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IN THE SUPREME COURT OF THE STATE OF WASHINGTON.

IN RE:

STEPHEN D. CRAMER,
Lawyer (Bar No 9085)

CASE NO. 2006744
Proceeding No. 07#00056
PETITIONER'S BRIEF

COMES NOW Appellant Stephen D. Cramer, by and through his
counsel of record, Hawley Troxell Ennis & Hawley LLP, and files
Petitioner's Brief

ORIGINAL

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PETITIONER'S BRIEF

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I.

INTRODUCTION

This is an appeal from a decision of the Disciplinary Board of the Washington State Bar Association, which adopted the decision of Hearing Officer Craig C. Beles, recommending disbarment of attorney Stephen Cramer (“Cramer”). Cramer operated his law practice as a limited liability company under the name Stephen D Cramer LLC. At some point in 2004 or 2005, Cramer fell behind on his tax payments to both the Washington State Department of Revenue and the federal Internal Revenue Service. After Cramer was unable to pay Stephen D Cramer LLC’s tax warrants, the entity’s certificate of registration was revoked and Cramer notified the Department of Revenue that Stephen D. Cramer LLC would cease doing business.

In order to continue representing his clients, Cramer started practicing law under another entity—the Law Office of Stephen D. Cramer, Inc., P.S. As a result of these actions, Cramer was accused of operating his law business without a valid Department of Revenue business license and certificate of registration and continuing to operate his law business after the Department of Revenue had revoked the certificate of registration. He was also accused of attempting to

circumvent the Department of Revenue's tax law requirements by changing the name of the business under which he practiced law.

Cramer did continue to practice law after Stephen D. Cramer LLC's certificate of registration was revoked, but he did not continue operating under that entity. Rather, he registered the new entity, the Law Office of Stephen D. Cramer, Inc., P S , with the State of Washington and practiced law as that entity. Cramer did not attempt to conceal the fact that he was continuing to practice law, nor did he intend to circumvent the tax laws. Cramer continued to practice law in order to continue protecting the interests of his clients and to raise the funds to pay off the tax warrants. Because Cramer was able to continue practicing law, he was able to pay off the tax warrants.

Based on this conduct, the Hearing Officer recommended disbarment. The Disciplinary Board accepted those findings and recommendations and Cramer brought this appeal.

Cramer's actions do not warrant the severe sanction of disbarment. Cramer's actions were not dishonest and he did not attempt to hide his actions. Based on his technical violations of the statutes, the appropriate sanction would be a reprimand or a suspension. The ultimate sanction of disbarment is wholly inappropriate.

II.

ASSIGNMENTS OF ERROR

- A. The Disciplinary Board incorrectly found that Cramer violated the Rules of Professional Conduct when he continued practicing law after the certificate of registration for Stephen D Cramer LLC was revoked.
- B. The Disciplinary Board incorrectly found that Cramer violated Rule of Professional Conduct 8.4(b) by intentionally attempting to circumvent the Department of Revenue's revocation order because Cramer did not attempt to circumvent the order and Cramer's conduct was not dishonest.
- C. The Disciplinary Board incorrectly found that Cramer's actions warranted disbarment, because the presumptive sanctions direct a lesser sanction and the aggravating and mitigating factors were improperly applied.

III.

STATEMENT OF THE CASE

Cramer was admitted to the Washington Bar in 1979. Transcript of Hearing on September 11, 2008 before Hearing Officer Craig C Beles ("TR") 9 In 1995, he began operating his law practice as a limited liability company under the name Stephen D. Cramer LLC. As part of the operations, Stephen D. Cramer LLC was issued tax registration number 601 641 084 on July 1, 1995. EX 1.

