

STATE OF MICHIGAN

# Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,  
Attorney Grievance Commission,

Petitioner/Appellee,

v

Case No. 23-93-GA

DEBORAH K. SCHLUSSEL, P 56420,

Respondent/Appellant.

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**ORDER AFFIRMING, IN PART, AND VACATING, IN PART  
FINDINGS OF MISCONDUCT, AND AFFIRMING ORDER OF 30-DAY SUSPENSION**

Issued by the Attorney Discipline Board  
333 W. Fort St., Ste. 1700, Detroit, MI

Tri-County Hearing Panel #55 issued an Order of Suspension on September 30, 2024, suspending respondent's license to practice law for a period of 30 days, effective October 22, 2024. On October 16, 2024, respondent filed a petition for review and a request for a stay of discipline with the Board. Respondent's petition for review asserted that the panel had erred as to several of their findings, and that the discipline imposed was excessive. On October 21, 2024, a notice of automatic stay was issued pursuant to MCR 9.115(K).

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, which included a review of the record before the hearing panel and consideration of the arguments and briefs submitted by the parties. For the reasons discussed herein, we affirm

the panel's findings of misconduct, with one exception, and affirm the panel's imposition of a 30-day suspension.

On October 30, 2023, the Grievance Administrator filed a two count formal complaint against respondent. Both counts allege that respondent failed to properly file a motion for compassionate release for an incarcerated client, and then deliberately misled the clients and/or the client's family members regarding the status of the motions. Respondent filed an answer to the formal complaint and the matter was assigned to Tri-County Hearing Panel #55. The misconduct hearing was held on April 21, 2024. Testimony was taken of the two complaining witnesses, Terry Blackman and Heidi Yatzek, the respective wives of respondent's incarcerated clients. Respondent also testified. Further, Dr. Paul Young testified regarding respondent's psychiatric treatment.<sup>1</sup>

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<sup>1</sup> We note that Dr. Young's testimony was not, and was not purported to be, probative of any "defense" to the charges at issue. Instead, Dr. Young's testimony related to respondent's state of mind and mental health, and was thus more suitable to testimony in mitigation at a sanction hearing.

On June 28, 2024, the panel issued their report on misconduct. As to both counts, the panel found that respondent: neglected a legal matter, in violation of MRPC 1.1(c); acted without reasonable diligence and promptness in representing a client, in violation of MRPC 1.3; failed to keep a client reasonably informed about the status of a matter, in violation of MRPC 1.4(a); engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b); engaged in conduct prejudicial to the proper administration of justice, in violation of MCR 9.104(1); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and, engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3). Additionally, in Count One only, the panel found that respondent failed to take reasonable steps to protect a client's interests upon termination, in violation of MRPC 1.16(d).

On review, respondent argues the panel erred in finding misconduct in Count One because she did file a motion although it was ultimately dismissed, and erred in finding misconduct in Count Two, because respondent was never actually hired to file such a motion. Respondent further argues that the discipline ordered by the panel was excessive, and that the sanction, if she committed misconduct, should be no greater than a reprimand. We disagree.

On review, the Board must determine whether the panel's findings of fact have "proper evidentiary support on the whole record." *Grievance Administrator v August*, 438 Mich 296, 304; 475 NW2d 256 (1991). "This standard is akin to the clearly erroneous standard [appellate courts] use in reviewing a trial court's findings of fact in civil proceedings." *See Grievance Administrator v Ernest Friedman*, 18-37-GA (ADB 2019).

