Prikhodko's representation without reasonable notice, failing to
10 refund unearned fees and/or costs, and/or failing to preserve and/or provide Prikhodko with papers
11 to which Prikhodko was entitled, Respondent violated RPC 1.16(d).

12 **COUNT 7**

13 177. By failing to reasonably and promptly communicate with Prikhodko regarding the
14 scope of representation and basis for Respondent's fees, Respondent violated RPC 1.4(b) and
15 RPC 1.5(b).

16 **COUNT 8**

17 178. By charging Prikhodko fees for work that was not performed and/or for costs that
18 were not incurred and/or by failing to refund advance payments that were not earned, Respondent
19 violated RPC 1.5(a).

20 **COUNT 9**

21 179. By failing to promptly respond to disciplinary counsel's investigative inquiries
22 and/or requests for records, and/or by failing to provide subpoenaed records, Respondent violated
23 RPC 8.1(b), RPC 8.4(l) (by violating ELC 1.5, 5.3(f), 5.3(g), and/or 5.5(d)), and RPC 8.4(d).

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

1
2 180. Respondent acted knowingly with respect to the conduct set forth in the Formal
3 Complaint except that Respondent was only negligent as to Count 4 when determining whether
4 providing financial assistance to Prikhodko in securing a bail bond could compromise
5 Respondent’s representation.

6 181. Respondent’s lack of competence caused injury to Prikhodko by delaying
7 resolution of Prikhodko’s case and causing Prikhodko significant anxiety.

8 182. Respondent’s false statements to the court and prosecutor during Respondent’s
9 representation of Prikhodko seriously adversely reflect on Respondent’s fitness to practice law
10 and had an adverse effect of the legal proceeding by delaying resolution of the case.

11 183. Respondent’s false statements to the court and prosecutor during Respondent’s
12 representation of Prikhodko were reasonably likely to be relied upon by the court and the
13 prosecutors in the discharge of their official powers and duties and Respondent knew this to be
14 the case at the time the statements were made.

15 184. Respondent’s false statements to the court and prosecutor constituted serious
16 criminal conduct in violation of RCW 9A.76.175, a necessary element of which was
17 misrepresentation. Under RCW 9A.76.175, it a crime to “knowingly make a false or misleading
18 statement to a public servant.” A statement is material if it is reasonably likely to be relied upon
19 by a public servant in the discharge of their official powers or duties. RCW 9A.04.110(23) defines
20 “public servant” as “any person other than a witness who presently occupies the position of or
21 has been elected, appointed, or designated to become any officer or employee of government,
22 including a legislator, judge, judicial officer, juror, and any person participating as an advisor,
23 consultant, or otherwise in performing a governmental function.”

1 185. Respondent made false statements to the court and the prosecutor in Prikhodko's
2 case that were material, false and misleading, and made to public servants.

3 186. Respondent's false statement to the public defender's office reflects adversely on
4 Respondent's fitness to practice law.

5 187. By providing financial assistance to Prikhodko, Respondent caused potential injury
6 to Prikhodko, as Respondent had a financial interest in Prikhodko's case that could conflict with
7 Prikhodko's interests.

8 188. Respondent's lack of diligence caused injury to Prikhodko as the resolution of
9 Prikhodko's case was delayed, resulting in significant anxiety and inconvenience for Prikhodko,
10 and Prikhodko was eventually left to defend a criminal matter without the benefit of counsel.

11 189. In terminating Respondent's representation of Prikhodko without reasonable notice,
12 failing to provide Prikhodko with Prikhodko's client file upon termination of the representation,
13 and failing to preserve records relating to Prikhodko's case, Respondent caused injury to
14 Prikhodko, who was not given time to retain alternate counsel and lost the opportunity to benefit
15 from Respondent's work on the case.

16 190. Respondent's lack of reasonable communication caused injury to Prikhodko, who
17 lacked the information necessary to make informed decisions about the cost and scope of the
18 representation.

19 191. Respondent caused financial injury to Prikhodko by charging fees for work that
20 was not performed and for work that was of no benefit to Prikhodko, charging for costs that were
21 not incurred, and failing to refund unearned fees and costs. Prikhodko paid \$5,330 Respondent
22 for work and costs that were of no value to Prikhodko.
23

1 192. Respondent’s failure to cooperate with the disciplinary investigation caused injury
2 to the disciplinary system, the legal profession, and the public by preventing the Office of
3 Disciplinary Counsel (ODC) from fully investigating the misconduct committed by Respondent
4 in Prikhodko’s case.

