STATE OF MICHIGAN

Attorney Discipline Board

In the Matter of the Reinstatement Petition
of Robert L. Wiggins, Jr., P 32359,

Petitioner/Appellee,

Case No. 10-26-RP

Decided: August 11, 2011

FILED
ATTORNEY DISCIPLINE BOARD
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Appearances:

For the Petitioner/Appellee: Michael Alan Schwartz, Thomas M. Loeb, J. Martin Brennan, Jr., seriatim (before the panel); Petitioner, in pro per (on review), and Donald D. Campbell (oral argument on review).

For the Grievance Administrator/Appellant: Patrick K. McGlinn.

BOARD OPINION

Petitioner, Robert L. Wiggins, Jr., was suspended for 180 days, effective May 16, 2009. He was suspended for, among other things, failing to provide competent representation, filing frivolous litigation, charging or collecting a clearly excessive fee, failing to protect a client's interest upon termination of representation, failing to return an unearned fee, and for conduct prejudicial to the administration of justice. Petitioner was reinstated by a majority of two panel members over the dissent of the third. The Grievance Administrator seeks review of the order reinstating petitioner to practice of law. We agree with the Administrator that petitioner has not met the requirements of MCR 9.123(B)(5)-(7), and we therefore vacate the order of reinstatement.

I. Standards for Reinstatement.

MCR 9.123(B) provides, in part:

> An attorney whose license to practice law has been revoked or suspended for more than 179 days is not eligible for reinstatement until the attorney has petitioned for reinstatement under MCR 9.124 and has established by clear and convincing evidence that:
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> * * *
>
> (5) his or her conduct since the order of discipline has been exemplary and above reproach;

> (6) he or she has a proper understanding of and attitude toward the standards that are imposed on members of the bar and will conduct himself or herself in conformity with those standards;
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> (7) taking into account all of the attorney's past conduct, including the nature of the misconduct which led to the revocation or suspension, he or she nevertheless can safely be recommended to the public, the courts, and the legal profession as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence, and in general to aid in the administration of justice as a member of the bar and as an officer of the court.

We will quote at length from our opinion in *In Re Reinstatement of Arthur R. Porter, Jr.*, 97-302-RP (ADB 1999), because so many of the principles stated in that opinion are relevant to this matter:

> "The passage of time, by itself, is not sufficient to support reinstatement." *In Re Reinstatement of McWhorter*, 449 Mich 130, 139; 534 NW2d 480 (1995). . . .
>
> We have previously underscored the fact that the passage of the time specified in a discipline order or court rule, does not, in light of the other reinstatement requirements, raise a presumption that the disciplined attorney is entitled to reinstatement because she has "paid her debt" or he has "served his time." In *In Re Reinstatement of James DelRio*, DP 94/86 (ADB 1987), this Board held:
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> > Under the rules governing reinstatement proceedings, the burden of proof is placed upon the petitioner alone. While the Grievance Administrator is required by MCR 9.124(B) to investigate the petitioner's eligibility for reinstatement and to report his or her findings in writing to the hearing panel, there is no express or implied presumption that a petitioner is entitled to reinstatement as long as the Administrator is unable to uncover damaging evidence. In this case, our finding that petitioner DelRio has failed to meet his burden of establishing eligibility for reinstatement by clear and convincing evidence would be the same if the record were devoid of evidence tending to cast doubt upon his character and fitness since his suspension.

Subrule 5 of MCR 9.123(B) requires that the suspended or disbarred attorney's "conduct since the order of discipline has been exemplary and above reproach." In *Eston, supra*, we adopted a panel member's opinion defining these terms:

> "exemplary" [means] "serving as a pattern or model for imitation; worthy of imitation." To be "above reproach" connotes behavior consistently superior to that which one might ordinarily expect.

Subrule 6 "is primarily directed to the question of the applicant's ability, willingness and commitment to conform to the standards required of members of the Michigan State Bar." [*Grievance Administrator v August*, 438 Mich 296, 310; 475 NW2d 256 (1991)]; *McWhorter*, 449 Mich at 138 n 10.]

Subrule 7 focuses on "the public trust" which the Court, the Board and hearing panels, have "the duty to guard." *Id.* This inquiry involves the nature and seriousness of the misconduct,[8] evidence of rehabilitation,[9] and essentially culminates in a prediction[10] that the petitioner will abide by the Rules of Professional Conduct.

