STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellee,

v Case No. 10-57-GA

GREGORY B. JONES, P 15572,

Respondent/Appellant.
_____/

ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION

Issued by the Attorney Discipline Board
211 W. Fort St., Ste. 1410, Detroit, MI

The respondent, Gregory B. Jones, petitioned the Attorney Discipline Board for review of the order entered by Tri-County Hearing Panel #5 on December 14, 2011, suspending respondent's license to practice law in Michigan for a period of 30 days. The findings and conclusions of the hearing panel regarding the largely uncontested factual allegations that respondent took no action on his client's behalf in a bankruptcy matter for a period of approximately one and a half years are set forth in the hearing panel's December 21, 2010 report on misconduct, which is attached as Appendix A. Following the issuance of that report, the panel conducted a separate hearing to consider the appropriate sanction. The panel's report on discipline, filed December 14, 2011, is attached as Appendix B. On review, respondent does not take issue with the panel's determination that, absent aggravating or mitigating circumstances, suspension is generally appropriate under Standard 4.42 of the American Bar Association Standards for Imposing Lawyer Sanctions when a lawyer has knowingly failed to perform services for a client and caused injury or potential injury to that client. He argues, however, that the mitigating circumstances in this case substantially outweigh the aggravating circumstances and render a suspension inappropriate.

The standard of review to be applied by the Board anticipates a relatively high level of deference to a hearing panel's factual findings when those findings have evidentiary support in the record but the Supreme Court has recognized that the Board nevertheless possesses a greater measure of discretion with regard to the ultimate decision. *Grievance Administrator v August*, 438 Mich 296; 475 NW2d 256 (1991), see also *Grievance Administrator v Eric S. Handy*, 95-51-GA; 95-89-GA (ADB 1996). However, when the sanction ordered by the hearing panel is consistent with the level of discipline generally contemplated under the ABA Standards, is clearly within the historic range of discipline imposed for misconduct of a similar nature in other cases, and, significantly, reflects certain assessments of the weight to be given to mitigating and aggravating factors based upon the panel's first-hand opportunity to observe and weigh respondent's testimony, the Board should not lightly undertake to overturn a hearing panel's considered judgment with regard to the appropriate sanction.

The respondent and the Grievance Administrator were both ably represented in this proceeding. Counsel and the members of the hearing panel are commended for their

professionalism and we find that we must agree to some extent with the candid observation by the Grievance Administrator's counsel that this may be a case in which there is no single "right" result. In the final analysis, however, it is proper that the Board defer to the considered and properly articulated decision of the hearing panel.

NOW THEREFORE,

IT IS ORDERED that the hearing panel order of suspension entered on December 14, 2011, is **AFFIRMED**.

IT IS FURTHER ORDERED that respondent's license to practice law in Michigan is **SUSPENDED FOR 30 DAYS, EFFECTIVE JUNE 19, 2012**, and until the respondent's filing of an affidavit of compliance with the Supreme Court, the Attorney Discipline Board and the Attorney Grievance Commission in accordance with MCR 9.123(A).

IT IS FURTHER ORDERED that from the effective date of this order and until reinstatement in accordance with the applicable provisions of MCR 9.123, respondent is forbidden from practicing law in any form; appearing as an attorney before any court, judge, justice, board, commission or other public authority; or holding himself out as an attorney by any means.

IT IS FURTHER ORDERED that, in accordance with MCR 9.119(A), respondent shall, within seven days after the effective date of this order, notify all of his active clients, in writing, by registered or certified mail, return receipt requested, of the following:

1. the nature and duration of the discipline imposed;

2. the effective date of such discipline;

3. respondent's inability to act as an attorney after the effective date of such discipline;

4. the location and identity of the custodian of the clients' files and records which will be made available to them or to substitute counsel;

5. that the clients may wish to seek legal advice and counsel elsewhere; provided that, if respondent was a member of a law firm, the firm may continue to represent each client with the client's express written consent;

6. the address to which all correspondence to respondent may be addressed.