At some point in 2004 or 2005, due to Cramer's difficulty generating sufficient income to operate his law practice, he fell behind on his tax payments to both the Washington State Department of Revenue and the federal Internal Revenue Service TR 10-11. Upon advice from

the Department of Revenue, Cramer filed his tax returns, but did not make any payments. IR 12

On May 24, 2004; April 12, 2006; and May 10, 2006, Tax Warrant numbers 049598A, 070024A, and 071023A were issued to Stephen D Cramer LLC and filed with the Clerk of Superior Court, King County EX 1A-1C The Tax Warrants were issued for \$2,537.74, \$2,926.21, and \$4,499.44 and the amounts of \$2,056.07, \$3,007.14, and \$4,596.98 remained unpaid as of September 13, 2006. EX 1A-1C; Ex 2.

After notice was sent to Cramer, a hearing was held before the Department of Revenue Compliance Division on September 13, 2006 to determine whether the Certificate of Registration for Stephen D. Cramer LLC should be revoked due to unpaid tax warrants. IR 14; Ex 8A. Cramer did not appear at that hearing because he had been notified that the hearing would be a formality. IR 14. After that hearing, the Presiding Officer ordered that the Certificate of Registration issued to Stephen D. Cramer LLC be revoked. EX 2.

The Department mailed Cramer a copy of the September 13, 2006 Preliminary Revocation Order on the date of the hearing EX 2. Cramer did not request review of the Preliminary Revocation Order. Instead, on September 22, 2006, Cramer notified the Department of Revenue that Stephen D Cramer LLC would cease doing business on September 30, 2006. EX 8E. The final order revoking the certificate of registration for Stephen D. Cramer LLC was signed on October 6, 2006 EX 3.

Ms. Jones posted the Final Revocation Order at the location of Cramer's law practice on October 12, 2006. EX 4 This notice was posted on the main entrance to Cramer's interior law offices rather than on the main entrance to the building that Cramer shares with other independent attorneys. IR 20.

The Final Revocation Order stated that the order was to "be posted in a conspicuous place at the main entrance to the taxpayer's place of business and remain posted until the Tax Warrants are paid." It also stated

NOTICE: Section 82 32.290 of the Revised Code of Washington provides that it shall be unlawful for any person to engage in business after revocation of a certificate of registration. Persons violating this provision shall be guilty of a Class C Felony. All cases will be immediately referred to the Prosecuting Attorney.

EX 3 After leaving the Order posted for a few weeks, Cramer removed the posted Order from his door. IR 39-40.

On September 20, 2006, Cramer started practicing law as the Law Office of Stephen D. Cramer, Inc., P.S. As required by law, Cramer obtained a Certificate of Incorporation for the Law Office of Stephen D Cramer, Inc., P S. from the Washington State Secretary of State's office and a Master License Service from the State of Washington. EX 8B, R-22. The State of Washington assigned this new corporation UBI No 602-

651-764 EX 11E. As part of the incorporation, all of the assets and liabilities, including the Department of Revenue and Internal Revenue Service liabilities, of Stephen D. Cramer, PLLC were assigned to the new corporation. TR 17; EX R-23 Cramer also filed an initial annual report for the Law Office of Stephen Dr. Cramer, Inc. P.S. on October 27, 2006. EX 8F. Cramer did not register with the Department of Revenue until January 5, 2007, after receiving letters from the Department of Revenue and being visited by two agents from the Department of Revenue T 21; EX 8G, 10, 11A, 12.

Because of this new entity, Cramer was able to continue his practice of law without any disruption in service to his clients. TR 15. Cramer was also able to pay the balance of all overdue taxes owed by Stephen D. Cramer PLLC and the Law Offices of Stephen D. Cramer, P.S., Inc. TR 18.

The WSBA brought a Complaint against Cramer on September 6, 2007 alleging two counts of violations of the Rules of Professional Conduct ("RPC"). Count One alleged as follows:

By removing the Department of Revenue's posted order revoking Stephen D Cramer LLC's and/or Stephen D. Cramer PLLC's certificate of registration, by operating the Law Office of Stephen D. Cramer, Inc., P S. without a valid Department of Revenue business license and/or certificate of

registration, and/or by continuing to operate his law business after the Department of Revenue had revoked the certificate of registration for Stephen D. Cramer LLC, Respondent violated RPC 8.4(b) (by violating RCW 82.32.20(1) and/or RCW 82.32.290 (2)), RPC 8.4(c), and/or RPC 8.4(i).

