

June 19, 2020

VIA EMAIL ONLY

Anne van Leynseele
[REDACTED]

Re: Grievance of Anne van Leynseele against Aaron A. Pelley
ODC File No. 18-00464

Dear Ms. van Leynseele:

This letter is to advise you that we have completed our investigation of your grievance against lawyer Aaron A. Pelley and to advise you of our decision. The purpose of our review has been to determine whether sufficient evidence exists on which to base a disciplinary proceeding. Under the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), a lawyer may be disciplined only on a showing by a clear preponderance of the evidence that the lawyer violated the Washington Supreme Court's Rules of Professional Conduct (RPC). This standard of proof is more stringent than the standard applied in civil cases.

Based on the information we have received, insufficient evidence exists to prove unethical conduct by Mr. Pelley by a clear preponderance of the evidence in this matter. Therefore, we are dismissing the grievance. Our decision to dismiss the grievance is based on a review of your original grievance received on March 22, 2018, Mr. Pelley's response dated August 9, 2019, your subsequent submissions dated May 4, 2018, August 30, 2018, September 4, 2018, January 15, 2019, March 12, 2019, March 20, 2019, May 16, 2019, May 20, 2019, June 28, 2019, and September 9, 2019; and Mr. Pelley's submissions dated July 9, 2018, October 10, 2018, January 16, 2019, January 22, 2019, February 5, 2019, April 26, 2019, May 30, 2019, and September 25, 2019. It is also based on interviews of you, Brad Andersen, **Roy**, and **Dick**.¹

Mr. Pelley is your former law partner. Your grievance arises from disputes related to your time working together and the acrimonious dissolution of your partnership. In or around April 2016, you and Mr. Pelley merged your firms, Northwest Marijuana Law ("NWMJ Law") and Pelley Law. You initially operated under the NWMJ Law name but later changed the name of the firm

¹ Your submissions regarding Mr. Pelley also contain a number of allegations of misconduct against **Dick**, who is a lawyer licensed in Oregon. Because **Dick** is not a Washington lawyer, this letter does not address his conduct. It appears a grievance you filed against **Dick** with the Oregon State Bar was dismissed.



to **NWMJ** Law. In or around December 2017, Mr. Pelley indicated he would leave **NWMJ** Law and you and he began negotiating the separation.

Disputes between you and Mr. Pelley arose during the separation process and in February 2018 your lawyer sent Mr. Pelley a letter listing numerous allegations of misconduct and violations of the firm's operating agreement. However, it appears you resolved those issues as you and Mr. Pelley eventually executed a settlement agreement on March 5, 2018. Additional disputes arose and in April 2018 you initiated arbitration against Mr. Pelley, alleging breaches of the settlement agreement. In May 2019, the arbitrator largely found in your favor and awarded approximately \$60,000 in damages.

In June 2019, Mr. Pelley challenged the arbitration award in King County Superior Court. In a hearing on June 27, 2019, the court vacated the award and ordered a new hearing with a different arbitrator. At that point, you voluntarily vacated the award and, on your motion, the case was dismissed with prejudice. Your concerns with Mr. Pelley's alleged breaches of the settlement agreement appear to constitute a private, civil dispute that was resolved through the arbitration and Superior Court proceedings.

Aside from alleged violations of the settlement agreement, it appears your primary concern is your allegation that Mr. Pelley committed multiple felonies during and after his time at **NWMJ** Law. It does not appear he has been charged with or convicted of any crimes and, as explained below, we do not believe we could meet our burden of proving the criminal allegations by a clear preponderance of the evidence.

You allege Mr. Pelley violated the Computer Fraud and Abuse Act, 18 U.S.C § 1030, a federal statute prohibiting, in pertinent part, intentionally accessing a computer without authorization and obtaining information. On March 7, 2018, following his separation from **NWMJ** Law, Mr. Pelley accessed Google Drive and deleted **NWMJ** Law files. Mr. Pelley, who had been the administrator of the firm's Google Drive files, maintains the deletions were inadvertent and the result of an attempt to clean out old files related to his former solo practice, Pelley Law. He explains that he sought to delete Pelley Law files and did not realize **NWMJ** Law files were held in a subfolder under that account, rather than in their own master folder. He maintains that despite the inadvertent deletion, the files were backed up elsewhere.

