

STATE OF MICHIGAN

Attorney Discipline Board

Grievance Administrator,

Petitioner/Appellee,

v

David A. Monroe, P 44418,

Respondent/Appellant,

Case No. 12-20-GA

Decided: December 20, 2012

FILED
ATTORNEY DISCIPLINE BOARD
12 DEC 20 AM 7:06

Appearances:

Nancy R. Alberts, for the Grievance Administrator, Petitioner/Appellee
David A. Monroe, In Pro Per, Respondent/Appellant

BOARD OPINION

Respondent, David A. Monroe, petitioned the Attorney Discipline Board for review of the order of disbarment and restitution issued by Livingston County Hearing Panel #1 on September 26, 2012. The Board has conducted review proceedings in accordance with MCR 9.118, including review of the record before the hearing panel and consideration of the briefs and arguments presented to the Board at a review hearing conducted on November 29, 2012. The order of disbarment and restitution in this case is affirmed.

On review, the Attorney Discipline Board must determine whether the hearing panel's findings of misconduct have evidentiary support in the whole record. *In re Daggs*, 411 Mich 304, 318-319 (1981); *Grievance Administrator v August*, 438 Mich 296, 304; 475 NW2d 256 (1991). In applying that standard of review to a panel's factual findings, it is not the Board's function to substitute its own judgment for that of the panel's or to offer a *de novo* analysis of the evidence. *Grievance Administrator v Carrie L.P. Gray*, 93-250-GA (ADB 1996). In this case, the Board's review of the panel's factual findings and its rulings on the charges of professional misconduct is significantly aided by the hearing panel's detailed report (Appendix A), which includes concise

citations to the record. Over the course of two days of evidentiary hearings, the panel heard sworn testimony from 13 witnesses, including respondent, and received 33 exhibits into evidence. As set forth in greater detail in Appendix A, the panel found that respondent engaged in a wide ranging pattern of misconduct that included neglecting legal matters and failing to act with reasonable diligence on behalf of seven clients; failing to appropriately safeguard client property; making misrepresentations to a client; charging an excessive fee; failing to return unspent costs and unearned fees paid in advance; failing to deposit expenses paid in advance into a trust account; failing to respond to lawful requests for information from the Grievance Administrator, including failure to respond to a subpoena; failing to properly supervise non-lawyer assistants; and, failing to provide timely answers to 11 requests for investigation. On review of that record, the Board is satisfied that there is ample evidentiary support for the panel's findings and conclusions on the charges of misconduct and those findings will not be disturbed.

In its review of the sanction imposed, the Board also affords a level of deference to a hearing panel's subjective judgement on the level of discipline. *Grievance Administrator v James H. Ebel*, 94-5-GA (ADB 1995). Nevertheless, that deference is to be balanced against the Board's relatively high measure of discretion with regard to its responsibility to carry out what the Supreme Court has described as the Board's "overview function of continuity and consistency in discipline imposed." *State Bar Grievance Administrator v Williams*, 394 Mich 5 (1995). The Board must also consider a hearing panel's sanction determination in light of the Board's own duty under *Grievance Administrator v Lopatin*, 462 Mich 235; 612 NW2d 120 (2000), to employ the American Bar Association Standards for Imposing Lawyer Sanctions, see *Grievance Administrator v Saunders V. Dorsey*, 02-118-AI; 02-121-JC (ADB 2000), p 4.

Achieving that balance is not difficult in this case. Again, the Board is aided by a hearing panel report on discipline and restitution (Appendix B), that reflects an appropriate analysis under the American Bar Association Standards for Imposing Lawyer Sanctions. We agree with the panel's conclusion that disbarment is appropriate in this case under ABA Standards 4.41(b) and 4.41(c) which provide:

4.41(b) Disbarment is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potentially serious injury to a client;

4.41(c) Disbarment is generally appropriate when a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

With regard to the aggravating and mitigating factors to be considered in accordance with ABA Standard 9.1, we do agree with respondent's argument that an enumeration of mitigating factors that could have been considered in this case includes the absence of a prior disciplinary record (ABA Standard 9.32(a)). However, we also accept the language in ABA Standard 9.32 at face value, that is, that Standard 9.32 lists factors which "may" be considered in mitigation, not factors which "must" be considered in every case. Moreover, the Board has recognized that not all aggravating or mitigating factors are created equal. *Grievance Administrator v Che Karega*, 00-192-GA (ADB Memorandum Opinion 2004). In this case, that mitigating factor of no prior discipline is outweighed by the aggravating factors discussed in the hearing panel's report on discipline. It is clear that the panel's assessment of the weight to be given to those aggravating factors, as well as its unanimous decision to order disbarment, was based in part upon the panel members' first hand opportunity to observe and weigh respondent's testimony and to draw conclusions based upon his demeanor and attitude toward these proceedings. The Board notes, for example, the panel's observation in its report on misconduct filed August 10, 2012, that,

Mr. Monroe's testimony was significant in his failure to take personal responsibility for any of these many shortcomings, as was his willingness to blame others (his secretary, the postal service, others who may have handled mail at his former office, his clients, court personnel, judges), and his complete lack of remorse and inability to see that he had any role in creating any of these problems. (Hearing Panel Report, 08/10/12, p 4.)

In its report on discipline filed September 26, 2012, the panel concluded:

Because of Mr. Monroe's continuing inability to comprehend, even at the sanction hearing, the gravity of his misconduct, this panel has no choice but to conclude that he is not fit to practice law and that protection of the public therefore requires his disbarment. (Hearing Panel Report, 09/26/12, p 3.)

The panel's conclusions are supported by the record and by an appropriate application of the American Bar Association Standards for Imposing Lawyer Sanctions. The provisions of the panel's

order directing respondent to make restitution to his former clients are also supported by the record. We therefore affirm the hearing panel's order of disbarment and restitution.

Board members Thomas G. Kienbaum, James M. Cameron, Jr., Rosalind E. Griffin, M.D., Carl E. Ver Beek, Craig H. Lubben, Sylvia P. Whitmer, Ph. D., Lawrence G. Campbell, Dulce M. Fuller and Louann Van Der Wiele concur in this decision.

STATE OF MICHIGAN
Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

DAVID A. MONROE, P44418,

Case No. 12-20-GA

Respondent.

