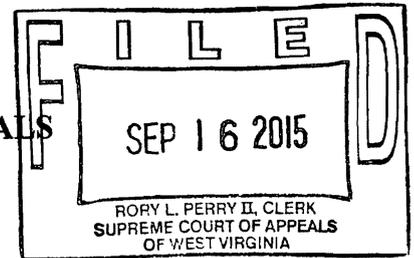


**BEFORE THE SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA**



**In Re:** HEIDI M. GEORGI STURM, a member of  
The West Virginia State Bar

**Bar No.:** 9371  
**Supreme Court No.:** 15-0009  
**I.D. No.:** 14-05-346

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**REPORT OF THE HEARING PANEL SUBCOMMITTEE**

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**I. PROCEDURAL HISTORY**

Formal charges were filed against Respondent Heidi M. Georgi Sturm with the Clerk of the Supreme Court of Appeals on or about January 5, 2015, and served upon Respondent via certified mail by the Clerk on January 9, 2015. Disciplinary Counsel filed her mandatory discovery on or about January 27, 2015. Respondent filed her Answer to the Statement of Charges on or about March 2, 2014. Respondent provided her mandatory discovery on or about April 23, 2015. A hearing was set for May 4 and 5, 2015.

Thereafter, this matter proceeded to hearing in Morgantown, West Virginia, on May 4, 2015. The Hearing Panel Subcommittee was comprised of James R. Akers, II, Esquire, Chairperson, Henry W. Morrow, Esquire, and Jon Blair Hunter, Layperson. Jessica H. Donahue Rhodes, Lawyer Disciplinary Counsel, appeared on behalf of the Office of Disciplinary Counsel. Respondent appeared *pro se*. The Hearing Panel Subcommittee heard testimony from Kenneth L. Greynolds and Respondent. ODC Exhibits 1-12, Respondent's Exhibits 1-11, and Joint Exhibits 1 and 2 were admitted into evidence.

Based upon the evidence and the record, the Hearing Panel Subcommittee of the Lawyer Disciplinary Board hereby makes the following Findings of Fact, Conclusions of Law and Recommended Sanctions regarding the final disposition of this matter.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Heidi M. Georgi Sturm (hereinafter “Respondent”) is a lawyer practicing in Fairmont, which is located in Marion County, West Virginia. Hrg. Trans. p. 80. Respondent, having passed the bar exam, was admitted to The West Virginia State Bar on October 9, 2003. Hrg. Trans. p. 78. As such, Respondent is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board.

### **I.D. No. 14-05-346**

#### **Complaint of Kenneth L. Greynolds**

2. Respondent had a prior professional relationship with Complainant Kenneth L. Greynolds, having represented him in prior criminal matters before the case at issue.
3. On December 12, 2012 Respondent was Mr. Greynold’s lawyer in a case set for trial that day. Hrg. Trans. pp. 13-14.
4. Mr. Greynolds admitted the Respondent was prepared to try his relevant criminal case on that day. However, Mr. Greynolds believed a plea agreement was in his best interest due to possible application of the recidivist statute, West Virginia Code §61-11-18. In fact, Mr. Greynolds testified it was a “certainty” he would be subject to recidivist status if he lost the criminal case at issue. Hrg. Trans. p. 14. This allegedly may have resulted in a life sentence for the Complainant. ODC Ex. 4, bates stamp 17.

5. Mr. Greynolds accepted a plea offer and pled guilty to three (3) felonies on or about December 12, 2012. ODC Ex. 7, bates stamp 55-59. At his combined plea and sentencing Mr. Greynolds was read his post-conviction rights and still had a copy of that document in his possession when he testified to the Hearing Panel. Hrg. Trans. pp. 14-15.<sup>1</sup>
6. Mr. Greynolds subsequently decided to appeal that conviction. Respondent was court appointed to represent Mr. Greynolds on his appeal by Order entered on January 15, 2013. ODC Ex. 1, bates stamp 4; ODC Ex. 7, bates stamp 35, 36. As customary, Respondent was ordered to contact Mr. Greynolds. *Id.*
7. Respondent alleges she did so by sending Mr. Greynolds a letter describing that he had no legitimate grounds for an appeal. ODC Ex. 9, bates stamp p. 78. In her January 17, 2013 letter she wrote, "I have reviewed the case file and the plea and sentencing order. There are no grounds for you to appeal this order. There is no question as to jurisdiction, the sentence or whether you wished to enter the plea. Therefore, there are no legitimate grounds upon which to appeal." ODC Ex. 9, bates stamp 78.
8. Mr. Greynolds denied receiving that correspondence. Hrg. Trans. p. 15; ODC Ex. 10, bates stamp 79.
9. Respondent thereafter took no action on Mr. Greynolds' behalf. Complainant next wrote to the presiding judge on two occasions. The first, in or around June of 2013, stated that he