Taken together, subrules (5)-(7) require scrutiny of the reinstatement petitioner's conduct before, during, and after the misconduct which gave rise to the suspension or disbarment in an attempt to gauge the petitioner's current fitness to be entrusted with the duties of an attorney. Our Supreme Court has recognized that application of MCR 9.123(B) involves "an element of subjective judgment." *August*, 438 Mich at 311.

The reason for all of these standards, and for requiring a petitioner to prove their attainment by clear and convincing evidence, is "'the fact that the very nature of law practice places an attorney in a position where an unprincipled individual may do tremendous harm to his client.'"[11]

Discipline matters are fact sensitive inquiries to be decided on the particular facts of each case. *Grievance Administrator v Deutch*, 455 Mich 149, 166; 565 NW2d 369 (1997). Accordingly, there can be no formula for reinstatement. The evidence necessary to establish compliance with MCR 9.123(B)'s requirements clearly and convincingly will vary depending on the circumstances of the individual petitioner. *August*, 438 Mich 309-310, 312 n 9.

> Nonetheless, certain patterns do emerge. Subrule 7 requires the clear conclusion that the petitioner can safely be recommended as a person fit to be consulted in matters of trust and confidence. MCR 9.103(A) defines the license to practice law as "a continuing proclamation by the Supreme Court that the holder is fit to be entrusted with professional and judicial matters and to aid in the administration of justice." To affix such a proclamation of safety, or "stamp of approval," *August*, 438 Mich at 311, upon someone who has committed serious misconduct would seem to require a searching inquiry into the causes for the conduct resulting in discipline and the most convincing showing that a genuine transformation has occurred.

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[8] MCR 9.123(B)(7); *August*, 438 Mich at 306.

[9] See, e.g., *August* at 306-307.

[10] See *In Re Albert*, 403 Mich 346, 363 (1978) (Opinion of Justice Williams) (suggesting that the Court must "prognosticate [petitioner's] future conduct").

[11] *August*, 438 Mich at 307, quoting *In re Raimondi*, 285 Md 607, 618; 403 A2d 1234 (1979), cert den 444 US 1033 (1980).

II. Petitioner's History of Misconduct.

Petitioner was admitted to the practice of law in Michigan in 1981. In February 1986, petitioner was arrested, and he was later convicted of "Resisting and Obstructing Police Officer contrary to MCL . . . 750.479-A, Habitual Offender - Second, Contrary to MCL 769.10, Possession of Firearm While Intoxicated, contrary to MCL Section 750.327 and Use of Cocaine contrary to MCL 335.341(5)(a)." Notice of Discipline, ADB 72-87 (order of reprimand effective April 15, 1989).

In 1990, petitioner was convicted of resisting or obstructing a police officer, in violation of MCL 750.479(B), and he was suspended by a hearing panel for a period of 60 days. That suspension was increased by the Board in 1994 to a period requiring reinstatement (then 120 days). In its opinion, the Board concluded:

> [R]espondent's continued inability to conform his conduct to the standards expected of all citizens requires reinstatement proceedings to determine, among other things, that he is an individual who has a proper understanding of and attitude toward the standards that are imposed on members of the bar and that he can safely be

> recommended to the public, the courts and the legal profession as a person fit to aid in the administration of justice as a member of the bar and as an officer of the court. [*Grievance Administrator v Robert L. Wiggins, Jr.*, 93-57-JC (ADB 1994), p 4.]

However, the Supreme Court granted petitioner's request that he be allowed automatic reinstatement pursuant to MCR 9.123(A), notwithstanding the Board's order requiring reinstatement proceedings under MCR 9.124.

Also in 1994, petitioner was reprimanded pursuant to a stipulation for consent discipline. In that case, petitioner agreed to discipline for misconduct as alleged in two counts of a formal complaint both alleging, among other things, violation of MRPC 3.1 (frivolous litigation), 3.3(a)(1) and (2) (lack of candor to a tribunal), and 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal). Petitioner returned a car stereo months after the return period expired and falsely alleged in a 1991 district court action that the equipment was defective. Additionally, in a 1993 lawsuit stemming from his wife's purchase of a Rolls Royce, petitioner alleged that the dealership committed fraud and that the automobile was defective, also contrary to the foregoing rules of professional conduct.