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REPORT OF LIVINGSTON COUNTY HEARING PANEL #1

PRESENT: BARBARA L. KESSLER, Chairperson
ROBERTA S. BALON-VAUGHN, Member
BONNIE MILLER, Member

APPEARANCES: NANCY R. ALBERTS, Associate Counsel
For the Attorney Grievance Commission

DAVID A. MONROE, Respondent
In pro per

I. EXHIBITS

The following exhibits were presented by the Petitioner and were admitted and made part of the record of the proceedings. No exhibits were presented by the Respondent.

1. JP Morgan Chase Bank records
2. Sworn statement taken February 9, 2011
3. Sworn statement taken October 12, 2011
4. December 29, 2006 retainer agreement with Mr. Graham
5. January 29, 2008 retainer agreement with Mr. Graham

6. Livingston County Probate court file, in re L.V. Graham, File No. 07-09289-CA
7. Subpoena to Respondent, December 8, 2010
8. 53rd District Court file Linda Baker v Shannon Smith, File No. 09-8334-GC
9. Check from Linda Baker to David Monroe, dated January 11, 2008
10. Letter to David Monroe from Linda Baker Walton
11. July 19, 2010 retainer agreement with Mr. Nair
12. Check to Monroe from Haworth with statement dated December 31, 2010
13. Emails from Haworth to Monroe
14. Retainer agreement Sanborn dated March 2, 2010
15. September 10, 2010 letter to Monroe from Sanborn
16. Docket entries for Sanborn v Johnson from 44th Circuit Court, File No. 00-030649-DM
17. March 24, 2011 letter to Monroe from AGC
18. May 3, 2011 letter to Monroe from AGC
19. Retainer agreement dated January 10, 2009
20. 35th District Court file, Dungerow v J & E, File No. 09-009356-CK-L
21. Dungerow Verizon phone records
22. Emails from Dungerow to Monroe
23. February 14, 2011 check from Wade to Monroe
24. Text conversation between Binford and Monroe
25. November 2, 2011 email to Monroe from Trierweiler
26. Affidavit
27. A-K, Attorney Grievance Commission records
28. State Bar record
29. Chase Bank Records regarding overdrawn Trust Account
30. No exhibit
31. MiSDU
32. Unclaimed Certified Mail
33. Affidavit re unclaimed certified mail

II. WITNESSES

The following witnesses were called to testify by the Petitioner during the hearing; the Respondent was his own and only witness:

David A. Monroe
Robert C. Graham
Linda Walton
Arnold Walton
Suresh Nair
Timothy Haworth

Rebecca Sanborn
Daniel Sanborn
Maryanne Dungerow
William Binford
Gerald Trierweiler
Joseph Trierweiler
Edward Ringer

III. PANEL PROCEEDINGS

This matter was commenced on February 23, 2012, with the filing of the Grievance Administrator's ten-count Formal Complaint containing allegations that respondent had committed acts of professional misconduct in his representation of nine separate clients and that he had failed to answer 11 requests for investigation. The Grievance Administrator's First Amended Formal Complaint was filed on April 4, 2012. The respondent's answer to the first amended complaint was filed on April 25, 2012.

The panel convened the hearing on June 6, 2012. The hearing continued on June 26, 2012, and concluded on June 27, 2012. The panel deliberated on June 27, 2012.

IV. FINDINGS AND CONCLUSIONS REGARDING MISCONDUCT

Introduction

The petitioner presented the testimony of 13 witnesses, including nine former clients of the respondent, two spouses of former clients, one adult child of a former client, and Mr. David Monroe, the respondent. Mr. Monroe also testified on his own behalf but did not present any other witnesses. The hearing panel received into evidence and reviewed thirty-three exhibits introduced by the petitioner. Mr. Monroe did not provide any exhibits and thus all references to exhibits in this opinion are to the exhibits of the petitioner.

Mr. Monroe's former clients were moved to file grievances because of his failure to attend to the legal matters they had entrusted to him in a timely fashion. During the course of the testimony, Mr. Monroe's former clients described a law practice which was so chaotic that:

- a. he was unable to receive and return phone calls in any kind of a timely fashion;
- b. he frequently did not receive emails or when he did, was unable to respond to them in a timely fashion;
- c. he often did not receive telephone messages;
- d. he failed to keep clients reasonably informed as to the status of their cases;
- e. he did not know when cases were dismissed;

- f. he kept on staff a secretary whom he knew or should have known was not performing her work;
- g. he failed to deposit client expenses paid in advance into his client trust fund, in violation of Michigan Rules of Professional Conduct 1.15(g), and instead, as he testified, kept funds, often in cash, "in a separate compartment" in his wallet;
- h. as the testimony of several of his clients and Mr. Monroe shows, cases were dismissed without Mr. Monroe's knowledge, so he apparently has no functioning task reminder or "tickler" system.

In addition to the substantive matters raised by his former clients within each of the nine counts described below, which motivated them to file grievances, Mr. Monroe is charged by the Grievance Administrator with additional matters of misconduct.

The overriding impression of the hearing panel at the conclusion of the more than two days of witness testimony is that Mr. Monroe is a lawyer who routinely neglects his clients and their business; is unreachable by ordinary means of business communication such as the U.S. Postal Service, regular and cellular telephone service; fails to do the work for which he is retained by his clients; fails to deposit client funds in an IOLTA account; fails to keep records of client funds; and routinely violates the Rules of Professional Conduct. Mr. Monroe either does not check his post office box regularly for mail, or upon doing so, if he finds a notice that he has certified letters, he declines to arrange to receive them. Mr. Monroe's testimony was significant in his failure to take personal responsibility for any of these many shortcomings, as was his willingness to blame others (his secretary, the postal service, others who may have handled mail at his former office, his clients, court personnel, judges), and his complete lack of remorse and inability to see that he had any role in creating any of the problems.

The First Amended Formal Complaint alleges ten separate counts. The first nine counts cite the individual grievances of nine former clients, and specific allegations of misconduct. The tenth count alleges violations of MCR 9.104(7) and other misconduct. We first summarize our findings with respect to each of the nine former clients who testified as to their grievances.