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<sup>1</sup> As evidenced by the transcript from his December 12, 2012 hearing, Mr. Greynolds was asked a number of standard questions prior to imposition of sentence. Among them were questions regarding Respondent's representation. Mr. Greynolds affirmed that he was satisfied with Respondent's work and that he had "no qualms about the manner in which she represented [him]." At that hearing it is clear that Mr. Greynolds entered into what is referred to as an *Alford* or *Kennedy* plea, whereupon he was not required to provide testimony or evidence of his commission of any crimes. Rather, Complainant pled guilty upon the premise that he may lose at trial. "An accused may voluntarily, knowingly and understandingly consent to the imposition of a prison sentence even though he is unwilling to admit participation in the crime, if he intelligently concludes that his interests require a guilty plea and the record supports the conclusion that a jury could convict him." *See, Kennedy v. Frazier*, 178 W.Va. 10, 357 E.2d 43 (1987).

had attempted to contact Respondent on several occasions without success. ODC Ex. 7, bates stamp 37-39. The second, in or around June of 2014, asked for new counsel to be appointed.<sup>2</sup> ODC Ex. 7, bates stamp 41-42.

10. By letter dated June 10, 2014, Judge Aloï responded to Mr. Greynolds, stating that the time frame to file an appeal had passed and he would not appoint new counsel to represent Mr. Greynolds. ODC Ex. 1, bates stamp 5; ODC Ex. 7, bates stamp 43.
11. On or about June 25, 2014, Mr. Greynolds filed an ethics complaint alleging that Respondent had violated his “post conviction rights” by (1) failing to file for suspension of the execution of his sentence and thereby preventing his release on probation; (2) failing to file for correction or reduction of his sentence; (3) failing to file a notice of appeal with the Supreme Court of Appeals of West Virginia; and (4) failing to file a petition for writ of error. ODC Ex. 1. He also alleged that Respondent had failed to file a motion to suppress video evidence prior to the trial, and that in January of 2013 she withheld his legal correspondence which would have reduced the amount of time he received. Id.
12. By letter dated June 30, 2014, Disciplinary Counsel wrote to Respondent asking for a response to the complaint. ODC Ex. 2.
13. Respondent failed to file a response.
14. By letter dated July 29, 2014, sent via certified and regular mail, Disciplinary Counsel again requested a response to the complaint by August 8, 2014. ODC Ex. 3.
15. On August 7, 2014, the Office of Disciplinary Counsel received Respondent’s response, which was dated August 1, 2014. ODC Ex. 4.

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<sup>2</sup> Respondent reserved the right to argue the facts in this paragraph in the “Stipulations Regarding Findings of Fact” entered into for this case.

16. In her response, Respondent stated that Mr. Greynolds had a significant criminal history and was advised by the prosecutor that the State would file a recidivism action if he did not accept a plea offer. ODC Ex. 4, bates stamp 16-17. Respondent stated that she had filed a motion to suppress the video evidence<sup>3</sup>, which was to be ruled upon when the trial commenced. ODC Ex. 4, bates stamp 17. Respondent stated that she was ready to proceed to trial on December 12, 2012, and that same morning, Mr. Greynolds decided to accept the plea offer. Id. Respondent said that following the plea and sentencing hearing she provided a copy of the order to Mr. Greynolds, but it was returned to sender. ODC Ex. 4, bates stamp 18. She then forwarded the mail to him at Huttonsville Correctional Center. Id. As discussed earlier, it was at that same time Respondent claims she advised Mr. Greynolds she could not appeal his conviction because there was no issue relating to the jurisdiction, the sentence, or the voluntariness of entry of the plea. Id.
17. Respondent stated she had to certify the appeal by signing a statement that she had “performed a review of the case that is reasonable under the circumstances and I have a good faith belief that an appeal is warranted.” Respondent did not believe she could make such a representation and claimed she advised Mr. Greynolds in her January 17, 2013 letter that she could not file his appeal. ODC Ex. 8, bates stamp 73.4