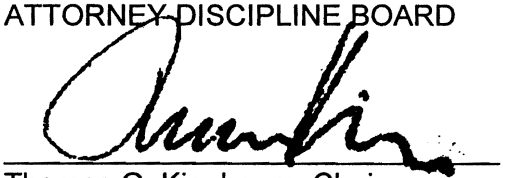
IT IS FURTHER ORDERED that in accordance with MCR 9.119(B), respondent must, on or before the effective date of this order, in every matter in which respondent is representing a client in litigation, file with the tribunal and all parties a notice of respondent's disqualification from the practice of law.

IT IS FURTHER ORDERED that, respondent shall, within 14 days after the effective date of this order, file with the Grievance Administrator and the Attorney Discipline Board an affidavit of compliance as required by MCR 9.119(C).

IT IS FURTHER ORDERED that respondent's conduct after the entry of this order but prior to its effective date, shall be subject to the restrictions set forth in MCR 9.119(D); and respondent's compensation for legal services shall be subject to the restrictions described in MCR 9.119(F).

IT IS FURTHER ORDERED that respondent shall, on or before **June 19, 2012**, pay costs in the amount of **$2,594.28,** consisting of the costs assessed by the hearing panel in the amount of $2,466.78 and court reporting costs incurred by the Attorney Discipline Board in the amount of $127.50 for the review proceedings conducted on March 21, 2012. Check or money order shall be made payable to the State Bar of Michigan, but submitted to the Attorney Discipline Board [211 West Fort St., Ste. 1410, Detroit, MI 48226] for proper crediting. (See attached instruction sheet.)

ATTORNEY DISCIPLINE BOARD

By: 

Thomas G. Kienbaum, Chairperson

DATED: May 21, 2012

Board members Thomas G. Kienbaum, James M. Cameron, Jr., Rosalind E. Griffin, M.D., Andrea L. Solak, Carl E. Ver Beek, Sylvia P. Whitmer, Ph. D., Lawrence G. Campbell, and Dulce M. Fuller concur in this decision.

Board member Craig H. Lubben did not participate.

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v Case No. 10-57-GA

GREGORY B. JONES, P 15572,

Respondent.
_____/

MISCONDUCT REPORT OF TRI-COUNTY HEARING PANEL #5

PRESENT: Jennifer J. Sinclair, Chairperson
Steven P. Ross, Member
Alicia J. Skillman, Member

APPEARANCES: Kimberly L. Uhuru,
for the Attorney Grievance Commission

Kenneth M. Mogill,
for the Respondent

I. EXHIBITS

Please see Exhibit Index on page 2 of the September 1, 2010 hearing transcript.

II. WITNESSES

Barbara L. Geddes
Gregory B. Jones, Respondent

III. PANEL PROCEEDINGS

On May 26, 2010, the Grievance Administrator filed misconduct charges against the respondent, alleging that he had violated MRPC 1.1(c), 1.3, 1.4(a), 8.1(a)(2), and 8.4(a), as well as MCR 9.104(A)(2) - (4), all with respect to his actions - or more accurately, inaction - in connection with a single client's bankruptcy matter. The respondent filed an answer in which he admitted, with slight clarifications not relevant to the question of misconduct, each of the

APPENDIX A

allegations set forth in the complaint, but argued that those actions or failures to act did not constitute misconduct as contemplated by the Michigan Rules of Professional Conduct and/or did not violate the Michigan Court Rules as alleged.

On September 1, 2010, a hearing was held at which both the complainant and the respondent testified. The complainant, a retired State of Michigan worker, testified that she contacted the respondent, Mr. Jones, around September 1, 2007, in connection with her contemplated bankruptcy filing. Mr. Jones told the complainant that she qualified to file for bankruptcy, which would require her to attend both pre- and post-petition credit counseling; he also informed her that she would be responsible for the initial filing fee of $299 (for which the complainant wrote a check to the respondent in the amount of $300) as well as his fee of $1,000 to file the petition (which the complainant paid by check dated September 27, 2007). (Tr 09/01/10, pp 13-16; Pet Ex 1.) The complainant completed her pre-petition credit counseling and gave her certificate of completion to Mr. Jones prior to his initiation the bankruptcy on October 4, 2007. (Tr 09/01/10, pp 17-18; Pet Ex 2: Bankruptcy Court Docket Sheet.)