Count One

The testimony of Robert C. Graham and Mr. Monroe is undisputed as to the following: Mr. Graham retained Mr. Monroe on December 29, 2006, with respect to a guardianship and conservatorship for his father (Exhibit 4, retainer agreement). Mr. Graham paid Mr. Monroe a non-refundable retainer of \$1,500 for 10 hours of work, plus \$350 for court costs. Mr. Monroe cashed the check for \$1,850 and did not place the \$350 into his IOLTA account. On March 16, 2007, Mr. Monroe filed petitions on Mr. Graham's behalf for appointment of conservator and for appointment of guardian of an incapacitated individual in the Livingston County Probate Court, and on April 10, 2007, Mr. Graham was appointed as his father's conservator and guardian (Exhibit 6, Livingston County Probate Court file). The order of appointment required that upon the death of the protected individual, the final accounting must be filed within 56 days of the date of death. Mr. Graham's father died November 13, 2007 (Death Certificate, Exhibit 6). A final accounting has never been filed. On January 25, 2008, Mr. Graham paid Mr. Monroe a non-refundable retainer of \$1,000 plus \$250 for court costs to probate the estate of Mr. Graham's father. This check was cashed as well, and none of the funds were placed into Mr.

Monroe's IOLTA account. Mr. Graham testified that on June 24, 2010 he requested that Mr. Monroe return the will to him, and that Mr. Monroe was unable to do so, as the will was in his briefcase, and his briefcase was in the trunk of his car, and his car was in the repair shop.

Mr. Monroe corroborated Mr. Graham's testimony and provided no meaningful defense to the charges against him. The lack of a final accounting stands in the way of concluding the conservatorship, but Mr. Monroe failed to provide Mr. Graham with the assistance needed to conclude that matter, and until it was resolved should not have taken on the additional engagement with respect to probating the estate. Mr. Monroe provided the panel with no documents to justify the retention of any fees in connection with the probate matter.

The panel finds that for all intents and purposes, Mr. Monroe neglected Mr. Graham's legal matters, and acted with no diligence whatsoever, failed to safeguard the will of Mr. Graham's father, and failed to deposit the funds and fees in his IOLTA account. The panel finds that the fees charged were excessive, in that no final results were obtained.

Count Two

Linda Walton testified that she retained Mr. Monroe after she purchased her home and believed she had been defrauded by the sellers. The testimony of Ms. Walton and Mr. Monroe is undisputed as to the following: Ms. Walton retained Mr. Monroe to handle this matter on January 11, 2008, and she paid him a fee of \$1,500 plus \$150 as an advance for filing fees, in a single check for \$1,650. Mr. Monroe cashed the check. He did not place the filing fees in his IOLTA account. He filed a complaint on Ms. Walton's behalf against the sellers on November 24, 2009 in the 53rd District Court. [We note that this was paid in cash, see Exhibit 8, page 2, Register of Actions].

The Register of Actions reflects that a Motion for Substituted Service was filed on February 22, 2010, together with Motion to Extend Time for Service. We note that the motion fee was paid in cash. On February 24, 2010, the court issued a Notice for Non-Service/No Progress, and dismissal for same.

Ms. Walton additionally testified as to the following: after she retained Mr. Monroe, she had great difficulty in contacting him. She called him many times, and found that his office voice mail was always full, his cell voice mail was always full, and that when she could leave a message, he rarely returned the call. Mr. Monroe's secretary would tell Ms. Walton that Mr. Monroe would be given the message, but she would still not receive a returned call. She testified that "about every 15 calls I might get a call back if I was lucky." Transcript, Page 264. Both Ms. Walton and her husband Arnold Lester Walton, Jr. testified that because of the lack of contact from Mr. Monroe, they decided to call the court to find out what was going on. Mr. Walton testified that in November of 2010, he phoned the Howell courthouse, because he thought that was where Mr. Monroe had filed the case. On learning that it had not been filed there, he was referred by court personnel to the Brighton courthouse, which he called. He then learned that the case had been, as he testified, "dismissed for lack of progress on the attorney's part in February of 2010," nine months previously. See Transcript, pages 275-276. On December 20, 2010 Ms. Walton mailed Mr. Monroe a letter requesting the return of her fees. Mr. Monroe has not returned the fees.

Mr. Walton also testified that he had tried about 50 times to reach Mr. Monroe at his office and on his cell phone. Transcript, page 273. He never reached him in the office. When reached on the cell phone, Mr. Monroe would state that he was in court and would come to the Walton home, but did not, and this happened, Mr. Walton testified, about fifteen times. Transcript, page 274. Messages were left almost all the time on the cell phone, but Mr. Monroe never returned the calls. The case was "supposedly filed" but the Waltons never received a copy of the complaint with a case number, or the name of the judge (Transcript, Page 274). Mr. Walton testified that after they dismissed Mr. Monroe, they spoke with other attorneys and were told the case was too difficult to prove.

Mr. Monroe testified that he did a great deal of work on Ms. Walton's behalf, including coming to her home many times, sending an expert on several occasions, and further, that he would have charged substantially more but that he had given Ms. Walton "a break and that he had more than earned his fee. He testified that he could have easily reinstated the case with a motion, but that Ms. Walton had told him she didn't want him to do any further work on the file. He also testified that because this was a fraud matter, and there was a six year statute of limitations, there was no urgency in filing the case, nor were the Waltons harmed by the dismissal.

We note Mr. Monroe's lack of diligence and lack of concern for the prompt resolution of this matter placed in his hands by his client: he was retained in January of 2008, yet did not file this district court lawsuit for \$8,200 (Exhibit 8, Register of Actions), until November of 2009. He failed to obtain service on the defendants during the three months prior to the expiration of the summons, and only filed a motion to extend the summons and for substituted service on the very day the summons was due to expire. He failed to follow up to determine whether his motion had been granted. He failed to notify his client that the case had been dismissed, and to offer to refile the case or file a motion to reinstate, all at his own cost. From the testimony of the Waltons, we conclude that he failed to provide his client with a copy of the lawsuit after it had been filed, which would have indicated the date of filing, the court in which it had been filed, and the judge to which it had been assigned.

We also note that Mr. Monroe failed to produce Ms. Walton's file in response to a subpoena issued on December 8, 2010 by the Attorney Grievance Commission (Exhibit 7).

Given that Mr. Monroe failed miserably in his representation of Ms. Walton, and failed to produce any result, his fee was truly unearned. He has returned nothing to her.