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<sup>3</sup> A check of the Marion County Circuit Court Clerk’s file shows that “Defendant’s Motion In Limine” was filed with the Court on or about December 5, 2012. ODC Ex. 7, bates stamp 44.

<sup>4</sup> It should be further noted that Respondent provided evidence of the State of West Virginia’s position in another case (in the same county and before the same Judge as Mr. Greynolds’ matter) when she filed post-conviction motions on behalf of an unrelated client. In that case the State argued the Defendant breached the terms of the plea agreement by seeking certain post-conviction relief. The State therefore sought to set aside the plea and reinstate all charges. That defendant then withdrew his post-conviction motions. Respondent testified she was concerned Mr. Greynolds would face a similar response. Hrg. Trans. pp.106-109.

18. Respondent has been admonished on one (1) occasion for a violation of Rule 1.3 of the Rules of Professional Conduct and on one (1) occasion for a violation of Rule 8.4(d) of the Rules of Professional Conduct. ODC Ex. 12, bates stamp 85; 89-90.
19. Because Respondent remained his appointed counsel and failed to file an appeal on Mr. Greynolds behalf, after being appointed by the Court to do so, Respondent violated Rule 1.3<sup>5</sup> of the Rules of Professional Conduct, which provides as follows:<sup>6</sup>

**Rule 1.3. Diligence.**

A lawyer shall act with reasonable diligence and promptness in representing a client.

20. Because Respondent remained his court appointed counsel but failed to respond to Mr. Greynolds' requests concerning the status of his appeal, Respondent violated Rule 1.4(a) of the Rules of Professional Conduct, which provides as follows:<sup>7</sup>

**Rule 1.4. Communication.**

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

21. Because Respondent failed to timely withdraw, or attempt to withdraw, from representation while believing she had no grounds to appeal, this arguably resulted in a failure for anyone, including Complainant, to file an appeal. Regardless of the merits of

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<sup>5</sup> The Supreme Court of Appeals of West Virginia approved comprehensive amendments to the West Virginia Rules of Professional Conduct. The amendments became effective January 1, 2015; however, this document applies to the version of the Rules that was in effect at the time of Respondent's transgressions. The substance of the new Rules would not result in a different disposition in this case.

<sup>6</sup> Respondent reserved the right to argue the facts in this paragraph in her stipulations. *See* Joint Exhibit 1.

<sup>7</sup> Respondent reserved the right to argue the facts in this paragraph in her stipulations. *See* Joint Exhibit 1. Respondent denied receiving any correspondence directly from Mr. Greynolds after January 2013. Mr. Greynolds alleged he called Respondent on several occasions but she never answered her phone. The Panel has no way of otherwise determining the merit to the alleged phone calls. However, there is proof that, at a minimum, the Honorable Michael Alois forwarded to Ms. Sturm a June 2013 letter the Court received from Mr. Greynolds. In that letter Complainant noted his desire to reduce his sentence. There is no evidence that Ms. Sturm took any action in response thereto.

the appeal this arguably negatively impacted Mr. Greynolds' rights.<sup>8</sup> Since she remained Complainant's court appointed counsel Respondent furthermore failed to perfect his appeal, regardless of its merits, in a timely manner. Respondent violated Rule 8.4(d) of the Rules of Professional Conduct, which provides as follows:<sup>9</sup>

**Rule 8.4. Misconduct.**

It is professional misconduct for a lawyer to:

\* \* \*

(d) Engage in conduct that is prejudicial to the administration of justice.