On December 6, 2007, the complainant received her certification of completion of the required post-petition debt counseling, which she provided to Mr. Jones. (Pet Ex 3.) In January 2008, the complainant was summoned to bankruptcy court in Detroit due to some inaccuracies and/or mistakes in the paperwork; it appears that the respondent did not accompany her to that hearing, but that the complainant informed him of the necessary alterations by telephone afterward. The complainant believed that Mr. Jones would take care of the problems. (Tr 09/01/10, pp 18-19.)

It appears from the bankruptcy docket sheet that Mr. Jones did file some amendments to the complainant's petition on February 5, 2008; however, he failed to file the necessary certification of his client's completion of the post-petition debt counseling course. Accordingly, on May 8, 2008, the bankruptcy trustee was discharged and the complainant's bankruptcy case was "closed without discharge" due to the absence of the necessary financial counseling certification. (Pet Ex 2, entries 16 & 17.) The complainant was notified of the closing of her bankruptcy case without discharge by receipt of the orders from the court. (Tr 09/01/10, pp 19-22; Pet Ex 4: Notice.) When the complainant contacted Mr. Jones about the dismissal at the end of May 2008, he stated he was "very busy right then" but that he would turn his attention to the matter sometime in June.

Thereafter, Mr. Jones stopped taking the complainant's phone calls and also failed to respond to a certified letter from her, causing her ultimately to complain to the Attorney Grievance Commission sometime in 2009. The complainant testified that she continued to get dunning and harassing phone calls from creditors, which was "nerve wracking." (Tr 09/01/10, pp 22-24.) Four more exhibits were entered into the record on behalf of the complainant: three (unanswered) letters from the Grievance Administrator to the respondent dated August 5 and September 4 & 22, 2009 (Pet Ex 5-7), and a motion filed on December 2, 2009, by Mr. Jones attempting to reopen the complainant's bankruptcy case. (Pet Ex 8; see also Pet Ex 2: Bankruptcy docket, entries 17 & 18.)

After the hearing panel denied Mr. Jones' motion for partial dismissal of the charges as to the allegations of neglect (Tr 09/01/10, pp 34-43), the respondent took the stand. Mr. Jones testified that he had graduated from law school in 1972 and had begun doing bankruptcy work for individual clients since around 1977. While he had no recollection or records regarding his dealings with the complainant, he testified to his general procedures and level of client contact

in handling bankruptcy cases, and also to his e-filing of the complainant's bankruptcy petition in October 2007. (Tr 09/01/10, pp 44-54.)

Mr. Jones acknowledged that the complainant had supplied him with her post-petition debt counseling certification but opined that "somewhere it got lost in the shuffle." (Tr 09/01/10, p 54.) He also acknowledged receiving correspondence from the complainant after her case had been dismissed, but testified that he failed to respond because he "was embarrassed I'd screwed it up." (Tr 09/01/10, p 55.) In response to his counsel's query "why'd you wait until the day before your sworn statement [to the GA] to file the motion to reopen?" Mr. Jones said "[e]mbarrassment, frustration, that's all I can think of." (Tr 09/01/10, pp 55-56.) Finally, Mr. Jones confirmed that he had "checked on" the progress of his motion to reopen the complainant's bankruptcy case several times but that it was "still pending. I don't know what's going on." (Tr 09/01/10, p 56.) Although he described a way to "push that through the system and get it acted on," Mr. Jones nevertheless acknowledged that he simply "ha[d]n't had a chance" to take those steps on the complainant's behalf. (Tr 09/01/10, pp 56-57.)

On cross-examination, Mr. Jones admitted that he "typically" did not utilize any type of calendaring or "tickler" system in his office; that he failed to answer any of the Grievance Administrator's correspondence because he "was embarrassed by what had happened in this case and didn't think I had anything good to tell you;" and that even after he had belatedly filed the motion to reopen in December 2009, he "didn't see a need to tell [the complainant] that he had done so" because he believed the Grievance Administrator would do it instead. (Tr 09/01/10, pp 58-63.) At the conclusion of the hearing, the parties requested and were granted permission to file post-hearing briefs on the issue of neglect, which have now been received and reviewed by the panel.