Count Three

Suresh Nair testified that he retained Mr. Monroe to represent him in a divorce action. The testimony of Mr. Nair and Mr. Monroe is undisputed as to the following: Mr. Nair retained Mr. Monroe on July 19, 2010. Mr. Nair signed a non-refundable fee agreement, at which time he paid a \$1,500 for attorney fees and \$230 for filing fees with one check. None of the funds were deposited into Monroe's trust account.

Subsequently, Mr. Nair testified that he made several attempts to follow up with Mr. Monroe for additional information, but Mr. Monroe did not respond. He did provide Mr. Monroe with his completed intake form. However, he testified that given Mr. Monroe's lack of response to him, on August 11, 2010, Mr. Nair notified Mr. Monroe that he did not wish to file for divorce, and he requested that Mr. Monroe return the fees and costs. Mr. Monroe did not provide Mr. Nair with any drafted documents, although he testified at the hearing that he had prepared them. To date he has not returned any of Mr. Nair's attorney fees paid in advance nor has he returned the filing fee paid in advance.

The panel does not find Mr. Monroe's testimony that he prepared documents for Mr. Nair to be credible. However, even giving him the benefit of that doubt, he never filed a complaint for divorce and has no reason to retain the filing fee of \$230 and thus these funds should have been returned to Mr. Nair long ago. The funds should also have been deposited into his client trust account, and they never were.

Count Four

Timothy Haworth testified that he retained Mr. Monroe to represent him in a child support matter, believing he had overpaid child support for four years, and was seeking a refund. The testimony of Mr. Haworth and Mr. Monroe is undisputed as to the following: Mr. Haworth retained Mr. Monroe on December 31, 2010. He paid a flat fee of \$600 and \$100 for filing fees in a single \$700 check payable to David A. Monroe P.L.L.C. No motion was ever filed. On February 19, 2011 Mr. Haworth sent Mr. Monroe an email asking for a complete refund of fees and costs paid. On February 21, 2011, Mr. Monroe agreed to make the refund but as of this date no refund has been paid. As he noted during the hearing, "if hindsight was 20/20 I would have given him the \$100 back" and "I can give it back to him." Transcript, Page 362.

The panel finds that the check to Mr. Monroe was cashed at Mr. Haworth's bank. The funds were not deposited into Mr. Monroe's client trust account, but as Mr. Monroe testified, were kept in an envelope, first in an office drawer and then in a safe at home (Transcript, page 364). In either event, neither meets the IOLTA standard. Mr. Monroe neglected Mr. Haworth's matter and failed to act with reasonable diligence and promptness. He misrepresented what he was doing or if he was actually doing anything for Mr. Haworth.

Count Five

Rebecca Sanborn testified that she retained Mr. Monroe to represent her in obtaining a review of child support, because her ex-husband had received an increase in pay. She asked him "file the papers while we are on vacation so that none of the hearings get scheduled while we're out of town." (Transcript, page 400)

The testimony of Ms. Sanborn and Mr. Monroe is undisputed as to the following: On March 2, 2010, Ms. Sanborn retained Mr. Monroe and paid him a nonrefundable retainer of \$750 for attorney fees plus \$100 for filing fees in a single \$850 check. Between March 2, 2010 and September 10, 2010, no motion was ever filed. On September 10, 2010 Ms. Sanborn wrote to Mr. Monroe and demanded that he return \$850 in fees and costs. No fees and costs have been returned.

In response questions from members of the hearing panel, Ms. Sanborn testified that she was eventually able to file a motion for support in March of 2012 and did receive an increase in child support of approximately \$200 per month, retroactive to April 2, 2012. The panel notes that had Mr. Monroe filed the motion in a timely fashion in 2010, Ms. Sanborn would have received support retroactive to the date of filing, and Mr. Monroe's neglect of this matter has resulted in Ms. Sanborn failing to receive appropriate child support for a substantial period of time.

The panel finds that Mr. Monroe neglected Ms. Sanborn's matter and failed to act with reasonable diligence. He cashed her check and did not deposit the funds into his client trust account. He failed to keep her reasonably informed as to the status of her matter, and did not return the unearned fees to her.

Count Six

Maryanne Dungerow testified that she retained Mr. Monroe to assist her in seeking relief against the contractor who built her home. The testimony of Ms. Dungerow and Mr. Monroe is undisputed as to the following: On January 10, 2009, Ms. Dungerow paid Mr. Monroe a non-refundable \$2,000 fee, plus \$150 as an advance for court costs in a single check. The funds were not placed in his client trust account. On April 1, 2009, Mr. Monroe filed a lawsuit against the contractor in Shiawassee County Circuit Court.

Ms. Dungerow then testified that she had great difficulty in reaching Mr. Monroe by phone to find out about the progress of the case. His voice mail box was always full, and when she was able to leave a message, she found that her calls were seldom returned. The case was dismissed on June 28, 2010 although she only determined that several months later by phoning the court.

The panel finds that Mr. Monroe neglected Ms. Dungerow's legal matter, failed to act with reasonable diligence in representing her, failed to place expenses paid in advance in his client trust account, failed to keep Ms. Dungerow reasonably informed as to the status of her case, allowed Ms. Dungerow's case to be dismissed for lack of progress, failed to notify Ms. Dungerow of that fact, and failed to take any action to reinstate the case.

Count Seven

William Binford testified that Mr. Monroe had represented him in a civil lawsuit that resulted in a settlement of \$114,000 on December 9, 2003. The testimony of Mr. Binford and Mr. Monroe is undisputed as to the following: The defendant in the lawsuit, Thomas Wade, would make monthly payments of \$700 plus interest to Mr. Binford, until the total settlement was paid. Mr. Wade made monthly payments to Mr. Monroe, who cashed the settlement check, deducted his fee, and sent the balance of the payment to Mr. Binford. Originally the payments to Mr. Binford were made by check, but at some point, the payment became cash.

Mr. Binford testified that Mr. Wade wrote a check to Mr. Monroe for April or May of 2011 in the amount of \$1,491. Petitioner's First Amended Formal Complaint, Paragraph 98 states

that the check was received "on or about April 25, 2011, and in his Answer, at Paragraph 98, Respondent admits that this is correct. Exhibit 23 shows a check dated February 14, 2011 but attorney for Petitioner stated during the hearing that this appeared to be the wrong check and it is disregarded here. Paragraph 99 of the formal complaint states that Respondent cashed the check received from Mr. Wade on May 12, 2011, and Paragraph 99 of the answer so admits. Mr. Binford testified as to the great delay in receiving this particular payment. He had kept records of his attempts to contact Mr. Monroe, and also of his contacts with Mr. Wade. He testified that he finally called Mr. Wade, when he was unable to reach Mr. Monroe, and Mr. Wade told him that the check had been received and cashed by Mr. Monroe on around April 27, 2011. It is the finding of the panel that the check in question was received and cashed as stated in this paragraph.