Roy, another lawyer at **NWMJ** Law, explained he was able to recover most, if not all, of the files through Google Drive and that he was unaware of issues with missing files after the retrieval. **Roy** also explained that Mr. Pelley's explanation regarding inadvertently deleting the files was plausible. Based on the available information, we do not believe we could prove by a clear preponderance of the evidence that Mr. Pelley violated 18 U.S.C § 1030 or that his conduct otherwise violated the RPC.²

² It appears you also allege a violation of this statute in connection with Mr. Pelley wiping **Dick**'s laptop following **Dick**'s termination from **NWMJ** Law in March 2018. Mr. Pelley maintains wiping the laptop was standard practice, which you dispute. As with the Google Drive issue, we do not believe we could prove an RPC violation with respect to this issue.

You also allege that Mr. Pelley committed various acts of theft of **NWMJ** Law funds. First, you allege that Mr. Pelley improperly wrote off client bills and that such conduct amounts to theft of firm funds. While you speculate that those clients paid Mr. Pelley directly, none of the information we have reviewed indicates Mr. Pelley received the fees he waived. Next, you allege Mr. Pelley stole firm funds in connection with the representation of a client named [REDACTED]. Mr. Pelley was co-counsel with another lawyer, Jeffrey Steinborn, who was unaffiliated with **NWMJ** Law. The case settled in the fall of 2017, at which time Mr. Steinborn provided Mr. Pelley with his portion of the fees. You maintain you were unaware of the settlement and never received any share of it. In a deposition connected to the arbitration, Mr. Pelley testified that he told you about the settlement. He maintains you received your share through partnership draws. Issues regarding the waiver and division of client fees appear to be disputes primarily related to the management of the firm and/or its dissolution. Based on the available information, we do not believe we could meet our burden of proving theft by Mr. Pelley in these instances.

Finally, you allege Mr. Pelley embezzled approximately \$46,000 through unauthorized draws from the firm operating account between July 2016 and July 2017. Mr. Pelley denies the withdrawals were unauthorized and notes that receipts for the transactions were provided to firm accountants. It appears that under the firm's operating agreement, Mr. Pelley had authority to make cash disbursements of under \$10,000 without your approval. None of the draws you have identified as unauthorized exceeded that amount. While you maintain the draws were unauthorized because the cumulative total exceeded \$10,000, there is no evidence that Mr. Pelley's authority was limited by the cumulative total of disbursements. We do not believe we could meet our burden of proving Mr. Pelley embezzled funds.

While the criminal allegations appear to be your primary concern, you made a number of other allegations of misconduct that are not recited in detail here. We have reviewed all of your allegations and the related evidence and do not believe disciplinary proceedings are warranted. Many of the allegations amount to private disputes and we note that much of the evidence you rely on simply does not support the allegations. For instance, you allege Mr. Pelley improperly had a client sign a fee agreement with **NWMJ** Law on March 22, 2016, prior to his joining the firm on April 15, 2016. However, the fee agreement you provided bears a date of April 22, 2016. Additionally, you allege Mr. Pelley stole **NWMJ**'s Oregon office furniture when he took over that office following the separation. You assert Mr. Pelley knew the furniture was not intended to remain with the office but cite as evidence a February 15, 2018 email in which he stated he assumed the furniture would remain. Such evidence is not sufficient to meet the heightened burden of proof in a lawyer disciplinary proceeding.

As discussed above, a number of your allegations against Mr. Pelley appear to be civil in nature. While we understand you have strong disagreements with Mr. Pelley over the propriety of his conduct in light of **NWMJ**'s operating agreement or the settlement agreement, those issues are best addressed in civil proceedings. With respect to your allegations of criminal conduct, we do not believe, based on the information we have reviewed, that we could meet our burden of proving the crimes you allege. However, if Mr. Pelley is charged with or

convicted of a crime related to the conduct underlying your grievance, you may request that we reopen the grievance.

We have considered carefully the information you provided and appreciate your bringing it to our attention. However, for the reasons explained above, we have decided to take no further action on your grievance and are dismissing it under ELC 5.7(a). If you do not mail or deliver a written request for review of this dismissal to us within **forty-five (45) days** of the date of this letter, our decision to dismiss your grievance will be final. Dismissal of a grievance constitutes neither approval nor disapproval of the conduct involved and should not be taken as the position of the Office of Disciplinary Counsel with respect to any other matter.

Sincerely,



Disciplinary Counsel

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