

Grievance Administrator,
State of Michigan
Attorney Grievance Commission,

Petitioner/Appellant,

v

Jeffrey F Robbins, P 33596,

Respondent/Appellee.

93-100-GA; 93-145-FA; 93-115-GA; 93-164-FA;
93-130-GA; 93-166-FA

Decided: June 24, 1994

BOARD OPINION

Between June 25, 1993 and July 15, 1993, the Grievance Administrator filed three separate formal complaints (93-100-GA; 93-115-GA and 93-130-GA) which alleged that the respondent, Jeffrey F Robbins, neglected the legal matter entrusted to him and failed to communicate adequately with his client in connection with an insurance claim; failed to take action on a client's behalf and made misrepresentations to that client in a bankruptcy matter; neglected the legal matter entrusted to him and failed to communicate adequately with his client in a divorce matter; failed to communicate with a client, and, failed, upon request, to render an accounting of the retainer fee paid to him for his representation of a child custody matter; failed to respond to his client's request for information in a divorce case and misappropriated the sum of \$4000 entrusted to him for delivery to his client in that divorce case. The respondent failed to answer any of those complaints and three supplemental complaints (93-145-FA; 93-164-FA and 93-166-FA) charging the failure to answer the first three formal complaints as separate acts of professional misconduct.

In accordance with MCR 9.115(D)(2), the entry of the respondent's defaults closed the issues of liability. The respondent stipulated to the charges of misconduct and the hearing panel entered its findings that the misconduct charged in the complaints was established. The respondent was found to have violated MCR 9.103; MCR 9.104(1-4,7); MCR 9.113(A) and (B)(2) and Michigan Rules of Professional Conduct, 1.1(c); 1.3; 1.4; 1.15; 3.2; 8.1(b) and 8.4(a-c).

At a separate hearing to address the issue of discipline, the

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Grievance Administrator and the respondent were given the opportunity to present evidence in mitigation or aggravation. Respondent appeared and testified as did two of the complainants.

The hearing panel did not specifically identify those factors considered in mitigation or aggravation in announcing its decision on the record that the respondent should be suspended for a period of one year and ordered to make restitution of \$500 to complainant Charlotte N Anderson.

The Attorney Discipline Board has considered the petition for review filed by the Grievance Administrator seeking increased discipline. The respondent did not file a reply and he did not appear at the show cause hearing conducted on June 16, 1994 as required by MCR 9.118(C)(1). Based upon a review of the whole record, we are persuaded that the revocation of the respondent's license to practice law is warranted.

While the Attorney Discipline Board reviews the judgment of a hearing panel for adequate evidentiary support, the Board at the same time possesses a measure of discretion with regard to its ultimate decision. Grievance Administrator v August, 483 Mich 296, 304 (1991). Having the most frequent exposure to appellate disciplinary matters, the Board must assure to the extent possible, reasonable uniformity among the volunteer hearing panels. "The Board provides an opportunity for respondents, complainants, and the Grievance Commission to receive at least a second stage of consideration". Matter of Robert A Grimes, 35939-A, Brd. Opn. 1/9/81; [120-day suspension increased to revocation by Michigan Supreme Court, In re: Grimes, 414 Mich 483 (1982)].

The pattern of misconduct presented here by separate counts of neglect of legal matters, misrepresentation to a client, failure to answer four Requests for Investigation and failure to answer three formal complaint is itself a significant aggravating factor. See, for example, Matter of Alvin McChester, 93-132-GA; 93-168-FA, Brd. Opn. 2/2/94, citing the ABA Standards for Imposing Lawyer Sanctions (1986), Sec. 9.22(c). Nevertheless, the hearing panel's inquiries at the hearing on discipline properly focused upon the circumstances surrounding the respondent's admitted misappropriation of \$4000 and the Grievance Administrator's petition for review properly emphasized that particularly egregious misconduct.

The record below established that a check in the amount of \$4000 was forwarded to the respondent in September 1991 made payable to the respondent's client in a divorce case. The check was sent by the client's former spouse and was to be delivered to the client in satisfaction of the property settlement between the parties. In answer to questions from the panel, the respondent acknowledged that he failed to deposit the check in his clients'

trust account, that he did not make timely notification to his client of the receipt of those funds and that the full amount was misappropriated for personal use. At the time of the panel hearing, full restitution had been made to the client. However, it appears that the client was deprived of those funds for approximately two years and that repayment was made only after the institution of these discipline proceedings.

In those cases in which misappropriation of client funds has resulted in discipline less than revocation, the Board has specifically identified those mitigating factors which warranted consideration. In this case, the Board does note the respondent's prior unblemished record since his admission to the bar in 1982. However, that factor alone must receive relatively little weight in consideration of the nature of the misconduct established.

As the adjudicative arm of the Michigan Supreme Court for the discharge of its responsibility to supervise and discipline Michigan attorneys, the Attorney Discipline Board has been given the authority to review orders of discipline issued by a hearing panel. In its review of the level of discipline imposed, the Board must keep in mind the general principle enunciated by the 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. This case involves a wide ranging pattern of misconduct which includes neglect of an attorney's duties to his clients, neglect of his duties to the legal profession and misappropriation of client funds. Upon a review of the whole record, we cannot, in good faith, make such a proclamation with regard to this respondent. We therefore vacate the one-year suspension imposed by the panel and order that the respondent's license to practice law in Michigan be revoked.

Concurring: Elaine Fieldman, Barbara B Gattorn, Albert L Holtz, Linda S Hotchkiss, M.D. and Miles A Hurwitz.

Board Members John F Burns, George E Bushnell, C Beth DunCombe, and Marie Farrell-Donaldson did not participate.