Between 1988 and 2001, petitioner was admonished by the Attorney Grievance Commission for the following acts of misconduct on the following dates:

- April 28, 1988 - Communicating directly with an adverse party represented by counsel;
- June 29, 1988 - Failure to maintain adequate records regarding client funds;
- February 20, 1991 - Violation of MRPC 1.1 (competence/neglect) by filing a motion to withdraw in wrong court and failing to appear at pretrial resulting in dismissal of client's case;
- March 31, 1999 - Failure to prepare and file competent pleadings: "The first motion filed by you failed to contain the requisite brief. The second pleading corrected the first defect, but was filed so late as to prejudice Complainant's matter. Further, both motions were frivolous in that no basis for the relief requested was contained therein." Violations included MRPC 1.1(b) and (c), 1.3, 3.1, and 3.2.
- August 1, 2000 - Submitting "confusing billing" to client and billing her for answering a grievance filed against petitioner.

- March 1, 2001 - "[Failure] to provide . . . client . . . with accurate billing information, and . . . not [becoming] familiar with the process by which to represent [client] in an out-of-state court, which caused further delay in her matter," in violation of MRPC 1.1, 1.3, and 1.4(a).

A formal complaint was filed against petitioner in 2005, and in 2007, a hearing panel found misconduct as summarized in this Board's order remanding to the panel for reconsideration of the level of discipline:

> In this case, the panel found that respondent "failed to provide competent representation in violation of MRPC 1.1(a); neglected a legal matter in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness, in violation of MRPC 1.3; and had charged a clearly excessive fee, in violation of MRPC 1.5(a)." (Panel Report on Misconduct, p 4.) These findings are not contested on review, but, in fact, are adopted by respondent. (Respondent's brief on review, p 2.) Most of the formal complaint's allegations are admitted by respondent. Although the allegation that respondent conducted no discovery in the underlying lawsuit is denied in respondent's answer, the evidence at the hearing, including testimony from respondent and his successor counsel, makes it clear that no discovery was in fact conducted. (See, e.g., Tr 8/31/05, pp 126-127, 173-174.) At one point, respondent testified that he didn't conduct discovery (such as interrogatories and requests for production of documents) because his client brought in so much evidence. (Tr 8/31/05, p 174.)
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> Respondent testified that he did not file a request for production of documents to learn about the defendants' evidence because he was waiting for his clients to hire an expert witness. (Id., at 192.) Indeed, respondent blamed everything from failing to timely file a witness list (Tr 8/31/05, pp 201-202) to failing to conduct written discovery (Tr 8/31/05, p 211) to failing to conduct depositions (Tr 8/31/05, p 212) on the clients' unwillingness to hire an expert. [*Grievance Administrator v Robert L. Wiggins, Jr.*, 05-44-GA (ADB order 4/15/2008).]

The Board remanded that case for consideration of the Administrator's argument that ABA Standard 4.42 applied (suspension for knowing failure to provide services or pattern of neglect) and that petitioner should have received a suspension instead of the reprimand ordered by the panel. This Board continued, in its order of remand:

> Finally, should the panel conclude that suspension is appropriate, we direct that the panel consider whether the aggravating effect of respondent's extensive record of misconduct should result in a suspension requiring reinstatement. Respondent was reprimanded in 1987 for criminal conduct including resisting and obstructing police officer, habitual offender 2nd, possession of a firearm while intoxicated, and use of cocaine. In 1994, he was suspended for 120 days for similar conduct. He also has numerous admonitions demonstrating what appears to be a pattern of failing to meet minimal standards of competence, diligence and other assorted duties such as communication with a client, refraining from communication with an adverse party, and record-keeping. He was also reprimanded for filing frivolous litigation. Though this conduct spans the years of 1988 through 2001, and could, therefore, be considered remote to some extent, we ask the panel to consider whether this latest instance of apparent indifference to his clients' interests is the continuation of a pattern demonstrating that respondent is simply unwilling or unable to conform to the minimal standards required of a Michigan attorney. [*Id.*]

On remand, the hearing panel noted that witnesses testifying on petitioner's behalf in the hearing on discipline showed "that [petitioner] has provided excellent representation to many other clients," and two attorneys who had worked for him "testified as to his diligence, legal skills, work ethic, and determined and unrelenting negotiation style." The panel suspended petitioner for 30 days and ordered his attendance at a continuing legal education course "relating to the professional responsibility of attorneys to their clients." *Grievance Administrator v Robert L. Wiggins, Jr.*, 05-44-GA (HP order 11/4/2008). A petition for review was not filed with this Board.