Mr. Binford next testified as to his multiple attempts to contact Mr. Monroe to arrange a time to receive his funds. Exhibit 24 is a transcript of a text conversation between Mr. Binford and Mr. Monroe to set up a meeting. They finally met at Big Boy restaurant on July 7, 2011 and Mr. Monroe paid Mr. Binford \$1,224 in cash, from his wallet. Mr. Binford testified that he filed the grievance because of the long delay involved in obtaining his funds from Mr. Monroe.

Mr. Monroe testified that he "wouldn't cash the check until I could meet him" (Transcript, Page 392). He testified that he didn't have Mr. Binford's address. In response to questions as to why he did not put the funds into his IOLTA account pending his meeting with Mr. Binford, Mr. Monroe had no satisfactory answer, except to express concern about Mr. Wade bouncing a check. (Transcript, Page 393) The panel fails to understand how this concern could not be addressed by cashing the check at Mr. Wade's bank, and then depositing the funds to Mr. Monroe's IOLTA account.

The panel concludes that Mr. Monroe held Mr. Binford's funds, in cash, between April 27 and July 7, 2011, probably in his wallet, although in his sworn statement at the offices of the Attorney Grievance Commission on October 12, 2011 he also stated that he had kept the money in a drawer in his home. He testified during the hearing that "I took it out underneath somewhere else in my wallet. I didn't spend the money." (Transcript, page 392). This may or may not be the case; however it does fail to meet the standards to which Mr. Monroe is required to adhere with respect to client funds.

The panel also finds that Mr. Monroe failed to promptly notify Mr. Binford when the funds were received, and failed to promptly deliver the funds to Mr. Binford, in violation of the Michigan Rules of Professional Conduct.

Count Eight

Gerald Trierweiler testified that he had retained Mr. Monroe to draft a will for him. His son Joseph Trierweiler testified as well. The testimony of the Trierweilers and Mr. Monroe is undisputed as to the following: Mr. Monroe was retained on January 28, 2011, and received a fee of \$800 to draft a will and other documents in relation to the will.

Both of the Trierweilers testified that Gerald Trierweiler did not receive any documents from Mr. Monroe, and that he did not respond to phone calls or requests to communicate. His

voice mail was usually full, or when messages were left, he did not return calls. On November 2, 2011, after Gerald Trierweiler filed this grievance, Joseph Trierweiler emailed Mr. Monroe (Exhibit 25) to request the return of the \$800 fee.

Mr. Monroe testified that he had completed the documents, and that it was never his practice to release them to clients without going over them in person. He testified that he had earned the \$800 fee because he had drafted the documents for Mr. Trierweiler. He produced no files or other documents to the attorney for the petitioner, despite a subpoena, and introduced no exhibits into evidence. The panel regards his testimony as to the possible interest by Gerald Trierweiler in "disinheriting" one of his 10 children in this relatively small estate (\$180,000) as a distraction from the substance of the hearing, and nonmaterial. Further, the panel takes notice of the testimony of Joseph Trierweiler as to the service provided by the subsequent attorney hired by Gerald Trierweiler: he noted that two of Joseph's siblings were receiving SSI payments and required special estate planning provisions, and he promptly drafted the documents for him.

The panel finds Mr. Monroe neglected the matter Gerald Trierweiler entrusted to him, and failed to pursue it with reasonable diligence and promptness. He failed to keep Mr. Trierweiler reasonably informed about the status of his matter. He charged an excessive fee. Mr. Monroe did not produce any documents for the panel to examine and thus the panel does not believe that Mr. Monroe did any actual drafting for Mr. Trierweiler. Mr. Monroe's fee is thus excessive and unearned.

Count Nine

Edward Ringer testified that he had retained Mr. Monroe to assist him in the sale of real estate. The testimony of Mr. Ringer and Mr. Monroe is undisputed as to the following: On October 9, 2010, Mr. Ringer retained Mr. Monroe to prepare a land contract. Mr. Monroe charged Mr. Ringer \$750, which was paid in the form of \$375 cash, plus an additional \$375 credit applied by Mr. Monroe from a previous matter in which Mr. Monroe had represented Mr. Ringer.

Mr. Ringer testified that he made many phone calls to Mr. Monroe to follow up on the status of the land contract. Finally, in the third week in January, 2011, Mr. Ringer successfully reached Mr. Monroe and informed him that he wished to terminate his services. Mr. Ringer testified that Mr. Monroe then said he would prepare the documents and get back to Mr. Ringer. Mr. Ringer testified that again, he received nothing from Mr. Monroe, and in March, 2011, he went to Mr. Monroe's office and told the secretary, "I'm releasing him," and that he had received no documents, and requested a bill. In mid March, 2011 Mr. Ringer testified, he spoke with another attorney in Mr. Monroe's office and learned that Mr. Monroe had moved from the office. Mr. Ringer testified that he has never received notice of Mr. Monroe's new address.

Mr. Monroe testified that Mr. Ringer led him to believe that time was not of the essence in preparing the land contract. He testified that he spoke to Mr. Ringer in January of 2011 and learned that the buyer was no longer interested, and that Mr. Ringer did not have another interested buyer, and that there was no urgency.

A: With respect to the Request for Investigation filed by Robert C. Graham, AGC File No. 2082-10, the panel finds:

1. The Request was served on Mr. Monroe by regular mail at his address of record with the State Bar on September 29, 2010, and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on November 3, 2010 by certified mail, return receipt requested, at his address of record with the State Bar. The return receipt was signed as received by Andrea Williamson on November 3, 2010. Ms. Williamson was the receptionist at the office where Mr. Monroe had his address of record at this time (Transcript, June 6, 2012, page 21), and thus Mr. Monroe received it on that date.
3. Mr. Monroe filed an answer with the Commission by facsimile on January 24, 2011, dated November 8, 2010.
4. The panel further finds the testimony in Mr. Monroe's sworn statement on February 9, 2011 that he thought his secretary had mailed the answer on November 8, 2010, and that he had not received that Final Notice, to be evidence that his testimony is not credible.