In addition, Count II alleged

By attempting to circumvent the Department of Revenue's tax law requirements by changing the name of the business under which Respondent practiced law, Respondent violated RPC 8.4(c)

A hearing was scheduled for January 24, 2008, in accordance with Rule 10.13 of the Rules for Enforcement of Lawyer Conduct (ELC).

Cramer was not present at that hearing. JAN TR 4. Cramer's attorney stated that he sent Cramer a copy of the November 6, 2007 Scheduling Order. JAN TR. 4. Cramer's counsel also stated that he called Cramer on his cell phone the evening before the hearing twice, but was unable to speak with Cramer because the phone was busy once and the call went to voicemail the other time. JAN TR 5. After the hearing, Cramer immediately informed his counsel and the Hearing Officer that he never received notice of the hearing. EX A 25.

Another hearing occurred on September 11, 2008 where Cramer was afforded the opportunity to testify and present evidence on his behalf.

In the Hearing Officer's Amended Findings of Fact, Conclusions

of Law, and Hearing Officer's Recommendation, the Hearing Officer found that (1) Cramer intentionally removed the Final Revocation Order that the Department of Revenue had posted on his door without first paying or attempting to make any payments on the tax warrants underlying the Final Revocation Order; (2) Cramer intentionally engaged in his law practice after his certificate of registration for Stephen D Cramer PLLC had been revoked by the Department of Revenue; (3) Cramer intentionally engaged in his law business, Law Office of Stephen D. Cramer, Inc., P.S., without first obtaining a certificate of registration with the Department of Revenue; and (4) his actions were calculated to circumvent the Department of Revenue and state tax laws, and involved dishonesty, deceit, and disregard for the rule of law in violation of RCW 82.32.290. (Hearing Officer's Amended Findings of Fact, Conclusions of Law, and Hearing Officer's Recommendation, p. 15 ¶¶ 76-79).

The Hearing Officer found that the public and legal system were injured by Cramer's conduct and the Department of Revenue was injured by the efforts it had to expend ensuring Cramer had a certificate of registration from the Department of Revenue and collecting on the overdue excise taxes. (*Id.*, p. 15 ¶ 80). Finally, the Hearing Officer found that Cramer violated ELC 10.13(b) by failing to appear at the January 24,

2008, disciplinary hearing, despite being notified by his counsel of the date of the hearing. (*Id.*, p. 15, ¶ 82).

Based on these findings, the Hearing Officer concluded that the Washington State Bar Association met its burden of proving each count in the Formal Complaint and that Cramer had committed gross misdemeanors and a class C felony. (*Id.*, p 16-17, ¶¶ 85-93). Based on these violations, the Hearing Officer concluded that Cramer violated RPC 8.4(b), RPC 8.4(c), and RPC 8.4(i). (*Id.*, p 17, ¶ 93). Finally the Hearing Officer concluded that by intentionally attempting to circumvent the Department of Revenue's Final Revocation Order by changing the name of the business and continuing to practice without a certificate of registration, he acted dishonestly and deceitfully in violation of RPC 8.4(c).

The Hearing Officer then determined that the presumptive sanction is disbarment and found aggravating factors with no mitigating factors (*Id.*, p. 19, ¶¶ 97-99). Based on this, the Hearing Officer recommended that Cramer be disbarred. (*Id.*, p. 20, ¶ 101)

On February 2, 2009, the Disciplinary Board issued its Order Adopting Hearing Officer's Decision. Three members of the Disciplinary Board dissented arguing that the imposed punishment of disbarment was too harsh. That order accepted all of the Hearing Officer's recommendations. Cramer filed this timely appeal.

IV.