The discipline order which led to petitioner's most recent suspension stemmed from a formal complaint filed in 2007. In November 2008, Tri-County Hearing Panel #62 found that,

> with regard to Count One, Respondent has engaged in misconduct in that he has failed to provide competent representation, in violation of MRPC 1.1(a); he has brought a proceeding without a good faith basis for doing so that was not frivolous, in violation of MRPC 3.1; and he has conducted himself such that he exposed the legal profession to obloquy, contempt, censure or reproach in violation of MCR 9.104(A)(2). With regard to Count Two, the panel has determined that Respondent has engaged in misconduct by charging or collecting a clearly excessive fee, in violation of MRPC 1.5(a); failing to take reasonable steps to protect a client's interests upon termination by surrendering the client file, in violation of MRPC 1.16(d); failing to refund the unearned fee upon termination of the representation, in

> violation of MRPC 1.16(d); conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(A)(1); and conduct that exposes the legal profession to obloquy contempt, censure or reproach in 9.104(A)(2). [*Grievance Administrator v Robert L. Wiggins, Jr.*, 07-63-GA (HP Report on Misconduct 11/4/2008).]

Petitioner had been paid over $22,000.00 to represent James and Mary Standridge in a property dispute regarding land in Tennessee, which the panel found was handled in violation of various rules of professional conduct. The panel found that petitioner shifted blame for his errors to others and, when he and his clients were destined to part ways, insisted on a release of all liability for his errors. He also withheld the file from successor counsel and sued the Standridges for additional fees. The Standridges counterclaimed and obtained a judgment against petitioner for $221,689 to recompense them for fees paid to petitioner and for his malpractice.

The panel found that petitioner's charging of an excessive fee and failure to return the unearned fee was intentional, *id.*, p 7, and described petitioner's conduct as follows:

> Respondent first tried to condition the return of the file to the clients on their payment to him of an additional $12,000.00. When this did not work, Respondent cancelled appointments arranged with Mr. Jarboe to turn over the file and otherwise thwarted his many other attempts to secure the file for 60 days with full knowledge that a Motion to Dismiss was pending. . . . The testimony indicated that Respondent sent inaccurate bills to the client and that, at other times, he contacted the clients demanding payment to continue the representation. It also showed that the work performed by Respondent was inappropriate or unnecessary, yet the clients paid a total of $22,689.99 in attorney fees to Respondent. Still further, once Respondent was out of the case, he tried to condition turning over the file to subsequent counsel on payment of $12,000.00. Finally, Respondent, who had done nothing of value to earn his attorney fee, brought a collection action against the clients for a sum in excess of the amount he testified he thought was due and owing. The clients counterclaimed and received a default judgment for an amount in excess of $200,000.00, which included the previously paid attorney fees of $22,689.99. Respondent has failed to pay anything on this judgment and maintains that he does not owe this money even though it is a valid judgment and he failed to take an appeal. The panel agrees that this pattern of behavior falls squarely within Standards 4.6 and 7.2. [*Id.*]

In discussing aggravating factors relating to discipline, the panel noted petitioner's refusal to acknowledge the wrongful nature of his conduct:

> He blamed his secretary for his billing problems; maintained he had a good faith basis for filing in Federal District Court although the panel found otherwise; continued to argue that he did not owe the clients a refund even after a judgment was entered against him in the Macomb County Circuit Court; and continued to make light of his failure to promptly turn over the clients' file to Mr. Jarboe when he ceased representing the clients. [*Id.*]

Finally, the panel found that "while [petitioner] may have suffered from alcoholism, it was not the primary cause of the misconduct." *Id.* At the hearing on the petition for reinstatement in this case, petitioner testified unequivocally that none of the acts that led to discipline resulted from a problem with alcohol. (Tr 9/28/2010, pp 149-150.) His counsel argued to the contrary. (*Id.*, p 188.)