IV. FINDINGS AND CONCLUSIONS REGARDING MISCONDUCT

It is uncontested that:

1. The complainant hired respondent and paid him a $1,000 fee to file a Chapter 7 bankruptcy petition on her behalf for the purpose of securing a discharge of her debts thereby;

2. Respondent filed the agreed-upon bankruptcy petition in October 2007 and also took at least some actions on the complainant's behalf in connection therewith up until early February 2008;

3. The complainant supplied respondent with the required post-petition certification of completion of debt counseling in December 2007, which the respondent neglected to file with the bankruptcy court either contemporaneous with its creation and/or receipt in his office in December 2007 or at any time up to and including December 1, 2009;

4. The respondent's failure to file this certification within six months of the initiation of the complainant's bankruptcy action was the direct cause of

the dismissal of the complainant's petition without discharge of her debts in May 2008;

5. The respondent was aware that his failure to file the required certification had caused the dismissal of his client's petition without discharge of her debts no later than late May 2008, when he received notification from the bankruptcy court of the dismissal of his client's petition and the reason therefore, and was also contacted by the complainant regarding the dismissal;

6. Despite this knowledge, respondent failed to communicate with his client in the face of repeated inquiry from her or to take any attempts to rectify his negligence in failing to file the required certification;

7. Respondent also failed to respond to the Grievance Administrator's three written inquiries regarding the complainant's matter, or to take any steps to rectify his negligence with respect to the complainant's bankruptcy petition in light of these communications;

8. Respondent filed a motion to reopen the complainant's bankruptcy case on December 2, 2009, which was one day before he was scheduled to appear before the Grievance Administrator in response to a subpoena for his appearance and more than 1 ½ years after the bankruptcy court had dismissed his client's petition;

9. At no time after May 2008, up to and including the period from December 2, 2009 (when he moved to reopen the complainant's bankruptcy case) to Sept. 1, 2010, (the date of the disciplinary hearing), did the respondent communicate in any way with the complainant or inform her that he was attempting to reopen her bankruptcy matter.

Notwithstanding these undisputed facts, respondent argues that his conduct amounts to a single act of neglect of his client's matter -- his failure to timely file her post-petition debt counseling certification, which led to dismissal of her bankruptcy action - relying on Attorney Discipline Board opinions in *Grievance Administrator v Carrie L.P. Gray*, 93-250-GA (ADB 1996); *Grievance Administrator v Bruce J. Sage*, 96-35-GA (ADB 1997); and *Grievance Administrator v Samuel Posner*, 126-88 (ADB 1990). We have reviewed those cases, and find only one of them - *Grievance Administrator v Sage* - instructive.

In *Sage*, the respondent-attorney had closed a divorce matter with a client in which the judgment contemplated that the client would be entitled to a share of her ex-husband's pension, but no Qualified Domestic Relations Order (QDRO) was ever entered to effectuate this pension division. Four years later, the client called the attorney to inform him that, although her husband had now retired and she was therefore eligible for a distribution from his pension account, his employer had refused to make payments to her in the absence of the required QDRO. In the disciplinary proceedings, the respondent's motion for summary disposition was granted by the

hearing panel upon finding that "Respondent did not commit misconduct by neglect," citing *Grievance Administrator v Gray*. (*Sage* Board Opinion, p 3.)

The Attorney Discipline Board reversed the hearing panel's grant of summary disposition, noting that "to say that neglect 'cannot be found if the acts or omissions complained of were inadvertent' may suggest that only willful conduct may be categorized as 'neglect' or otherwise subject an attorney to discipline. . . .[n]eglect cases present facts from which indifference to a client's interest may be readily inferred. However, a panel should not dismiss merely because a respondent disclaims indifference or carelessness in a dispositive motion." (*Id.* at 4-5.) In discussing the interplay between MRPC 1.1(c) and 1.3, the Board recognized that not only does MRPC 1.1 "contains a clearly-stated affirmative duty to render competent representation" but that Rule 1.3 places a separate duty upon an attorney to "act with reasonable promptness and diligence in representing a client." Thus, the Board concluded that "'reasonable diligence and promptness' (MRPC 1.3) is not simply the obverse of the duty not to neglect a matter. It is a distinct obligation originating from the former Canon 7 [of the Disciplinary Rules]." (*Id* at 7.)

