

IN THE MATTER OF DEBORAH G. FLOWERS,
A Member of the State Bar of Michigan,
Respondent.
File Nos. DP-104/83 & DP-125/83

Argued: January 19, 1984
Decided: February 16, 1984

OPINION OF THE BOARD

Respondent was retained by the Complainant to handle a divorce matter in August of 1981. She worked on the divorce case until October 5, 1982 on which date she was suspended by disciplinary order for a period of 120 days for neglect of an appeal and failure to answer a request for investigation. The current complaint alleges that Respondent practiced law in violation of another prior order of disciplinary suspension of 60 days effective February 14, 1983. The present complaint charges that Respondent, while under the 60 day suspension order, failed to notify the Complainant regarding her change of status, used her professional letterhead and failed to remove or cover her name on her law office door. The hearing panel found that Respondent had met with the Complainant while under suspension. The panel also found that Respondent made a false statement in her Petition for Reinstatement by indicating that she had notified her clients of her suspension and had not practiced law while suspended. However, the hearing panel found that Respondent was encountering certain personal problems on or about the time of the alleged misconduct, and found that the false statements were careless rather than intentional. Nevertheless, the panel imposed a suspension of 1 year. Respondent appeals, charging that the panel was not impartial because it had considered a previous complaint involving Respondent; Respondent also claims that the discipline is excessive. The Board reduces the suspension from 1 year to a period of 121 days which will require reinstatement proceedings.

The Board finds ample support in the record for the hearing panel finding that Respondent-violated a prior order of suspension and engaged in the practice of law by advising a client. The Board also affirms the finding that Respondent failed to issue notices of her change of status by certified mail as required by GCR 1963, 968 and failed to file proof of said notice with the Grievance Administrator. Respondent's contention that the hearing panel in the present case was biased against her, is completely rejected by the Board. The Board will not disturb the panel finding that Respondent's misrepresentations were based in large measure upon psychological problems and were care less rather than intentional. Respondent has obtained psychological counseling and has been unable to engage in the practice of law for several months. The Board agrees that failure to cooperate with the Grievance Commission and neglect of the divorce and appeal matters warrant substantial discipline, which have been imposed. However, a suspension of 121 days in this matter as well as another pending file, will require reinstatement proceeding after a lengthy period of restriction from the practice of law adequate to protect the public and the profession in this case.

The Board has had an opportunity to review the entire record and observe the Respondent at the review hearing. GCR 1963, 972.2 (7) Provides that Respondent must establish by clear and convincing evidence in reinstatement proceedings that she “. . . 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 . . .”. In order to pass this reinstatement requirement, Respondent will be required to demonstrate that the psychological difficulties giving rise to the charges have been successfully treated.

Respondent’s past failure to comply with each and every condition of the prior orders of suspension, while evidence relevant in any future reinstatement proceeding, shall not alone constitute a bar to reinstatement. See, Schwartz v Goodman, File No. DP-34/82 (Discipline Board Opinion December 8, 1983).

ALL CONCUR.