

Grievance Administrator,  
State of Michigan  
Attorney Grievance Commission,

Petitioner/Appellant,

v

Richard G Parchoc, P 34727,

Respondent/Appellee.

94-39-GA; 94-68-FA

Decided: December 2, 1994

BOARD OPINION

The respondent failed to answer the formal complaint which was filed in March 3, 1994, failed to answer the supplemental complaint for failure to answer which was filed March 30, 1994, and failed to appear at the hearing conducted on April 22, 1994. The respondent's default for failure to answer was treated as an admission to the charges in those complaints that he was retained to file suit in a civil matter but failed to file a complaint or take other action on his client's behalf; failed to respond to his client's inquiries; failed to refund the unearned retainer \$2250; made false statements to his client regarding the status of her case; failed to inform his client of his suspension from the practice of law as the result of prior disciplinary action; continued to hold himself as an attorney after the suspension of his license; failed to answer a Request for Investigation and failed to answer the formal complaint. His conduct was found by the panel to be in violation of MCR 9.103(C); MCR 9.104(1-4, 7 & 9); MCR 9.113(A)(B); MCR 9.119(A,C); MCL 600.916; MSA 17A.916; and the Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.4; 1.5(a); 1.15(b); 1.16(d); 3.2; 5.5(a); 8.1(b); and 8.4(a-c).

The panel's report entered June 3, 1994 noted that this respondent had been the subject of three prior orders of suspension within the preceding year: Suspensions of 120 days and one year effective June 9, 1993 and a suspension of three years and one day effective November 9, 1993. The panel ordered that the respondent be suspended for three years and one day effective April 22, 1994 and that he make restitution to the complainant in the amount of \$2250.

The Grievance Administrator has filed a petition for review

seeking an increase in discipline. We agree that the respondent's apparent indifference to his obligations and his lack of

understanding of the standards that are imposed on members of the bar warrants the revocation of his license to practice law.

Upon the filing of the Grievance Administrator's petition for review, the Board directed the parties to appear before the Board on September 8, 1994 to show cause why the hearing panel order should not be affirmed. The respondent was notified that a responsive brief was to be filed no later than August 24, 1994. The respondent appeared at the review hearing without having filed a brief. The Board granted his request for an adjournment and directed that he file a brief with ten days.

The Board considered the respondent's answer to the petition for review, which incorporates a delayed motion for rehearing, and has considered the arguments submitted at the adjourned hearing on October 20, 1994.

In his first and only pleading in this matter, filed September 19, 1994, the respondent emphasizes that on the day of the panel proceeding in April, 1994, he was in Warsaw, Poland. He denies the implication in the record that he was personally contacted during the days immediately preceding the hearing or that he personally advised the Board's staff that he did not intend to appear at the hearing. We understand the respondent's argument and, for purposes of these proceedings, accept his claim that he did not explicitly advise an employee of the Board that he had no intention of attending the hearing.

Nevertheless, the record establishes that the respondent ignored a Request for Investigation and a final notice, failed to answer the formal complaint and failed to answer a second formal complaint served, failed to appear at the panel hearing and failed to file any pleadings in this case until ordered to do so by the Board on September 8, 1994.

The respondent's failure to participate in this case must be considered against the backdrop of the prior discipline proceedings which have resulted in three other suspension since June 1993.

In Matter of Richard G Parchoc, 93-14-GA, the respondent was suspended for 120 days by a hearing panel which found the respondent's failure to file necessary pleadings resulted in the dismissal of his client's case and that the respondent failed to communicate adequately with his clients and failed to answer the Request for Investigation.

In Matter of Richard G Parchoc, 92-272-GA, the respondent failed to answer the formal complaint and failed to appear at hearings conducted in December 1992, February 1993 and June 1993. The one-year suspension was based upon respondent's neglect of legal matters, failure to communicate with his clients, failure to return unearned fees, failure to release client files,

misrepresentation to his clients and failure to answer four Requests for Investigation.

The respondent's license was suspended for three years and one day in Matter of Richard G Parchoc, 93-122-GA. There the respondent failed to answer the formal complaint and failed to appear at the hearing conducted September 8, 1993. His misconduct included neglect and abandonment of his representation of a client, failure to communicate with his clients, misrepresentation to his client, failure to refund unearned retainer fees, closure of his law office without notice to clients and failure to answer Requests for Investigation.

An extensive pattern of misconduct is recognized as a significant aggravating factor to be considered in the imposition of discipline. ABA Standards for Imposing Lawyer Sanctions, (1986) Sec. 9.22(c). Matter of Alvin McChester, 93-132-GA; 93-168-FA (Brd. Opn. 2/2/94) [Increasing suspension from thirty days to 180 days] and Matter of Jeffrey F Robbins, 93-100-GA; 93-145-FA; 93-115-GA; 93-164-FA; 93-130-GA; 93-166-FA, (Brd. Opn. 6/24/94) [Increasing one-year suspension to revocation].

As the Board stated in Robbins, supra, the Attorney Discipline Board has been given the authority to review orders of discipline in light of the general principle enunciated by the Supreme Court in MCR 9.103(A) that the license to practice law in Michigan is a continuing proclamation that the holder is fit to be entrusted with professional matters and to aid in the administration of justice as an attorney and counselor. As in Robbins, we cannot make such a proclamation with regard to this respondent. His near total abdication of the responsibilities imposed under the rules governing the conduct of attorneys must result in revocation.

Board Members John F Burns, Barbara B Gattorn, Albert L Holtz, Miles A Hurwitz and Paul D Newman.

Board Members C Beth DunCombe and Elaine Fieldman would affirm the three years and one day suspension imposed by the panel.

Board Member Marie Farrell-Donaldson dissents separately. I would defer to the judgment of the hearing panel which also had the opportunity to review the respondent's prior disciplinary history. I am also troubled by the Board's failure to acknowledge the personal problems described by the respondent to the Board, including his apparent recognition and treatment for alcohol-related problems. Revocation of the respondent's license without an accompanying order requiring treatment for those problems will not provide protection of the public in the event of his reinstatement.

Board Member George E Bushnell, Jr did not participate.