Here, the Grievance Administrator has alleged that the respondent not only "neglected a legal matter" in violation of MRPC 1.1(c), but that his behavior with respect to the complainant also violated his duty to "act with reasonable diligence and promptness," in violation of MRPC 1.3, as well as his duty to "keep [his] client reasonably informed about the status of [her] matter and comply promptly with reasonable requests for information" in violation of MRPC 1.4(a).[1]

After reviewing the facts set forth above, we cannot conclude, as the respondent urges, that the pattern of neglect and inaction demonstrated here constitutes only "an act of simple negligence" exacerbated by the respondent's "embarrassment at his initial error." While it is true that the respondent's initial failing, which resulted in the dismissal of his client's bankruptcy matter without discharge, was the "single act" of failing to timely file the post-petition certification of debt counseling, a diligent attorney would have attempted to immediately rectify such an omission when brought to his attention.[2]

However, not only did the respondent admit that he received the necessary certificate from his client well in advance of the filing deadline and that he utilized no "tickler system" in his office to ensure timely filing of documents, but he also received the notice from the bankruptcy court dismissing his client's bankruptcy matter without discharge and specifically stating that the case was dismissed for lack of the necessary certification form. Yet he took no action. When called by his client regarding the dismissal, he claimed he was "too busy" to rectify the consequences of his negligence at the time. Even after receiving a certified letter from his client complaining of the dismissal, he took no action. Finally, he was informed by the Attorney

---

[1] In addition, the Grievance Administrator has charged respondent with the entirely separate ethical violation of knowingly and repeatedly failing to respond to its lawful demand for information in violation of MRPC 8.1(a)(2). The respondent has not contested that charge.

[2] We find it unnecessary to revisit the question of "single act, simple negligence" as discussed in *Gray* and *Posner* because we do not find that respondent's long-term neglect of his client's matter in the face of notification of dismissal by the bankruptcy court and repeated inquiries from the complainant justifies application of that unique and "narrowly drawn" concept here.

Grievance Commission that a complaint had been filed against him by the complainant and he received three letters from the Grievance Administrator inquiring about his apparent negligence. He still did nothing to rectify the damage caused by his protracted neglect of his client's matter and failure to act with "reasonable diligence and promptness in representing [his] client."

Moreover, the panel finds the respondent's behavior in filing a petition to re-open his client's bankruptcy matter one day before his scheduled appearance in the Grievance Administrator's office - which was over a year-and-a-half after the case's dismissal - self-serving and disingenuous. Similarly, his assertion that "embarrassment and frustration" may excuse neglect and indifference is meritless.

Accordingly, we find that the respondent committed misconduct in violation of MRPC 1.1(c); 1.3; 1.4(a); and 8.1(a)(2); and that this misconduct both exposed the legal profession to contempt, censure, and reproach, and was contrary to justice and ethics in violation of MCR 9.104(A)(2) and (3).

Misconduct having been established as charged by the Attorney Grievance Commission, a separate hearing date on the question of discipline shall be set forthwith.

ATTORNEY DISCIPLINE BOARD
Tri-County Hearing Panel #5

By: Jennifer J. Sinclair
Jennifer J. Sinclair, Chairperson

DATED: December 21, 2010

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v Case No. 10-57-GA

GREGORY B. JONES, P 15572,

Respondent.
_____/

DISCIPLINE REPORT OF TRI-COUNTY HEARING PANEL #5

PRESENT: Jennifer J. Sinclair, Chairperson
Steven P. Ross, Member
Alicia J. Skillman, Member

APPEARANCES: Kimberly L. Uhuru, Senior Associate Counsel,
for the Attorney Grievance Commission

Kenneth M. Mogill,
for the Respondent

I. EXHIBITS

Petitioner's Exhibit No. 9 (Reprimand dated 07/22/1981)
Petitioner's Exhibit No. 10 (Reprimand dated 06/07/1983)
Respondent's Sanction A (PMRC Report)
Respondent's Sanction B (Bankruptcy Docket Entries)

