

IN THE MATTER OF MICHAEL J. PAVKOVICH,
A Member of the State Bar of Michigan,
Respondent.
File Nos. DP-115/82 & DP-193/82

Decided: March 18, 1983

OPINION OF THE BOARD

Respondent neglected a divorce matter and allegedly misrepresented the status of the case to the complainant. Respondent failed to answer the Request for Investigation. Consequently a Formal Complaint was issued. Respondent failed to answer the Formal Complaint and was placed in default. A second Formal Complaint was filed for failure to answer the first Formal Complaint. The hearing panel suspended Respondent for 60 days. Respondent petitioned for review. We reduce Respondent's suspension to 15 days with a finding that the allegations in the Formal Complaint are an insufficient basis for a finding of misrepresentation.

Respondent was retained by the complainant in February, 1981 for the purpose of filing a divorce action. Complainant paid a retainer to the firm [Tr, 13]. A divorce complaint was filed, but the case was ultimately dismissed because service was not obtained. Respondent inadequately informed complainant about the status of his case. The retainer was not refunded until after the panel hearing. [See, Respondent's Petition for Stay, Filed November 10, 1982].

A Formal Complaint was served on Respondent alleging the aforementioned misconduct. Respondent did not answer [Formal Complaint, DP-193/82, Para B and C]. Respondent was placed in default in the original matter, DP-115/82. Respondent was barred from active participation in the panel hearing because he was in default but was given an opportunity to make a statement to the panel. The case was decided on the pleadings; no evidence was taken, The panel suspended Respondent for 60 days.

At the Attorney Discipline Board hearing on January 18, 1983 Respondent made a motion to offer letters of endorsement for consideration by the Board. The motion was taken under advisement and after due consideration it is hereby denied.

The Board will modify the suspension and reduce to 15 days because the allegations of the complaint, although deemed admitted because of Respondent's default, do not sufficiently support the panel's finding of misrepresentation to the client-complainant. Indeed, the panel report indicates it is not clear that misrepresentation was made.* [Panel Report, p 2].

The 60 day suspension was imposed for Respondent's failure to respond to the disciplinary agencies. We note that Respondent has admitted his misconduct on the record and shows remorse for his neglect and Respondent has indicated the fee has been returned to complainant. His short legal career has not been marred by any other Formal Complaints. Of course, these factors only mitigate and do not excuse his misconduct.

The Formal Complaint does not sufficiently allege facts which support a finding that Respondent made misrepresentations to the complainant. In light of the facts and circumstances discussed, we modify Respondent's suspension and reduce to 15 days.

*The hearing panel finding that a “misunderstanding” has occurred (rather than deception) seems to be based upon the unsworn testimony of Respondent which was made on the record.

[Board Member Msgr. Kern and Board Member Dr. McDevitt did not participate in the hearing or decision of this matter.]