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

8 194. ABA Standard 4.5 applies to the violation of RPC 1.1 charged in Count 1:

9 **4.5 Lack of Competence**

10 4.51 Disbarment is generally appropriate when a lawyer’s course of conduct
11 demonstrates that the lawyer does not understand the most fundamental
12 legal doctrines or procedures, and the lawyer’s conduct causes injury or
13 potential injury to a client.

14 4.52 Suspension is generally appropriate when a lawyer engages in an area of
15 practice in which the lawyer knows he or she is not competent, and causes
16 injury or potential injury to a client.

17 4.53 Reprimand is generally appropriate when a lawyer:

18 (a) demonstrates failure to understand relevant legal doctrines or
19 procedures and causes injury or potential injury to a client; or

20 (b) is negligent in determining whether he or she is competent to handle
21 a legal matter and causes injury or potential injury to a client.

22 4.54 Admonition is generally appropriate when a lawyer engages in an isolated
23 instance of negligence in determining whether he or she is competent to
handle a legal matter, and causes little or no actual or potential injury to a
client.

195. ABA Standard 5.1 applies to the violation of RPC 8.4(b) charged in Count 2 and to
the violations of RPC 4.1(a) and RPC 8.4(c) charged in Count 3:

5.1 Failure to Maintain Personal Integrity

5.11 Disbarment is generally appropriate when:

(a) a lawyer engages in serious criminal conduct, a necessary element
of which includes intentional interference with the administration of
justice, false swearing, misrepresentation, fraud, extortion,
misappropriation, or theft; or the sale, distribution or importation of

1 controlled substances; or the intentional killing of another; or an
2 attempt or conspiracy or solicitation of another to commit any of
these offenses; or

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

5 5.12 Suspension is generally appropriate when a lawyer knowingly engages in
6 criminal conduct which does not contain the elements listed in Standard
5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

7 5.13 Reprimand is generally appropriate when a lawyer knowingly engages in
8 any other conduct that involves dishonesty, fraud, deceit, or
misrepresentation and that adversely reflects on the lawyer's fitness to
practice law.

9 5.14 Admonition is generally appropriate when a lawyer engages in any other
conduct that reflects adversely on the lawyer's fitness to practice law.

10 196. ABA Standard 6.1 applies to the violations of RPC 3.3(a)(1), RPC 8.4(c), and

RPC 8.4(d) charged in Count 2:

11 **6.1 False Statements, Fraud, and Misrepresentation**

12 6.11 Disbarment is generally appropriate when a lawyer, with the intent to
13 deceive the court, makes a false statement, submits a false document, or
improperly withholds material information, and causes serious or
14 potentially serious injury to a party, or causes a significant or potentially
significant adverse effect on the legal proceeding.

15 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
16 causes injury or potential injury to a party to the legal proceeding, or causes
an adverse or potentially adverse effect on the legal proceeding.

17 6.13 Reprimand is generally appropriate when a lawyer is negligent either in
18 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
19 adverse or potentially adverse effect on the legal proceeding.

20 6.14 Admonition is generally appropriate when a lawyer engages in an isolated
instance of neglect in determining whether submitted statements or
documents are false or in failing to disclose material information upon
21 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
22 proceeding.

23 197. ABA Standard 4.3 applies to the violation of RPC 1.8(c) charged in Count 4:

1 **4.3 Failure to Avoid Conflicts of Interest**

2 4.31 Disbarment is generally appropriate when a lawyer, without the informed
3 consent of client(s):

4 (a) engages in representation of a client knowing that the lawyer's
5 interests are adverse to the client's with the intent to benefit the
6 lawyer or another, and causes serious or potentially serious injury to
7 the client; or

8 (b) simultaneously represents clients that the lawyer knows have
9 adverse interests with the intent to benefit the lawyer or another, and
10 causes serious or potentially serious injury to a client; or

11 (c) represents a client in a matter substantially related to a matter in
12 which the interests of a present or former client are materially
13 adverse, and knowingly uses information relating to the
14 representation of a client with the intent to benefit the lawyer or
15 another and causes serious or potentially serious injury to a client.

16 4.32 Suspension is generally appropriate when a lawyer knows of a conflict of
17 interest and does not fully disclose to a client the possible effect of that
18 conflict, and causes injury or potential injury to a client.

19 4.33 Reprimand is generally appropriate when a lawyer is negligent in
20 determining whether the representation of a client may be materially
21 affected by the lawyer's own interests, or whether the representation will
22 adversely affect another client, and causes injury or potential injury to a
23 client.

 4.34 Admonition is generally appropriate when a lawyer engages in an isolated
 instance of negligence in determining whether the representation of a client
 may be materially affected by the lawyer's own interests, or whether the
 representation will adversely affect another client, and causes little or no
 actual or potential injury to a client.