STANDARD OF REVIEW

“In disciplinary proceedings, the Supreme Court has ‘plenary authority’ and the court’s discretion is limited only by the evidence before it.” *In re Disciplinary Proceeding Against Dynan*, 152 Wn.2d 601, 601 (Wash. 2004). While unchallenged findings of facts are taken as true, the Court will only uphold challenged findings of fact that are supported by a clear preponderance of the evidence. *Id* In general, the Court will not disturb findings of fact made upon conflicting evidence. *In re Longacre*, 155 Wn.2d 723, 736 (Wash. 2005). The Court reviews conclusions of law de novo *In re Dynan*, 152 Wn 2d at 601.

V.

ARGUMENT

- A. **The Disciplinary Board incorrectly found that Cramer violated the Rules of Professional Conduct when he continued practicing law after the certificate of registration for Stephen D. Cramer LLC was revoked.**

Cramer has never denied that he continued practicing law after the certificate of registration for Stephen D Cramer LLC was revoked. Rather, Cramer always asserted that he was continuing to practice law in order to meet his tax obligations for Stephen D. Cramer LLC. Cramer

also intended to continue his uninterrupted representation of his clients,
which was in their best interest

The Hearing Officer, whose findings were adopted by the
Disciplinary Board (hereafter collectively, the "Board"), found that
Cramer violated RCW 82.32.290(1) and RCW 82.32.290(2) by continuing
to practice law after the certificate of registration for Stephen D. Cramer
LLC was revoked. Based on these violations, the Board found that
Cramer violated Rules of Professional Conduct 8.4(b), 8.4(c), and 8.4(i).

RCW 82.32.290(1) provides that:

(1)(a) It shall be unlawful:

(i) For any person to engage in
business without having obtained a
certificate of registration as provided in this
chapter;

(ii) For the President, vice
president, secretary, treasurer, or other
officer of any company to cause or permit
the company to engage in business without
having obtained a certificate of registration
as provided in this chapter;

(iii) For any person to tear down
or remove any order or notice posted by the
department

RCW 82.32.290 (2) provides that

(2)(a) It shall be unlawful:

(i) For any person to engage in business after revocation of a certificate of registration

As set forth in the Statement of the Case, Cramer did delay in obtaining the certificate of registration for the Law Office of Stephen D. Cramer, Inc , P.S. He also removed the Final Revocation Order that was posted on the main entrance to Cramer's interior law offices after it had been posted for a few weeks. However, as Cramer testified, the delay in obtaining the certificate of registration was not intentional. In addition, Cramer removed the posted Order because Stephen D. Cramer LLC had ceased operations and was no longer conducting business at that location.

However, even if the Court finds that Cramer violated RCW 82.32.290(1) and RCW 82.32.290(2), those activities do not constitute violations of the Rules of Professional Conduct 8.4(b) or 8.4(c).

A violation of Rule of Professional Conduct (RPC) 8.4(b) occurs when a lawyer commits "a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." RPC 8.4(b) Conduct reflects adversely on a lawyer's fitness to practice law only "when there is some nexus between the lawyer's conduct and those characteristics relevant to law practice." *In re Discipline of Curran*, 115 Wn 2d 747, 768, 801 P.2d 962 (1990) The purpose of this rule is to

protect the public from incompetent practitioners, not to discipline lawyers that harm the public image of the bar. *Id.*

Therefore, in general, the cases involving the application of this rule have clearly shown unfitness to practice, such as witness tampering, misappropriation of law firm's funds, and theft. *Id.* at 766. Consequently, the commission of a crime by itself is not sufficient to constitute a violation of RPC 8.4(b). Rather, the crime must indicate that the lawyer is dishonest, untrustworthy, or unfit as a lawyer.

A violation of RPC 8.4(c) occurs when a lawyer "engage[s] in conduct involving dishonesty, fraud, deceit or misrepresentation" RPC 8.4(c). When determining whether a lawyer violated this provision, "the court must decide 'whether the attorney lied. No ethical duty could be plainer.'" *In re Discipline of Dynan*, 152 Wn.2d 601, 616, 98 P.3d 444 (2004).