As to Count One, the panel's findings of misconduct provide a succinct description of the facts giving rise to the charges:

Terry Blackman, the wife of David Blackman, paid Respondent \$500.00 to file a motion for compassionate release for her incarcerated husband, David Blackman. The parties did not sign a written fee agreement. [Answer to Complaint, ¶¶ 5-6.] On May

25, 2020, Respondent filed a motion for compassionate release in federal district court, Eastern District of Michigan, which was denied by Judge David Lawson for procedural reasons. [*Id.*, at ¶¶ 7-8.] On June 5, Respondent notified Ms. Blackman by email of the motion’s denial and said, “Not good news, but I think we can refile it...” [*Id.*, at ¶ 9.] On July 12, 2020, Respondent notified Ms. Blackman by email that the motion had been refiled, that she was expecting to hear something from the judge early this week, and that the prosecutor is getting the e-mails and has to file a response soon. [*Id.*, at ¶ 11.] All of those representations were false. Respondent admits that as of July 12, 2020, she had not refiled the motion as represented. [*Id.*, at ¶ 12.] Respondent’s false representations to her client continued on August 9, 2020, when she told the Blackmans in an email that she was “[w]aiting on the Judge and the prosecutor...” [*Id.*, at ¶ 13.] Once again, this email falsely conveyed to her clients that the motion for compassionate release had been refiled and Respondent was still waiting on the Judge and the prosecutor.

Respondent’s deception about the refile of the motion was thereafter discovered by her client when Ms. Blackman called Judge Lawson’s chambers and spoke to his case manager. On August 31, 2020, Ms. Blackman advised Respondent via email that she had learned from Judge Lawson’s case manager that nothing had been filed in her husband’s matter since June: “Hi Debbie, I contacted Judge Lawson’s case manager. She said that nothing had been filed since June. We will not get a reply on September 3rd on a motion that is not filed. To say I’m disappointed doesn’t even begin to describe what its [sic] like going through this. Please file a move [sic] to withdraw, so that I can get representation for David. Thank you Terry Blackman.” [*Id.*, at ¶18.] Respondent answered Ms. Blackman’s email on August 31, 2020. She wrote that she would withdraw if that was her client’s wish, but she tried

to dissuade the Blackmans from that decision by telling them that she had done a lot of work and it would be a shame to just stop now. [*Id.*, at ¶19.] [Report 6/28/24 p 3.]

Thereafter, respondent did not file any notice of withdrawal with the court. (Report 6/28/24 p 3.) Respondent argues that simply because she filed one motion, that was denied, that her representation of Mr. Blackman had concluded. Respondent asserts that “Blackman wanted Respondent to file another motion for the same compassionate release. However, Blackman did not give Respondent any more money and Respondent did not represent him at that point. Nevertheless, Respondent sought to see if there was anything else that might be beneficial to have a new motion. That never jelled.” (Respondent’s brief p 2.)

Respondent’s argument completely distorts the record. The initial motion that respondent filed on Mr. Blackman’s behalf was denied because respondent did not advise him or Ms. Blackman of the need to exhaust possible administrative remedies prior to filing. (Respondent’s Exhibit B.) After the motion was dismissed, instead of assisting Mr. Blackman in satisfying any of the administrative steps necessary for a successful motion to be filed, respondent misrepresented to Mr. Blackman and his wife that she was going to file, and in fact already filed, a subsequent motion with the court when she had not. Respondent cannot now claim that she simply was not representing Mr. Blackman when all of her statements at the time indicate that she was. Respondent’s failure to file a second motion on Mr. Blackman’s behalf, coupled with her failure to assist Mr. Blackman with any preliminary steps necessary to do so, was a lack of diligence in violation of MRPC 1.3 and that finding is affirmed

The record also supports a finding that respondent failed to keep her client reasonably informed about the status of a matter, in violation of MRPC 1.4(a). Respondent made false statements to Ms. Blackman, indicating that a second motion had been filed when it had not been. While this shows that respondent was “communicating” with Ms. Blackman, she was certainly not keeping her reasonably informed of the status of the matter because the information she did convey was false. Further, when it was requested that respondent withdraw from Mr. Blackman’s case, she instead requested to continue working on the matter and did not withdraw. Respondent’s failure to withdraw in this circumstance supports the panel’s finding

that respondent violated MRPC 1.16(d). The panel's findings that respondent violated MRPC 8.4(b), and MCR 9.104(1), (2), and (3) are also affirmed.

