STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellant,

v Case No. 09-15-GA

FREDERICK L. MCDONALD, P 17366,

Respondent/Appellee.
_____/

ORDER VACATING ORDER OF DISMISSAL AND REMANDING TO HEARING PANEL FOR HEARING ON DISCIPLINE

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

The Grievance Administrator petitioned for review of the order of dismissal entered in this matter by Washtenaw County Hearing Panel #5 on April 7, 2010. The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, which included review of the whole record and consideration of the briefs and arguments presented by the parties at a review hearing conducted on July 14, 2010.

With the exception of the charges in subparagraphs 33(d), (e) and (f) of the formal complaint [that respondent failed to act with reasonable diligence; failed to keep his client reasonably informed about the status of a legal matter and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions about the representation, in violation of MRPC 1.3, 1.4(a) and 1.4(b)], there is adequate evidentiary support in the record for the hearing panel's conclusion that the charges in the formal complaint were not established by a preponderance of the evidence.

However, while respondent's failure to file a timely appeal on his client's behalf was not, in and of itself, an act of incompetence or neglect rising to the level of professional misconduct as proscribed by MRPC 1.1, respondent's subsequent failure to determine whether or not the appeal was timely filed, to monitor the status of the appeal or to communicate in a meaningful way with his client about the appeal must be characterized as a lack of diligence and a failure of communication in violation of MRPC 1.3, 1.4(a) and 1.4(b).

NOW THEREFORE,

IT IS ORDERED that the hearing panel's order of dismissal entered April 7, 2010, is **VACATED**.

IT IS FURTHER ORDERED that this matter is **REMANDED** to Washtenaw County Hearing Panel #5 with instructions to enter a finding of misconduct consistent with this order and to conduct a separate hearing in accordance with MCR 9.115(J)(2) to determine the appropriate discipline for respondent's conduct in violation of MRPC 1.3, 1.4(a) and 1.4(b).

ATTORNEY DISCIPLINE BOARD

By: _____
William J. Danhof, Chairperson

DATED: September 10, 2010

Board members William J. Danhof, William L. Matthews, Andrea L. Solak, Carl E. Ver Beek, Craig H. Lubben and Sylvia P. Whitmer, Ph.D. concur in this decision.

Board members Thomas G. Keinbaum and Rosalind E. Griffin, M.D, were absent and did not participate.

Board member James M. Cameron, Jr. was voluntarily recused.