Finally, a violation of RPC 8.4(i) occurs when a lawyer "commit[s] any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law" RPC 8.4(i) This violation can occur regardless of whether the conduct constitutes a felony or misdemeanor, and a conviction is not required for disciplinary action. *Id.*

First, the Board erroneously held that Cramer violated 8.4(b). Cramer's actions did not reflect badly on his fitness to practice law. In fact, Cramer's motives for his actions were to continue his practice of law. Unlike the other cases involving 8.4(b), Cramer's actions did not show an unfitness to practice law. He did not tamper with witnesses or steal. Cramer merely continued representing his clients under a new entity. His failure to obtain all of the proper registrations for that entity did not reflect poorly on his ability to represent his clients. Rather, Cramer's ability to continue practicing law helped rather than harmed his clients.

Second, Cramer did not lie about his new entity or removal of the order. Although Cramer failed to register the entity with the Department of Revenue, he did register the entity with the Secretary of State and State of Washington. Cramer never lied or misrepresented any fact related to his continuing to practice law. Nor did he lie about removing the posting. As set forth in *Dynan*, 8.4(c) requires that Cramer lied about his actions. Cramer did not lie about his actions and, therefore, did not violate RPC 8.4(c). As a result, the Board's conclusion that Cramer violated RPC 8.4(c) was erroneous.

Cramer does not dispute that he violated a rule of law under 8.4(i) because, although unintentionally, he did operate the Law Office of

Stephen D. Cramer, Inc., P S without obtaining the certificate of registration.

B. The Disciplinary Board incorrectly found that Cramer violated Rule of Professional Conduct 8.4(c) by intentionally attempting to circumvent the Department of Revenue's revocation order because Cramer did not attempt to circumvent the order and Cramer's conduct was not dishonest.

The Board further erred when it found that Cramer violated Rule of Professional Conduct 8.4(b) by attempting to circumvent the Department of Revocation's order. Cramer did cease operations of Stephen D. Cramer LLC when the Department of Revenue revoked the certificate of registration. And, more importantly, Cramer did not act dishonestly.

As stated above, a violation of RPC 8.4(c) only occurs when an attorney lies. *In re Discipline of Dynan*, 152 Wn 2d at 616. Cramer never misrepresented that he was continuing to practice law, nor did he lie about that fact when he registered with the Secretary of State and State of Washington. Cramer also did not lie about his activities when he was visited by the revenue agents.

Cramer's conduct to begin the new entity was to further his goal of continuing to practice law. Cramer's intent to continue his practice was to properly represent his clients and to pay off the tax warrants. Notably, Cramer was able to pay off all tax delinquencies based on his continued

practice. This conduct is not the dishonest, fraudulent conduct that 8.4(b) is designed to cover. Therefore, the Board erred when it found that Cramer violated 8.4(b) by circumventing the revocation order.

C. The Disciplinary Board incorrectly found that Cramer's actions warranted disbarment, because the presumptive sanctions direct a lesser sanction and the aggravating and mitigating factors were improperly applied.

The Board further erred when it found that Cramer should be disbarred based on his actions. Even if Cramer did violate the Rules of Professional Conduct, the sanction imposed by the Board is entirely too severe.