B: With respect to the Request for Investigation filed by Linda E. Walton, AGC File 1461-10, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on July 22, 2010 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on August 19, 2010 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On November 17, 2010, Mr. Monroe's answer, dated November 15, 2010, was received by the petitioner.
4. The panel further finds that the testimony in Mr. Monroe's sworn statement on February 9, 2011 that he had prepared an answer in October of 2010 and believed his secretary had mailed it, and that his secretary cannot be believed and that she would routinely state that she had mailed something when she would not, to be evidence that either his testimony is not credible, or that he had hired, and continued to have in his employ a staff member who was not competent, and whom he failed to adequately supervise.

C: With respect to the Request for Investigation filed by Rebecca R. Sanborn, AGC File 2332-10, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on November 3, 2010 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on December 7, 2010 by certified mail, return receipt requested, at his address of record with the State Bar. The return receipt was signed as received by David Hammond, a lawyer sharing offices with Mr. Monroe, on December 10, 2010 (Transcript, June 6, 2012, page 20), and thus Mr. Monroe received it on that date.
3. On January 25, 2011, Mr. Monroe's answer, dated October 27, 2010, was received by petitioner, via facsimile.

D: With respect to the Request for Investigation filed by Timothy C. Haworth, AGC File 0676-11, the panel finds:

1. On March 9, 2011 Mr. Monroe changed his address with the State Bar of Michigan to a post office box, in violation of Michigan Supreme Court Rules Concerning the State Bar of Michigan, Rule 2, Membership.
2. From March 9, 2011, through August 31, 2011, the State Bar made eleven attempts to get Mr. Monroe to provide a street or building address, as detailed in Exhibit 28, but he did not do so until March 16, 2012.
3. The Request for Investigation filed by Mr. Haworth was served on Mr. Monroe by regular Mail at his former address which had been on file with the State Bar on March 29, 2011 and Mr. Monroe did not answer within the required 21 days.
4. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on April 26, 2011 by certified mail, return receipt requested, at his new registered address, a post office box.
5. On October 11, 2011, Mr. Monroe contacted petitioner and appeared in petitioner's offices on October 12, 2011. He then supplied petitioner with an alternative physical address.
6. Mr. Monroe has not filed an answer to Mr. Haworth's Request for Investigation.

E: With respect to the Request for Investigation filed by Maryanne Dungerow, AGC File No. 0178-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on February 16, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on February 16, 2011 by certified mail, return receipt requested on March 24, 2011, at the address used by petitioner.

The return receipt was signed as received by A. Williamson on March 28, 2011, the receptionist at Mr. Monroe's former office.

3. On April 14, 2011, having discovered that Mr. Monroe had moved, petitioner serviced the Final Notice on Mr. Monroe at his new State Bar registered address by regular mail.
4. On May 25, 2011, the Final Notice was again served on Mr. Monroe by certified mail, return receipt requested, at his new State Bar registered address. Mr. Monroe signed the return receipt on May 27, 2011.
5. Mr. Monroe has not filed an answer to Ms. Dungerow's Request for Investigation.

F: With respect to the Request for Investigation filed by Timothy S. Zemaitis, AGC File No. 0693-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his former address of record with the State Bar on March 29, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on April 19, 2011 by certified mail, return receipt requested at his new address of record.
3. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and Petitioner's counsel emailed the Request to Mr. Monroe.
4. Mr. Monroe has not filed an answer to Mr. Zemaitis' Request for Investigation.

G: With respect to the Request for Investigation filed by Edward Ringer, AGC File No. 1105-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on June 7, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on July 15, 2011 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On August 3, 2011, the Final Notice was returned to Petitioner with notes indicating that the notices of certified mailing were delivered to the Respondent's post office box on July 19, 2011 and July 24, 2011, and that the certified mail was unclaimed. See Exhibit 27G.
4. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and Petitioner's counsel emailed the Request to Mr. Monroe.

5. Mr. Monroe has not filed an answer to Mr. Ringer's Request for Investigation.

H: With respect to the Request for Investigation filed by Levin J. Taulbee, AGC File No. 1296-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on September 1, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on September 1, 2011 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On September 1, 2011, the Final Notice was returned to Petitioner with notes indicating that the notices of certified mailing were delivered to the Respondent's post office box on September 2, 2011 and September 9, 2011, and that the certified mail was unclaimed. See Exhibit 27H.
4. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and Petitioner's counsel emailed the Request to Mr. Monroe.
5. Mr. Monroe has not filed an answer to Mr. Taulbee's Request for Investigation.

I: With respect to the Request for Investigation filed by William D. Binford, AGC File No. 1457-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on June 29, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on August 3, 2011 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On August 23, 2011, the Final Notice was returned to Petitioner with notes indicating that the notices of certified mailing were delivered to the Respondent's post office box on August 5, 2011, August 10, 2011, and August 20, 2011, and that the certified mail was unclaimed. See Exhibit 27I.
4. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and Petitioner's counsel emailed the Request to Mr. Monroe.
5. Mr. Monroe has not filed an answer to Mr. Binford's Request for Investigation.

J: With respect to the Request for Investigation filed by Joseph Trierweiler, AGC File No. 1848-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on August 16, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on September 15, 2011 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On October 7, 2011, the Final Notice was returned to Petitioner with notes indicating that the notices of certified mailing were delivered to the Respondent's post office box on September 19, 2011, September 20, 2011, and October 4, 2011, and that the certified mail was unclaimed. See Exhibit 27J.
4. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and Petitioner's counsel emailed the Request to Mr. Monroe.
5. Mr. Monroe has not filed an answer to Mr. Trierweiler's Request for Investigation.

