

IN THE MATTER OF DAVID H. GREENSPAN,  
A Member of the State Bar of Michigan,  
Respondent.

File Nos. DP-98/82 & DP-5/83

Argued: September 26, 1983

Decided: September 30, 1983

OPINION OF THE BOARD

The hearing panel found that Respondent violated two prior orders of suspension of six months each by soliciting and representing certain clients in eviction proceedings while suspended. The present Complaint further charges that Respondent mishandled these eviction proceedings and misrepresented to the clients in the course of these proceedings, and further, that he forged another attorney's name to pleadings during the period of suspension. Respondent had already received a three year suspension (effective October 1981) for previously established violations of the six month suspension orders. The hearing panel in this case imposed an additional suspension of two years; but, because the most recent two year suspension was made retroactive, Respondent would be suspended for three and one-half years. The Grievance Administrator argues that this is insufficient, given the entire history of misconduct. The Grievance Administrator also claims that the hearing panel erred in finding only a violation of the prior order of suspension and argues that the panel should have made specific findings on the charges of neglect, solicitation and forgery of the pleadings.

We agree that all violations of the original discipline orders now in the record warrant a greater increase of the combined sanctions (the concurrent three and two-year suspension); therefore, the hearing panel order of suspension of two years will be amended and the suspension will be increased to three years, providing a total combined sanction of four and one half years.

In October 1978 Respondent received a six month suspension for neglect of several client matters. This suspension was to run concurrently with a second six month suspension imposed in December 1978 for neglect and for use of obscene and threatening language. Effective October 1981, Respondent was suspended for an additional three years after the Board, reviewing the hearing panel decision, found that Respondent had violated the original six month suspensions by continuing to engage in the practice of law, by representing clients at depositions and in court and by signing another attorney's name to pleadings and correspondence without that attorney's authorization or consent. The Board also affirmed findings that Respondent made false statements in his petition for reinstatement and testified falsely while under oath before the panel during the reinstatement proceedings, claiming he had not practiced law during the original six month suspension. Respondent later admitted the false testimony.

We now have before us the Grievance Administrator's and Respondent's Petitions for Review of an additional two year suspension pursuant to a new Complaint alleging additional violations of the original six month suspensions which were not known to the Grievance Commission when Respondent was prosecuted for discipline order violations in 1981. In adding an additional two year suspension, the hearing panel has fashioned a retroactive effective date so that

the total sanction for all discipline order violations now comes to approximately three and one half years.

Respondent claims that the Grievance Administrator should be required to charge, at one time, all violations of a discipline order. While the Board is concerned about a procedure of charging Respondent seriatim, there is insufficient development of factual argument and no legal authority provided by Respondent on this issue. Furthermore, the record reflects that the Grievance Commission did not receive the latest Request for Investigation (which gives rise to the instant Formal Complaint) until some time in 1982, after the Board had already imposed a three year suspension for the previously established violations of the discipline orders.

The parties have raised a number of issues in these review proceedings. Respondent contends that a suspended attorney cannot be charged with neglect of a legal matter entrusted to and undertaken by him during the period of suspension. While it should be noted that attorneys are obviously within the Board's jurisdiction while under orders of suspension, the crucial factor in such cases is whether a prior order of suspension has been violated. It appears rather unseemly for a Respondent in blatant violation of a discipline order to seek the protection of his suspended status in order to avoid additional discipline for neglect and mishandling of client matters occurring during the suspension.

Respondent's claim that while under the prior orders of suspension he did nothing more than undertake the responsibilities of a paralegal (which was not expressly prohibited in the discipline orders issued at that time) is meritless, however, because Respondent's actions as described above, clearly went beyond the level of those of a legal assistant or a paralegal.

The remaining issue then is: What is the appropriate sanction for all violations of discipline orders presently established? The present order, when overlapped with the prior three year suspension order of the Board, provides an expanded total time of three and a half years suspension for all violations of the original six month suspension. After extensive deliberation, the Board finds that, in view of the severity and extent of noncompliance the present two year suspension is increased to a suspension of three years. The combined prior Board-imposed three years suspension and the overlapping three year suspension hereby imposed results in a net suspension of four and one half years.