1. Presumptive Sanctions

The American Bar Association's Standard for Imposing Sanctions govern lawyer sanctions in Washington. *In re Disciplinary Proceeding Against Vanderbeek*, 153 Wn.2d 64, 89 (Wash. 2004). Under those standards, the Board must have considered "(1) the ethical duties violated, (2) the lawyer's mental state, and (3) the actual or potential injury caused by the lawyer's conduct." *In re Disciplinary Proceeding Against Trejo*, 185 P.3d 1160, 1170 (2008). In the next step, the court evaluates whether any aggravating or mitigating circumstances exist. *Id.*

As Cramer has conceded, he did violate RPC 8.4(i) by violating the rule of law. RPC 8.4(i) does not have a counterpart in the ABA rules,

so the ABA Standards do not provide a presumptive sanction. However, this Court has held that the presumptive sanction for disregarding the rule of law when not directly related to the practice of law should be reprimand. *Disciplinary Proceeding Against Perez-Pena*, 163 P.3d 408, 414-15 (Wash 2007). And even if the actions were related to the practice of law, only a suspension would be warranted. *Id.*

Violations of RPC 8.4(b) and 8.4(c) are evaluated under ABA Standard 5.1, which addresses the failure to maintain personal integrity. ABA Standard 5.1; see *In re Disciplinary Proceeding Against Christopher*, 153 Wn.2d 669, 678-69 (Wash 2005); *Disciplinary Proceeding Against Marshall*, 157 P.3d 859, 873 (2007).

Pursuant to ABA Standard 5.1

5.11 Disbarment is generally appropriate when (a) a lawyer engages in any intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

5.12 Suspension is generally appropriate when a lawyer knowingly engages in 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.

5.13 Reprimand is generally appropriate when a lawyer knowingly engages in other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that

adversely reflects on the lawyer's fitness to practice law.

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.

Disbarment is only appropriate when a lawyer engages in serious criminal conduct or *intentional conduct* involving dishonesty, fraud, deceit, or misrepresentation that *severely* adversely reflects on the lawyer's fitness to practice. *In re Marshall*, 157 P.3d at 873 Suspension, on the other hand, is appropriate where a lawyer knowingly engages in less serious criminal conduct involving dishonesty. Finally, reprimand is appropriate where the lawyer knowingly engages in any other conduct involving dishonesty that adversely reflects on the lawyer's fitness to practice law

In this case, disbarment is not the presumptive sanction. Cramer's conduct did not involve dishonesty, fraud, deceit, or misrepresentation. Even if Cramer's actions were considered intentional and involving dishonesty, they do not *severely* adversely reflect on his fitness to practice. Rather, his violations of the statutes were, at most, less serious criminal conduct. Because of his actions, Cramer was able to continue practicing law and pay off the tax warrants. Therefore, they could not severely adversely reflect on his fitness to practice law.

2. Aggravating and Mitigating Factors

In addition, the Board incorrectly applied the aggravating and mitigating factors. Under ABA Standard 9.3, the Board should have applied the mitigating factor of remoteness for Cramer's prior offenses. Two of the three offenses the Board considered were in 1991 and 1994. These offenses are too remote and should be applied as a mitigating factor.

Additionally, Cramer had an absence of dishonest or selfish motive. As stated above, Cramer did not attempt to hide the fact that he was forming another entity and his motives were based on continuing his practice for the sake of his clients and to pay off the tax warrants.

Finally, Cramer made a timely good faith effort to pay off the tax warrants and that should be applied as a mitigating factor. See ABA Standard 9.3. The Board treated it as an aggravating factor because the warrants were not paid until after the proceedings were commenced. However, as mentioned by the dissent in the Board's order, the payment on the tax warrants should have been treated as a mitigating factor to encourage the payment of the tax warrants. In fact, the dissent determined that a three-year suspension is more appropriate than disbarment because Cramer paid off the tax warrants.

3. Noble Factors

When determining whether a sanction is proper, the court can consider two factors in addition to the presumptive sanction and the relevant aggravating and mitigating factors. *In re Disciplinary Proceeding Against Trejo*, 185 P.3d at 1176-77. Those factors are “(1) proportionality of the sanction to the misconduct and (2) the extent of the agreement among the members of the Disciplinary Board.” *Id.* at 1176. Both of those factors cut in favor of Cramer.