However, as to the panel's finding that respondent neglected Mr. Blackman's matter in violation of MRPC 1.1(c), we agree with respondent that there is not adequate support in the record for this finding. Ms. Blackman testified that she paid respondent a \$500 attorney fee in early May 2020, for respondent to file a motion for compassionate release for Mr. Blackman, and that there was no contract for legal services. (Tr 4/12/24, p 46.) Respondent filed a motion for compassionate release on May 25, 2020. A significant period of delay did not occur between respondent being retained, and the filing of the motion for which she was retained to file. After that first motion was denied, respondent then misrepresented that she had filed a second motion when she had not, and the panel properly found that respondent's false statements amounted to misconduct on their own.

However, the charge of neglect requires more than establishing that respondent did not do what she said she had, but requires an objective determination that respondent's treatment of the matter was neglectful. In *Grievance Administrator v Bruce Sage*, 96-35-GA (ADB 1997), noting an ABA informal ethics opinion cited in *Grievance Administrator v Carrie L.P. Gray*, 93-250-GA (ADB 1996), the Board set forth that "neglect involves indifference and a consistent failure to carry out the obligations that the lawyer has assumed for his client or a conscious disregard for the responsibility owed to the client. The concept of ordinary negligence is different. Neglect usually involves more than a single act or omission." Id at 4.

As we noted above, respondent's failure to take any action on Mr. Blackman's behalf after the dismissal of the initial motion, coupled with her false statements to her client, supports a finding of lack of diligence, in violation of MRPC 1.3. However, this was not a case that respondent allowed to sit idle, missed discovery dates, or engaged in a prolonged period of silence toward a client. The conditions are simply not present in this case for a finding of neglect, in violation of MRPC 1.1(c). This finding is vacated.

As to Count Two, the panel also presents a clear description of the facts in the record, as follows:

According to the testimony and evidence presented at the April 12, 2024 hearing, and Respondent's Answer to Formal Complaint dated January 19, 2024, the matter arose from Respondent's representation of Roger Yatzek, through his wife, Heidi Yatzek. (Tr. 04/12/2024, pp. 71-74, 81, 91-94, 134, 139-140.) Although Respondent never received any retainer payment from Heidi Yatzek, the plethora of testimony from both Heidi Yatzek and Respondent establish that in fact Respondent did undertake this representation, that she communicated to Heidi Yatzek that she was performing legal services, that she communicated to attorney Benton Martin that she represented the Yatzeks, and in fact did perform some legal research for Roger Yatzek. [*Id.*, Petitioner's Ex. C, Answer to Formal Complaint, ¶ 43-44.] Roger Yatzek was seeking legal counsel to file a petition with the Federal Court for compassionate release during the COVID-19 pandemic in the summer of 2020. (Tr. 04/12/2024, pp. 71-73.)

Throughout June, July and August of 2020, Respondent and Heidi Yatzek communicated by telephone and email. (Answer to Formal Complaint, ¶ 36; Tr. 04/12/2024, pp. 71-73, pp. 91-94, p. 139.) In the course of this communication, Respondent made statements to Heidi Yatzek that she was communicating with the Court, that she was awaiting information from the Court, and that she would contact the Court again and reach back out to Ms. Yatzek. [Answer to Formal Complaint, ¶ 38-39, Petitioner's Ex. C.] Respondent communicated to Heidi Yatzek that she would prepare and file a motion for compassionate release for Roger Yatzek. (Tr. 04/12/2024, pp. 73-76, pp. 91-94, Answer to Formal Complaint, ¶ 47.) Respondent also stated to Heidi Yatzek that she was awaiting a response from the Court, and that she would file "something new" with the Court. [Answer to Formal Complaint ¶ 47.]

However, while Respondent led the Yatzeks to believe that she was filing a motion for compassionate release with the Court, Respondent in fact did not file any document or pleading whatsoever with the Court. (Tr. 04/12/2024, p. 94, Answer to Formal Complaint, ¶ 40.) [Report 6/28/24, pp 4-5.]