K: With respect to the Request for Investigation filed by Dave Turnbull, AGC File No. 1660-11, the panel finds:

1. The Request was served on Mr. Monroe by regular Mail at his address of record with the State Bar on July 25, 2011 and Mr. Monroe did not answer within the required 21 days.
2. A Final Notice, which required an answer within 10 days, together with a copy of the Request, was sent to Mr. Monroe on August 30, 2011 by certified mail, return receipt requested, at his address of record with the State Bar.
3. On September 20, 2011, the Final Notice was returned to Petitioner with notes indicating that the notices of certified mailing were delivered to the Respondent's post office box on September 1, 2011, September 9, 2011, and September 16, 2011, and that the certified mail was unclaimed. See Exhibit 27K.
4. On October 12, 2011, Mr. Monroe and Petitioner's counsel discussed the Request for Investigation and the Final Notice and Petitioner's counsel emailed the Request to Mr. Monroe.
5. Mr. Monroe has not filed an answer to Mr. Trierweiler's Request for Investigation.

Summary

Based on the testimony presented at the hearing, the exhibits admitted into evidence, and the findings with respect to Counts One through Ten, the panel unanimously finds that the respondent has engaged in the following misconduct:

- A. Neglecting a legal matter entrusted to him in violation of MRPC 1.1(c), with respect to Counts One, Two, Four, Five, Six, Eight, and Nine.

- B. Failing to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3, with respect to Counts One, Two, Four, Five, Six, Eight, and Nine.
- C. Failing to appropriately safeguard his client's property in violation of MRPC 1.15(b) (d) with respect to Count One.
- D. Failing to keep his client reasonably informed about the status of his or her matter in violation of MRPC 1.4(a) with respect to Counts Two, Four, Five, Six, Eight and Nine.
- E. For his failure to respond to Petitioner's subpoena, failing to respond to a lawful demand for information from a disciplinary authority in violation of MRPC 8.1(2) with respect to Count Two.
- F. Making a misrepresentation to his client in violation of MRPC 8.4(b) with respect to Count Four.
- G. Failing to return unspent costs and unearned fees paid in advance upon the termination of his representation in violation of MRPC 1.15 (b)(3) and 1.16(d) with respect to Counts Two, Three, Four, Five, Eight and Nine.
- H. Failing to deposit expenses which were paid in advance into his client trust account, in violation of MRPC 1.15(g), with respect to Count One, Two, Three, Four, Five, and Six.
- I. Failing to hold the property of his client separate from his own funds and failing to deposit said funds into his trust account, in violation of MRPC 1.15(d), with respect to Count Seven.
- J. Charging an excessive fee in violation of MRPC 1.5(a) with respect to Counts One, Eight and Nine.
- K. Failing to promptly notify his client when funds in which the client has an interest are received, in violation of MPRC 1.15(b) (1), with respect to Count Seven.
- L. Failing to promptly pay or deliver client funds to his client in violation of MRPC 1.15(b) (3), with respect to Count Seven.
- M. Engaging in conduct involving dishonesty, deceit and misrepresentation where such conduct reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, in violation of MRPC 8.4(b), with respect to Count Five.

- N. Failing to answer a Request for Investigation within 21 days of service, in violation of MCR 9.104(7) with respect to Counts Ten A, B, C, D, E, F, G, H, I, J, and K.
- O. Engaging in conduct which violates the Rules of Professional Conduct, in violation of MRPC 8.4(a) and MCR 9.104(4), with respect to Counts One, Two, Three, Four, Five, Six, Seven, Eight, and Nine.
- P. Engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9. 104(2), with respect to Counts One, Two, Three, Four, Five, Six, Seven, Eight, and Nine.
- Q. Engaging in conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court in violation MCR 9.104(4), with respect to Counts One through Ten.
- R. Failing to properly supervise non-lawyer assistants in violation MRPC 5.3(b) and (c).
- S. Failing to make reasonable efforts to ensure that a nonlawyer subordinate's conduct is compatible with his professional obligations in violation of MRPC 5.3(b).

The staff of the Attorney Discipline Board is directed to issue a Notice of Sanction hearing for August 27, 2012 at 9:00 a.m.

ATTORNEY DISCIPLINE BOARD
Livingston County Hearing Panel #1

By: Barbara L. Kessler (by Maa)
Barbara L. Kessler, Chairperson

DATED: August 10, 2012

STATE OF MICHIGAN
Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD
12 SEP 26 AM 10: 25

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

DAVID A. MONROE, P 44418,

Case No. 12-20-GA

Respondent.
_____ /

REPORT OF LIVINGSTON COUNTY HEARING PANEL #1
(Discipline and Restitution)

PRESENT: BARBARA L. KESSLER, Chairperson
BONNIE J. MILLER, Member

APPEARANCES: NANCY R. ALBERTS, Associate Counsel
For the Attorney Grievance Commission

DAVID A. MONROE, Respondent
In pro per

I. EXHIBIT

Petitioner presented the following exhibit which was admitted into evidence and made part of the record of the proceedings. No exhibits were presented by the Respondent.

1. Petitioner's S1 – Petitioner's Requested Restitution to Complainants.

II. WITNESSES

The following witnesses were called to testify by the Petitioner during the hearing:

Robert C. Graham

Rebecca Sanborn

APPENDIX B

Mr. Monroe testified on his own behalf, and called:

Dan McGuire

III. PANEL PROCEEDINGS

The hearing panel's report containing its findings and conclusions on the charges of misconduct was filed August 10, 2012. As instructed by the panel, the staff of the Attorney Discipline Board issued a notice of hearing to determine the appropriate level of discipline for Monday, August 27, 2012, commencing at 9:00 a.m.

IV. SANCTIONS

Following the introduction of the petitioner's exhibit and the testimony of the witnesses called by the respective parties, including respondent's testimony on his own behalf, counsel for the Grievance Administrator and respondent addressed the hearing panel on the question of the sanction that should be imposed in this case.

Counsel for the Grievance Administrator argued to the panel that disbarment is appropriate in this case upon application of either, or both, of the following provisions of the American Bar Association Standards for Imposing Lawyer Sanctions:

Standard 4.41(b) Disbarment is generally appropriate when a lawyer knowing fails to perform services for a client and causes serious or potentially serious injury to a client;

Standard 4.41(c) Disbarment is generally appropriate when a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

Standard 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

The Administrator's counsel then presented a summary of the factors to be considered in this case as aggravating factors under ABA Standard 9.2. Finally, counsel requested an order of restitution in the amounts set forth in petitioner's Exhibit S1.