II. WITNESSES

Edward J. McCormick, Jr.
Hon. Joseph A. Costello, Jr.
Jack F. Simms, Jr.
Lawrence Van Wasshenova

III. PANEL PROCEEDINGS

On May 26, 2010, the Grievance Administrator filed misconduct charges against the Respondent, alleging that he had violated MRPC 1.1(c), 1.3, 1.4(a), 8.1(a)(2), and 8.4(a), as well as MCR 9.104(A)(2), (A)(3), and (A)(4), all with respect to his actions -- or more accurately, inaction -- in connection with a single client's bankruptcy matter.

After a hearing on misconduct, held on September 1, 2010, the Panel issued its Report on Misconduct on December 21, 2010, finding that Respondent had committed misconduct in violation of MRPC 1.1(c); 1.3; 1.4(a); and 8.1(a)(2); and that this misconduct both exposed the

legal profession to contempt, censure, and reproach, and was contrary to justice and ethics in violation of MCR 9.104(A)(2) & (3).

IV. REPORT ON DISCIPLINE

On June 14, 2011, a Hearing on Discipline was held, during which exhibits were introduced and character witnesses testified on behalf of the Respondent.

The Grievance Administrator's counsel presented evidence of two prior reprimands issued against the Respondent for failure to answer a formal complaint in 1981 and failure to answer a Request for Investigation (RFI) in 1983. (Pet. Ex. 9: Reprimand dated 07/22/81; Pet. Ex. 10: Reprimand dated 06/07/83; 06/14/11 Hrg. Tr. at 6-7).

Respondent presented a report by the Practice Management Resource Center (PMRC) of the State Bar of Michigan dated September 3, 2010, which favorably evaluated the adequacy of his law office practices. (Resp. Sanctions Ex. A; 06/14/11 Hrg. Tr. at 7-8). Respondent also presented an updated copy of the bankruptcy docket in Ms. Geddes' case. (Resp. Sanctions Ex. B; 06/14/11 Hrg. Tr. at 9).

Respondent then presented the testimony of four character witnesses. The first character witness was Edward J. McCormick, Jr., a self-employed attorney in Monroe, Michigan, who had been admitted to the Michigan Bar in 1968. (06/14/11 Hrg. Tr. at 11). Attorney McCormick testified that he had known Respondent since he became a member of the Bar in 1972, and that they frequently lunched together, during which they conversed on various topics. (06/14/11 Hrg. Tr. at 12). Attorney McCormick opined that Respondent, "lives for the law. He loves the law. And he as far as I know of his reputation, is diligent in his practice, attentive, and he's got the most fantastic memory of anybody I've ever known;" and that Jones's "attention to detail is phenomenal." (06/14/11 Hrg. Tr. at 13).

On cross-examination, Attorney McCormick acknowledged that he was unaware of all the facts of the disciplinary case, and that it had been fifteen to twenty years since he'd had a case with Respondent and, thus, his knowledge of Mr. Jones's case work was based on Jones's own representations. (06/14/11 Hrg. Tr. at 14-16). On re-direct examination, Attorney McCormick testified that he had personally referred a number of bankruptcy cases to the Respondent and had received no complaints, which had helped to inform his opinion as to Respondent's current level of practice. (06/14/11 Hrg. Tr. at 17).

The second character witness for the Respondent was Judge Joseph Costello, Jr., a member of the Monroe Circuit Court bench since 1997, and a member of the Probate Court in Monroe from 1985-1996. (06/14/11 Hrg. Tr. at 18). Judge Costello stated that he'd known Respondent since approximately 1981, and that Respondent frequently appears before him in criminal cases. (06/14/11 Hrg. Tr. at 18-19). The Judge also opined that, "Mr. Jones is probably the most knowledgeable attorney among the defense bar .... one of the few attorneys that will cite case law on a regular basis;" and testified that Respondent had "never missed a deadline" in his court. When asked about Respondent's reputation, the Judge stated that it was "very positive." (06/14/11 Hrg. Tr. at 19-20).