Respondent does not deny any of the factual allegations against her as to her actions, inactions, or false statements regarding the matter at issue in Count Two, but argues only that she was never retained by either Heidi or Roger Yatzek. It is correct that respondent was never paid any funds in this matter. Heidi Yatzek testified that she met with respondent and filled out a client questionnaire that respondent provided to her, and received a pay pal “address” notification from respondent as to a payment due, but that she did not make any payments to respondent. Nonetheless, due to her on-going communications with respondent, in which respondent informed Ms. Yatzek that a motion had been filed with the court, Ms. Yatzek testified that both she and Mr. Yatzek believed that respondent was acting as Mr. Yatzek’s attorney. (Tr 4/12/24, pp 73-75.)

The record established at hearing clearly supports the panel’s findings against respondent as to Count Two. Respondent’s claim that neither of the Yatzeks were her clients because they had not paid respondent any fees borders on being frivolous. The payment of fees is one factor to consider in determining whether an attorney-client relationship exists, but it is far from the only consideration. Whether an attorney-client relationship exists for any specific purpose can depend on the circumstances and is often a question of fact. Michigan Rules of Professional Conduct - Preamble. In *Macomb Co Taxpayers Ass’n v L’AnseCreuse Pub Schs*, 455 Mich 1, 11; 564 NW2d 457 (1997), the Supreme Court held that the relationship of attorney and client is not entirely dependent on the payment of a fee, nor is a formal contract necessary to create this relationship, but that “the rendering of legal advice and legal services by the attorney and the client’s reliance on that advice or those services is the benchmark of an attorney client relationship.”

Here, there is no question that both respondent and the Yatzeks were proceeding under the belief that respondent had been hired to file the motion for compassionate release. Had

respondent not believed that she had been hired to complete this work, there would have been no reason for her to memorialize the work she was going to do or to lie about having already done it. The fact that there had not yet been a definitive conversation regarding respondent's fee does not, in itself, establish the lack of an attorney client relationship, and the overwhelming evidence in the record indicates both that respondent was counsel for the Yatzeks, and that she committed the misconduct found by the panel. The panel's findings in Count Two are also affirmed.

Next, respondent argues that the imposition of a 30-day suspension in this matter was excessive. In reviewing the sanction imposed by a hearing panel, the responsibility of the Board "is to ensure consistency and continuity in discipline imposed by panels." However, the Board does afford a certain level of deference to a hearing panel's subjective judgment on the level of discipline. *Grievance Administrator v Gregory J. Reed*, 10-140-GA (ADB 2014). Traditionally, the Board will not disturb a panel's determination as to the appropriate level of discipline unless it is clearly contrary to fairly uniform precedent for very similar conduct or is clearly outside the range of sanctions imposed for the type of violation at issue. *Grievance Administrator v Jeffrey R. Sharp*, 19-80-GA (ADB 2020); *Grievance Administrator v Christopher S. Easthope*, 17-136-GA (ADB 2021).

Here, the level of discipline has not been shown to be clearly outside the range of sanctions typically imposed for the conduct or clearly contrary to precedent. The panel agreed with the Grievance Administrator that ABA Standard 4.62 applied, which states that "suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client." Respondent argues that the panel should not have applied ABA Standard 4.62 because there was no prejudice to either client. While we agree that the actual prejudice to respondent's clients in this case was minimal, an attorney providing knowingly false information to a client certainly has the potential to inflict serious injury. We conclude that ABA Standard 4.62 is the appropriate standard to apply in this case.

We further find that a 30-day suspension is the proper sanction for respondent's conduct. We agree with the panel that respondent's blatant dishonesty is very troubling and warrants a suspension. However, the panel further found that the conduct was mitigated

because it resulted, in part, from personal or emotional issues that respondent was suffering from at the time, including the loss of a loved one in early 2019, and being diagnosed with depression and later attention-deficit/hyperactivity disorder (ADHD), for which she has since received treatment with medication and talk therapy. (Tr 8/28/24, pp 8-9.) The panel's analysis as to the appropriate sanction in this matter is sound, and correctly balances the seriousness of the misconduct with the relative lack of actual injury to the clients and the mitigation presented by respondent.<sup>2</sup>

Upon careful consideration of the whole record, the Board is not persuaded that hearing panel's decision to order a 30-day suspension was inappropriate, and it is affirmed.