III. Reinstatement Proceedings in this Case.

As is set forth more fully above, petitioner was last suspended from the practice of law in Michigan effective May 16, 2009. By that date, petitioner was also required to pay restitution to his former clients, no part of which sum has been paid at any time despite the availability of funds from various sources, including loans against his life insurance policies, loans or gifts or other disbursements from funds belonging to his father, but which he freely accessed for living expenses.

The Grievance Administrator's Reinstatement Report sets forth the history of petitioner's two prior petitions for reinstatement, which were defective on their face for failure to comply with the order of discipline in various respects. Finally, petitioner filed the instant amended petition which does not address the subject of restitution, but, in a numbered paragraph 9, which was one of a series apparently tracking MCR 9.123(B)'s requirements, the assertion "not applicable" is made. In other words, it appears that petitioner asserted that MCR 9.123(B)(9) regarding repayment to the State Bar of Michigan's Client Protection Fund (CPF) was "not applicable." A proposed agreement with the CPF was submitted with the petition, however, and, ultimately, a signed agreement was introduced into the record.

The Administrator raised several "factual bases for denial of reinstatement." Among these were petitioner's lack of truthfulness and completeness in filing reinstatement petitions and undisclosed litigation during these reinstatement proceedings. Also, aspects of petitioner's financial

affairs (other than the fact that he filed for bankruptcy protection, which we do not consider as a basis for our decision) were placed in issue by the Administrator. In particular, petitioner's handling, use, or lack of supervision of his IOLTA account, to which sums were deposited after the effective date of his suspension, and petitioner's handling of funds managed in a fiduciary capacity for his father pursuant to a power of attorney, were addressed by the Administrator.

IV. Petitioner has not Established Compliance with MCR 9.123(B)(5)-(7) by Clear and Convincing Evidence.

In assessing petitioner's current fitness to hold himself out as an officer of the court and as a trusted agent of clients, we are required to examine petitioner's conduct and misconduct before, during, and after the suspension that led to his most recent disqualification from the practice of law. As we have noted above, it is his burden to establish by clear and convincing evidence that he has met the requirements of MCR 9.123(B). In light of his extensive record of misconduct over virtually his entire legal career, we must examine the record carefully to determine whether he has met his burden. Rote recitations will not suffice. The failure of a particular argument by the Administrator to persuade us or the panel will not, in and of itself, help the petitioner discharge his burden. Our comments in *Porter* and *Del Rio* are applicable here: no presumption of reinstatement arises after the passage of the period of suspension.

Mr. Wiggins has been given more than his fair share of chances to show that his misconduct was an aberration, that he truly does have the proper attitude toward the obligations of a Michigan lawyer, and can therefore be confidently held out by this Board and our Supreme Court as worthy to hold the privileges of an officer of the court, and as one who will use them for the benefit of clients and to the honor of the profession and the courts. For years, the disciplinary system has given petitioner the benefit of the doubt in meting out discipline after hearing testimonials from certain satisfied clients and professional colleagues who witnessed his tenacity and legal ability on occasion, but who, like the similar witnesses in the reinstatement hearing, were not always familiar with petitioner's acts of misconduct. Finally, petitioner was suspended for a period that required him to demonstrate his fitness to serve as a member of the bar before regaining the right to practice.

We do not find fault with any of the previous decisions imposing discipline. That is not our role here, and we cannot in fact say that those dispositions were inappropriate in light of the record before the respective panels (or the facts before the AGC in the case of the admonitions). Rather,

our role today is to examine the evidentiary record before the reinstatement panel in light of the disciplinary record and other acts of petitioner to ascertain whether his burden under MCR 9.123(B) has been met. When we do so, we conclude that petitioner has not sustained his burden.