198. ABA Standard 4.4 applies to the violations of RPC 1.3, RPC 1.4(b), and RPC
1.5(b) charged in Count 5 and Count 7:

4.4 Lack of Diligence

 4.41 Disbarment is generally appropriate when:

 (a) a lawyer abandons the practice and causes serious or potentially
 serious injury to a client; or

 (b) a lawyer knowingly fails to perform services for a client and causes
 serious or potentially serious injury to a client; or

 (c) a lawyer engages in a pattern of 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

1 (b) a lawyer engages in a pattern of neglect and causes injury or
2 potential injury to a client.

3 4.43 Reprimand is generally appropriate when a lawyer is negligent and does
4 not act with reasonable diligence in representing a client, and causes injury
5 or potential injury to a client.

6 4.44 Admonition is generally appropriate when a lawyer is negligent and does
7 not act with reasonable diligence in representing a client, and causes little
8 or no actual or potential injury to a client.

9 199. ABA Standard 6.2 applies to the violation of RPC 3.2 charged in Count 5:

10 **6.2 Abuse of the Legal Process**

11 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a
12 court order or rule with the intent to obtain a benefit for the lawyer or
13 another, and causes serious injury or potentially serious injury to a party or
14 causes serious or potentially serious interference with a legal proceeding.

15 6.22 Suspension is generally appropriate when a lawyer knows that he or she is
16 violating a court order or rule, and causes injury or potential injury to a
17 client or a party, or causes interference or potential interference with a legal
18 proceeding.

19 6.23 Reprimand is generally appropriate when a lawyer negligently fails to
20 comply with a court order or rule, and causes injury or potential injury to a
21 client or other party, or causes interference or potential interference with a
22 legal proceeding.

23 6.24 Admonition is generally appropriate when a lawyer engages in an isolated
instance of negligence in complying with a court order or rule, and causes
little or no actual or potential injury to a party, or causes little or no actual
or potential interference with a legal proceeding.

200. ABA Standard 7.0 applies to the violations of RPC 1.5(a), RPC 1.16(d), RPC 8.1(b),
RPC 8.4(l), and RPC 8.4(d) charged in Count 6, Count 8, and Count 9:

7.0 Violations of Duties Owed as a Professional

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.

7.2 Suspension is generally appropriate when a lawyer knowingly 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.

7.3 Reprimand is generally appropriate when a lawyer negligently 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.

1 7.4 Admonition is generally appropriate when a lawyer engages in an isolated
2 instance of negligence that is a violation of a duty owed as a professional,
3 and causes little or no actual or potential injury to a client, the public, or the
4 legal system.

5 201. The presumptive sanction for the violation of RPC 8.4(b) charged in Count 2 is
6 disbarment under ABA Standard 5.11(a)

7 202. The presumptive sanction for the violations of RPC 3.3(a)(1), RPC 8.4(c), and
8 RPC 8.4(d) charged in Count 2 is suspension under ABA Standard 6.12.

9 203. The presumptive sanction for the misconduct in Counts 1, 5, 6, 7, 8, and 9 is
10 suspension.

11 204. The presumptive sanction for the misconduct in Counts 3 and 4 is reprimand.

12 205. Under In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854, 846
13 P.2d 1330 (1993), the “ultimate sanction imposed should at least be consistent with the sanction
14 for the most serious instance of misconduct among a number of violations.”

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

- 17 (b) dishonest or selfish motive;
- 18 (d) multiple offenses; and
- 19 (j) indifference to making restitution.

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

22 208. The following mitigating factor set forth in Section 9.32 of the ABA Standards
23 applies to this case:

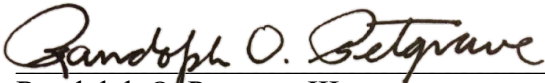
- (a) absence of a prior disciplinary record.

209. On balance, the aggravating and mitigating factors warrant an increased sanction
of disbarment where the presumptive sanction is otherwise suspension.

1 **RECOMMENDATION**

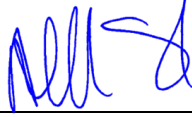
2 210. Based on the ABA Standards and the applicable aggravating and mitigating
3 factors, the Hearing Officer recommends that Respondent James Sinclair be disbarred and that
4 reinstatement be conditioned upon payment of restitution to Yaroslav Prikhodko in the amount of
5 \$5,330.

6 DATED this 24th day of September 2025.

7
8 
9 Randolph O. Petgrave III
Chief Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the FOF, COL and HO's Recommendation to be emailed to the Office of Disciplinary Counsel and to Respondent, James Sinclair, at jamesamsinclair@gmail.com, on the 24th day of September, 2025.

A handwritten signature in blue ink, appearing to be 'M. A.', is written above a horizontal line.

Clerk to the Disciplinary Board