**NOW THEREFORE,**

**IT IS ORDERED** that the hearing panel's finding that respondent violated MRPC 1.1(c) in Count One of the Formal Complaint is **VACATED**.

**IT IS FURTHER ORDERED** that the hearing panel's findings of misconduct issued June 28, 2024 in all other respects are **AFFIRMED**.

**IT IS FURTHER ORDERED** that the hearing panel's Order of 30-Day Suspension, issued September 30, 2024, is **AFFIRMED**.

**IT IS FURTHER ORDERED** that respondent's license to practice law in Michigan is **SUSPENDED FOR 30 DAYS, EFFECTIVE JUNE 27, 2025**, and until respondent's filing of an affidavit of compliance with the Attorney Discipline Board and the Attorney Grievance Commission in accordance with MCR 9.123(A).

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<sup>2</sup> We have also considered two cases raised by the parties as applicable precedent in this matter. In both *Grievance Administrator v Joseph Ernst*, 14-116-GA (ADB 2015), and *Grievance Administrator v Donald Teichman*, 92-31-GA (ADB 1993), the Board affirmed hearing panel orders of reprimand in cases where the respondents provided false information to clients regarding the status of their cases. However, this matter is distinguishable from both *Ernst* and *Teichman* because those cases involved singular instances, whereas respondent's conduct in this case was a pattern involving two separate clients.

**IT IS FURTHER ORDERED** that from the effective date of this order and until reinstatement in accordance with the applicable provisions of MCR 9.123, respondent is forbidden from practicing law in any form; appearing as an attorney before any court, judge, justice, board, commission or other public authority; or holding herself out as an attorney by any means.

**IT IS FURTHER ORDERED** that, in accordance with MCR 9.119(A), respondent shall, within seven days after the effective date of this order, notify all of her active clients, in writing, by registered or certified mail, return receipt requested, of the following:

1. the nature and duration of the discipline imposed;
2. the effective date of such discipline;
3. respondent's inability to act as an attorney after the effective date of such discipline;
4. the location and identity of the custodian of the clients' files and records which will be made available to them or to substitute counsel;
5. that the clients may wish to seek legal advice and counsel elsewhere; provided that, if respondent was a member of a law firm, the firm may continue to represent each client with the client's express written consent;
6. the address to which all correspondence to respondent may be addressed.

**IT IS FURTHER ORDERED** that in accordance with MCR 9.119(B), respondent must, on or before the effective date of this order, in every matter in which respondent is representing a

client in litigation, file with the tribunal and all parties a notice of respondent's disqualification from the practice of law.

**IT IS FURTHER ORDERED** that, respondent shall, within 14 days after the effective date of this order, file with the Grievance Administrator and the Attorney Discipline Board an affidavit of compliance as required by MCR 9.119(C).

**IT IS FURTHER ORDERED** that respondent's conduct after the entry of this order but prior to its effective date, shall be subject to the restrictions set forth in MCR 9.119(D); and respondent's compensation for legal services shall be subject to the restrictions described in MCR 9.119(F).

**IT IS FURTHER ORDERED** that respondent shall, on or before **June 27, 2025**, pay costs in the amount of \$3,143.76 consisting of costs assessed by the hearing panel in the amount of \$2,946.76 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$197.00 for the review proceedings conducted on February 12, 2025. Please refer to the attached cost payment instruction sheet for method and forms of payment accepted.

ATTORNEY DISCIPLINE BOARD

By: /s/ Alan M. Gershel, Chairperson

Dated: May 29, 2025

Board Members Alan Gershel, Peter A. Smit, Rev. Dr. Louis J. Prues, Linda M. Orlans, Katie M. Stanley, Tish Vincent, and Andreas Sidiropoulos, MD, and Kamilia Landrum concur in this decision.

Board Member Jason Turkish was absent and did not participate in this decision.