Judge Costello further testified that, in his opinion, it would be "very much out of character" for the Respondent to fail to properly pursue a bankruptcy case or fail to respond to

the Grievance Administrator's inquiries, since he found Jones to be a "very conscientious [and] caring person, and maybe to a fault." (06/14/11 Hrg. Tr. at 21-22).

The third character witness for Respondent was Jack Franklin Simms, Jr., Chief Assistant Prosecuting Attorney for the County of Monroe, who had known Respondent since 1997. (06/14/11 Hrg. Tr. at 23). The Witness opined that, based on his experience in prosecuting 12 to 18 cases against Respondent's clients, as well as his reputation, Respondent was "both thorough and honest. In fact, perhaps even persnickety sometimes .... giving attention to detail that I might not spend as much time on." (Id. at 24). Because he was "known as a very diligent and honest lawyer," Mr. Simms opined that it would be out of character for Respondent to neglect a bankruptcy client, or to fail to timely respond to queries from the Grievance Administrator (Id. at 24-26).

On cross-examination, Mr. Simms confirmed that he had no direct knowledge regarding the level of communication or contact between Respondent and his clients. (06/14/11 Hrg. Tr. at 27-28).

The fourth character witness was Lawrence Van Wasshenova, Director of Monroe County Senior Legal Services, where Respondent serves on the Board of Directors (06/14/11 Hrg. Tr. at 30). The witness testified that he often refers clients to attorneys for both bankruptcy and criminal matters; that Respondent was one of the "top referral attorneys" for such cases; and that the witness had never received a complaint from any of those clients. Additionally, the witness testified that Respondent was considered to be "very competent and extremely honest," and that Respondent's lack of timely response in the instant matter was "totally uncharacteristic of him." (06/14/11 Hrg. Tr. at 30-33).

Respondent then took the stand and answered questions from the Panel, reiterating that the reason the filing to re-open the Complainant's bankruptcy case took so long was because he was embarrassed and frustrated, and that "he did not know what else he could say about it." Respondent referred back to the Practice Management Resource Center Report, which had not found any structural problems in his practice. (06/14/11 Hrg. Tr. at 42-43). Respondent went on to state, "I was concerned about . . . . finding some way to follow up on dates, because different things happen at fixed intervals in a bankruptcy practice, but that's not always, like, the last Friday of the month, or something like that. The program I am using at least now has a tickler system in it to remind me about those dates. I have used this program, this software program, for a number of years, it's been updated at least once a year. I don't know whether the version I was using when this case was filed had that feature at that time or not, but it does now. And I find that a handy and useful thing to go with." (06/14/11 Hrg. Tr. at 44).

The Panel then questioned Respondent about the timeline of his actions attempting to set aside the dismissal of the Complainant's bankruptcy. The bankruptcy docket sheet (Resp's Sanctions Ex. B) shows that nearly one-and-a-half years elapsed after the bankruptcy case was closed in May of 2008 before Respondent filed a Motion to Reopen in December of 2009, and that Respondent filed this motion "immediately prior" to the deposition that Respondent was to give at the Grievance Administrator's office. (06/14/11 Hrg. Tr. at 47-48). Respondent acknowledged, as well, that he failed to file Ms. Geddes' certificate of completion of financial counseling for another six or seven months, and that it was ultimately filed the very same day Respondent filed his Answer to the instant complaint, which Respondent contended was "pure coincidence." (06/14/11 Hrg. Tr. at 48-50).

V. FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE

In deciding upon the appropriate sanction, we are directed to consider 1) the dut[ies] violated; 2) the lawyer's mental state; 3) the actual or potential injury caused by the lawyer's misconduct; and 4) the existence of aggravating or mitigating factors. (Standard 3.0).

This Panel has already concluded that the Respondent: (1) neglected Ms. Geddes' bankruptcy matter, resulting in its outright dismissal (MRPC 1.1(c)); (2) failed to act with reasonable diligence in his efforts to rectify the dismissal (MRPC 1.3)); (3) failed to keep Ms. Geddes reasonably informed about the status of her case and failed to respond to her numerous, reasonable requests for information (MRPC 1.4(a)); and finally (4) that he repeatedly and wilfully failed to respond to requests for information from the Grievance Administrator (MRPC 8.1(a)(2)).