The Administrator quotes various portions of petitioner's testimony in the reinstatement hearing which shows him to be flippant, cagey and cavalier with respect to his handling of his trust accounts in general (his wife maintains them and he never bothers to check that they are maintained appropriately), and with respect to accounts of his legal and real estate firms used to collect funds he manages for his father as attorney-in-fact. Petitioner testified that approximately $90,000 of such funds were used for him and his family. These funds are variously characterized as loans or gifts from his father, effectuated by petitioner himself acting as his father's agent. After fencing with the panel about whether gifts or loans were required by the durable power of attorney to be reduced to writing or approved by a court, petitioner finally testified as follows:

> [Panel Member] GROFSKY: If you had a client who was in the exact position you are in, in terms of being a guardian over the assets of their father, with a set of guardianship papers that reads just like those, would you have any concerns about them doing what you're doing and counsel them to stop because it might violate the terms of the guardianship?
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> A. I'd have to have a specific, you know, incident. I mean, you're talking about hypothetically.
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> MR. GROFSKY: The client comes to you and says, I'm in control of my father's assets. I need money. Not to go to Las Vegas, but I need money for ordinary living expenses and to help take care of my family. So although the guardianship papers say that in order to gift myself some of his money, I have to have a court order, I'm not going to do that. I'm just going to take the money because my intentions are good in terms of how I'm going to use it. If your client said that to you, would you tell him fine, go ahead, don't worry about violating terms of the guardianship papers?
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> A. No, I don't think I would say that.
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> MR. GROFSKY: You'd be uncomfortable with that, wouldn't you?
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> MR. WIGGINS: Yes.

This is but one aspect of petitioner's conduct and attitude we are bound to examine. And whether or not petitioner strictly complied with the terms of the power of attorney is not the critical point. Rather it is, as we have said, petitioner's burden to establish, among other things: conduct

that is exemplary and above reproach; that he has a proper understanding of and attitude toward the standards that are imposed on members of the bar and will conduct himself in conformity with those standards; and, "taking into account all of the attorney's past conduct, including the nature of the misconduct which led to the revocation or suspension, he or she nevertheless can safely be recommended to the public, the courts, and the legal profession as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence." MCR 9.123(B)(5)-(7).

In fact, the record in this case does not inspire confidence among the members of this Board that petitioner has ceased to be unrepentant and unwilling to accept responsibility and will, instead, consistently step up to his obligations. Rather, we share the concern of the panel member who dissented from the determination that petitioner had established eligibility for reinstatement and who wrote, in part:

> Although petitioner has demonstrated that he has the requisite knowledge, experience and skill to practice law, regrettably he has an extensive history of disciplinary problems resulting from issues relating to character and fitness. It appears to me that many of these issues relate to matters of personal integrity and financial responsibility which, from the evidence presented, have not been resolved and may still exist. I believe that the monitoring programs and office management seminars may not address the crux of petitioner's issues and may not be of any real benefit in the present case.

We wish to emphasize that it is not the Administrator's burden to establish that a suspended lawyer is unfit for reinstatement. At the risk of repeating what should be obvious from MCR 9.123(B) one too many times, it is the reinstatement petitioner who must bear the burden of establishing compliance with that rule. Even when the Administrator does not submit evidence raising questions about a petitioner's attitude, conduct and fitness, this is so. In this case, we find that petitioner has not met his burden.

Petitioner's career as an attorney reflects his frequent inability or unwillingness to conform to the rules of professional conduct governing our profession. His lengthy and disturbing record of misconduct has, in recent years, devolved into serious disregard of the interests of his clients and overcharging for exceedingly poor (or nonexistent) legal work and spiteful conduct toward clients.

On this record, we cannot offer assurance to the public that petitioner has addressed – or even acknowledges or recognizes – the causes of this misconduct.

In light of petitioner's past conduct, he must do more than simply state that he has learned his lesson and is ready to return to practice. He must introduce clear and convincing proofs demonstrating that he now understands what the Rules of Professional Conduct require of him, how he repeatedly failed to measure up, and significant evidence that would enable a hearing panel, this Board, and the Court to conclude that he has genuinely transformed to such an extent that we may safely conclude that his abysmal record of recidivism will not continue. Perhaps petitioner may one day be able to show that he has made such character and attitudinal changes. However, because such a showing has not been made here, we vacate the order of reinstatement.

Board Members William J. Danhof, William L. Matthews, C.P.A, Rosalind E. Griffin, M.D., Carl E. Ver Beek, Craig H. Lubben, Sylvia P. Whitmer, Ph.D., and James M. Cameron, Jr., concur in this decision.

Board Members Thomas G. Kienbaum and Andrea L. Solak were absent and did not participate.