First, the recommendation of a divided Board is entitled to less weight. *Id.* at 1177. Three of the Board members dissented from the decision because they believed the sanction was overly harsh. Disciplinary Board Order Adoption Hearing Officer’s Decision, filed February 2, 2009. The dissent stated that “[b]y imposing the ultimate sanction on Mr. Cramer, when he did pay back the taxes, it is not possible to treat Mr. Cramer differently than a lawyer who failed to pay the taxes. In this instance, those voting in the minority believe that a three-year suspension would be a more appropriate sanction.” Based on this dissent and this Court’s plenary review over disciplinary matters, the Board recommendation is not given as much deference.

Additionally, the sanction is not proportional to the misconduct. Cases involving the ultimate sanction of disbarment involved much more

egregious conduct, and usually conduct that harms the attorney's client. For example, in *In re Disciplinary Proceeding Against Vanderbeek*, 153 Wn 2d 64 (2004), the attorney was disbarred for violation RPC 8.4(c) and other rules due to her billing practices, which included inflating clients' bills, including, among other things, billing clients for fees and costs incurred in connection with her attempts to collect outstanding fees, filing attorney liens of the proceeds of clients' real property sales and billing clients for those fees, and refusing to provide clients with itemized bills. *Id.* at 70-71. Disbarment was appropriate because her actions were with the intent of personal gain and caused serious financial injuries to her clients. *Id.* at 90-91.

Other disbarment cases similarly involved more serious misconduct. See *In Disciplinary Proceeding Against Burtch*, 175 P.3d 1070, 1073 (2008) (imposing the sanction of disbarment due to long history of testifying falsely, presenting false evidence to the court, refusing to pay restitution, and refusing to return unearned fees); *In re Disciplinary Proceeding Against Day*, 173 P 3d 915, 917 (2007) (imposing the sanction of disbarment after attorney was convicted of first degree child molestation after molesting a client); *In re Disciplinary Proceeding Against Miller*, 149 Wn 2d 262, 282 (2003) (imposing the sanction of

disbarment when attorney converted over \$190,000.00 to himself when drafting a will for his client).

In contrast, Cramer's actions were much less severe. First, Cramer's only intent was to continue practicing law so that he could represent his clients and pay off the tax warrants. Second, he did pay off the tax warrants. Cramer's actions are not severe enough to warrant the ultimate sanction of disbarment. His actions did not harm his clients in any way.

VI.

CONCLUSION

For the reasons stated above, the Petitioner respectfully requests that this Court find that the correct sanction for his negligence is a reprimand, admonition, or suspension and the Board's sanction of disbarment should be vacated.

RESPECTFULLY SUBMITTED THIS 1st day of April, 2009.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By 
Stephen C. Smith, WA State Bar No 15414
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of April, 2009, I caused to be served a true copy of the foregoing PETITIONER'S BRIEF by the method indicated below, and addressed to each of the following:

Joanne S. Abelson _____ U.S. Mail, Postage Prepaid
Office of Disciplinary Counsel _____ Hand Delivered
Washington State Bar Association _____ Overnight Mail
1325 Fourth Avenue, Suite 600 E-mail
Seattle, WA 98101-2539 _____ Telecopy
[Attorneys for Appellee]



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To: Jennifer Newman
Cc: Stephen C. Smith; bekcyc@wsba.org; joannea@wsba.org; Beth Smethers
Subject: RE: In re: Stephen D. Cramer, Case No. 200685-0 [DMSMSG1.FID382227]

Rec. 4-1-09

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From: Jennifer Newman [mailto:jnewman@hawleytroxell.com]
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To: OFFICE RECEPTIONIST, CLERK
Cc: Stephen C. Smith; bekcyc@wsba.org; joannea@wsba.org; Beth Smethers
Subject: In re: Stephen D. Cramer, Case No. 200685-0 [DMSMSG1.FID382227]

To Whom it May Concern:

Attached for filing in the above-referenced matter is the Petitioner's Brief.
If you have any question or any problems with the attachment, please do not hesitate to call.

Thanks,

Please note that as of January 5, 2009, my email address is jnewman@hawleytroxell.com.

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