We further find that the Respondent's prolonged periods of inaction with respect to this bankruptcy matter, while perhaps initially merely negligent, quickly became both knowing and wilful, and hence, inexcusable. While Respondent contends that he committed only a single act of simple negligence in failing to file Ms. Geddes' certificate of financial counseling in a timely manner, in fact his consistent neglect extended not only to his failure to file this certification, but also his failure to rectify the situation after he learned that his client's case had been dismissed without discharge, his outright refusal to communicate with his client even after receiving a certified letter from her, and his prolonged refusals to answer queries from the Grievance Commission. No amount of "frustration and embarrassment" can excuse an attorney's prolonged neglect of a client matter.

Accordingly, we find the applicable portion of Standard 4.4 of the ABA's Standards for Imposing Lawyer Sanctions to be Standard 4.42, which states that "[s]uspension is generally appropriate when a lawyer knowingly fails to perform services for a client...[or] engages in a pattern of neglect and causes injury or potential injury to a client." Here, not only did the Respondent cause the dismissal of his client's bankruptcy case, he ignored her queries about the case, and only filed a motion to re-open the proceeding after 18 months had elapsed and just before he was to be deposed in connection with Ms. Geddes' complaint to the Grievance Administrator. (06/14/11 Hrg. Tr. at 48). Moreover, Ms. Geddes testified that after the dismissal of her bankruptcy case, she got several dunning and harassing calls from creditors which were extremely "nerve wracking." (09/01/10 Hrg. Tr. at 22-24). Thus, the Respondent's client also suffered mental anguish as a result of his gross negligence.

Finally, as to factors in aggravation and mitigation, we find the following aggravating factors under Standard 9.22:

(a) prior disciplinary offenses;[1]
(c) a pattern of misconduct
(d) multiple offenses
(h) vulnerability of victim
(i) substantial experience in the practice of law

We also find the following mitigating factors under Standard 9.32:

[1] Although the Respondent has been twice disciplined previously, both for failure to answer queries posed by the Grievance Administrator in connection with two prior complaints, we give relatively little weight to those reprimands in light of the fact that they were issued 28 and 30 years ago.

(b) absence of dishonest or selfish motive
(g) character and reputation
(l) remorse[2]
(m) remoteness of prior offenses

Additionally, we find it troublesome that Respondent testified that he typically used no tickler system. (09/01/10 Hrg. Tr. at 59). However, given that the PMRC Report indicated that, at least as of the time they examined the Respondent's practice in September of 2010, some form of a tickler system was in use, we do not impose additional office-management requirements in this regard.

Based upon the foregoing, we find a 30 day suspension to be the appropriate discipline to be imposed.

VI. SUMMARY OF PRIOR MISCONDUCT

On June 22, 1981, Respondent received a Reprimand for failure to answer a separate Formal Complaint filed by the Grievance Administrator. Additionally, on June 7, 1983, Respondent received a Reprimand for failure to answer a request for investigation in violation of GCR, 953(7), GCR 962.2(b), and Canon 1, DRI-102(A)(5) of the Code of Professional Responsibility.

VII. ITEMIZATION OF COSTS

Attorney Grievance Commission:	
(See Itemized Statement filed 09/16/10)	$ 178.28
Attorney Discipline Board:	
Hearing held 09/01/10	$ 475.00
Hearing held 06/14/11	$ 313.50
Administrative Fee [MCR 9.128(B)(1)]	$ 1,500.00
TOTAL:	**$ 2,466.78**

ATTORNEY DISCIPLINE BOARD
Tri-County Hearing Panel #5

By: _____
Jennifer J. Sinclair, Chairperson

DATED: December 14, 2011

[2] While the Respondent repeatedly characterized his feelings as "embarrassment and frustration" at having mishandled Ms. Geddes' case, we somewhat reluctantly credit him with remorse because he did answer one of the hearing panelist's questions about being remorseful in the affirmative. (06/14/11 Hrg. Tr. at 42-43).