In his closing argument, respondent did not cite either the ABA Standards or applicable case law but argued generally that he has expressed remorse to one or more of his clients; that he has been forthright and cooperative during the proceedings; that he takes responsibility for his actions and has taken corrective measures. Respondent stated to the panel that he believes that many of the grievances filed against him by former clients were at the instigation of a disgruntled former secretary. Finally, respondent disputed some of the restitution amounts requested by petitioner. Respondent suggested to the panel that a suspension of no more than six months, to begin in approximately 60 days, would be appropriate under the circumstances.

This hearing panel has carefully considered the arguments of the parties in light of the totality of the evidence which has been presented during the course of this proceeding. The

hearing panel agrees that disbarment is the appropriate sanction in this case upon application of Standard 4.41(b) and (c) of the American Bar Association Standards for Imposing Lawyer Sanctions. We also agree with the Grievance Administrator that there are no factors to be considered in mitigation under ABA Standard 9.32. On the contrary, the record demonstrates a number of factors to be considered in aggravation, with the greatest weight to be given to respondent's pattern of misconduct [Standard 9.22(c)]; the presence of multiple offenses [Standard 9.22(d)]; his refusal to acknowledge the wrongful nature of his conduct [Standard 9.22(g)]; the vulnerability of his client's [Standard 9.22(h)]; his experience in the practice of law [Standard 9.22(i)]; and an indifference to making restitution [Standard 9.22(j)]. Because of Mr. Monroe's continuing inability to comprehend, even at the sanction hearing, the gravity of his misconduct, this panel has no choice but to conclude that he is not fit to practice law and that protection of the public therefore requires his disbarment. Because disbarment in Michigan is not permanent, respondent may be eligible to petition for reinstatement after five years, at which time he would be required to demonstrate his fitness by clear and convincing evidence under the criteria set forth in MCR 9.123(B), and the admission would be further conditioned upon his recertification by the Board of Law Examiners. In addition to those requirements, it would be this panel's recommendation that any future petition for reinstatement should be subject to scrutiny equivalent to an evaluation by the State Bar's Character and Fitness Committee.

V. RESTITUTION

Count One

Mr. Monroe charged Robert Graham fees in connection with two matters, a guardianship and conservatorship and later, after his father passed away, for the probate of his father's estate.

In the first matter, Mr. Monroe filed both guardianship and conservatorship proceedings, but failed to assist Mr. Graham in wrapping up the conservatorship with the filing of a final accounting. He charged Mr. Graham \$350 for court costs, which we assume was evenly split between the guardianship and conservatorship cases (each bearing a \$150 filing fee, and we assume some miscellaneous unidentified fees), plus \$1,500 for attorney fees. We concluded that the attorney fees charged were excessive, but will assign half the fees to the guardianship, and thus require restitution of the conservatorship fee of \$750.

In the second matter, Mr. Monroe charged Mr. Graham a retainer of \$1,000 plus \$250 for court costs. The case could not be filed because the conservatorship was not finalized. No work product was offered into evidence by Mr. Monroe. Restitution of the entire fee, \$1,250, is required. We order restitution of \$2,000 to Mr. Graham.

Count Two

Mr. Monroe charged Linda Walton \$1,500 plus \$150 as an advance for filing fees, in a single check for \$1,650. The filing fee was actually \$65. Mr. Monroe paid a motion fee in cash when he filed a motion for substituted service.

Having found that Mr. Monroe's fee was unearned, we order restitution of the fee in the amount of \$1,500, plus the balance of the filing fee advance (\$150 less \$65) of \$85, for a total of \$1,585.

Count Three

Mr. Monroe's testimony that he prepared documents for Suresh Nair was not credible, and thus the fees of \$1,500 he charged Mr. Nair should be refunded. In addition, Mr. Nair should receive a refund of the \$230 filing fee charged to him, as no case was ever filed. We order restitution of \$1,730 to Mr. Nair.

Count Four

Mr. Monroe performed no services for Timothy Haworth, yet has refused to refund the flat fee of \$600 and \$100 for filing he paid. We order restitution of \$700 to Mr. Haworth.

Count Five

Mr. Monroe performed no services for Rebecca Sanborn, yet he has refused to refund her retainer of \$750 for attorney fees plus \$100 for filing fees. We order restitution of \$850 to Ms. Sanborn.

Count Six

Mr. Monroe provided services that were of no value to Maryanne Dungerow. She paid a \$2,000 fee, plus \$150 as an advance for court costs. We order restitution of \$2,000 to Ms. Dungerow.

Count Seven

No restitution is ordered for William Binford.

Count Eight

Mr. Monroe charged a fee of \$800 to draft a will and other documents in relation to the will for Gerald Trierweiler. Having found that Mr. Monroe's fee was excessive and unearned, we order restitution of the entire \$800 fee to Mr. Trierweiler.

Count Nine

Mr. Monroe charged \$750 to assist Edward Ringer in the sale of real estate. This was paid in the form of \$375 cash, plus an additional \$375 credit applied by Mr. Monroe from a previous matter in which Mr. Monroe had represented Mr. Ringer. Having found that Mr. Monroe's fee was excessive and unearned, we order restitution of the entire \$750 fee to Mr. Ringer.

Restitution summary:

Mr. Monroe shall pay total restitution of \$10,415, as follows:

- Count 1: \$2,000 – Robert Graham
- Count 2: \$1,585 – Linda Walton
- Count 3: \$1,730 – Suresh Nair
- Count 4: \$700 – Timothy Haworth
- Count 5: \$850 – Rebecca Sanborn
- Count 6: \$2,000 – Maryanne Dungerow
- Count 7: -0- - William Binford
- Count 8: \$800 – Gerald Trierweiler
- Count 9: \$750 – Edward Ringer

VI. SUMMARY OF PRIOR MISCONDUCT

None

VII. ITEMIZATION OF COSTS

Attorney Grievance Commission: (See Itemized Statement filed 09/25/12)	\$1,840.36
Attorney Discipline Board:	
Hearing held 06/06/12	\$ 919.00
Hearing held 06/26/12	\$1,078.00
Hearing held 06/27/12	\$ 380.00
Hearing held 08/27/12	\$ 379.00
Administrative Fee [MCR 9.128(B)(1)]	<u>\$1,500.00</u>
TOTAL:	\$6,096.36

ATTORNEY DISCIPLINE BOARD
Livingston County Hearing Panel #1

By: Barbara L. Kessler (by Mon)
Barbara L. Kessler, Chairperson

DATED: September 26, 2012