### III. DISCUSSION

The Supreme Court of Appeals of West Virginia has long recognized that attorney disciplinary proceedings are not designed solely to punish the attorney, but also to protect the public, to reassure the public as to the reliability and integrity of attorneys, and to safeguard its interests in the administration of justice. Lawyer Disciplinary Board v. Taylor, 192 W.Va. 139, 451 S.E.2d 440 (1994). Factors to be considered in imposing appropriate sanctions are found in Rule 3.16 of the Rules of Lawyer Disciplinary Procedure. These factors consist of: (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession; (2) whether the lawyer acted intentionally, knowingly, or negligently; (3) the amount of the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of any

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<sup>8</sup> This Panel is not making any findings regarding the merits of Mr. Greynolds' potential appeal. In fact, unlike ODC's concurrent I.D. No.'s 12-05-267 and 12-05-268 (the "*Brown* case"), there is no proof in this matter that Ms. Sturm's failure to act would have made any difference in the outcome. In the *Brown* case Ms. Sturm herself admitted there was a reasonable chance of success for a *habeas* petition that she drafted but never filed. In this matter Ms. Sturm was adamant that an appeal would not have succeeded and ODC presented no evidence to the contrary. While it is not this Panel's job to determine the merits of an appeal that was never filed, it appears reasonable to conclude that Complainant's appeal would have been difficult if not impossible to win. However, as Ms. Sturm further admitted, she was unaware in January 2013 that she could file what is commonly referred to as an "*Anders* Brief." See, Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed. 493 (1967); cited in, Turner v. Haynes, 162 W.Va. 33, 245 S.Ed. 629 (1978). Since she was court appointed counsel Respondent's ability to withdraw, if she had even tried, was somewhat limited. She therefore arguably had a duty to file an *Anders* Brief on behalf of Mr. Greynolds. Since the institution of this Complaint Respondent has familiarized herself with that process.

<sup>9</sup> Respondent reserved the right to argue the facts in this paragraph in her stipulations. See Joint Exhibit 1.

aggravating or mitigating factors. *See also*, Syl. Pt. 4, Office of Disciplinary Counsel v. Jordan, 204 W.Va. 495, 513 S.E.2d 722 (1998).

**A. Respondent violated duties to her clients, to the public, to the legal system and to the legal profession.**

Lawyers owe duties of candor, loyalty, diligence and honesty to their clients. Members of the public should be able to rely on lawyers to protect their property, liberty, and their lives. Lawyers are officers of the court, and as such, must operate within the bounds of the law and abide by the rules of procedure which govern the administration of justice in our state. Furthermore, a lawyer's duties also include maintaining the integrity of the profession. The evidence in this case establishes by clear and convincing proof that Respondent violated her duties owed to her client.

Respondent was appointed to appeal Mr. Greynolds criminal case on or about January 15, 2013. ODC Ex. 1, bates stamp 4; ODC Ex. 7, bates stamp 35. Mr. Greynolds testified that Respondent never responded to his telephone calls and letters. Hrg. Trans. 11-12. There is evidence that Respondent was provided with at least one of those letters. Mr. Greynolds wrote Judge Aloi in June 2013 about his desire to reduce his sentence along with a request that Respondent complete her appointment duties. ODC Ex. 7, bates stamp 37-39; ODC Ex. 7, bates stamp 41-42. Judge Aloi forwarded that letter to Respondent. *Id.* at bates stamp 40.

Even if Mr. Greynolds received Respondent's January 17, 2013 letter, Complainant remained his appointed appellate counsel. The Supreme Court of Appeals of West Virginia wrote:

That since the Rules of Appellate Procedure have been modified to more clearly provide a right of appeal in all cases, the frequency of such creative methods to obtain review has increased. Although the appellate procedures have undergone change to insure that the disposition of each perfected appeal is reflected in a written decision, nothing has changed as to the professional responsibility of lawyers to proceed only on meritorious issues. The change in the appellate rules was in no way intended to impose a greater or lesser burden on the legal community. Pursuant to principles contained in Rule 3.1 of the West Virginia Rules of Professional Conduct, [footnote 6] an appellate remedy should not be pursued

unless counsel believes in good faith that error has been committed and there is a *reasonable basis* for the extension, modification, or reversal of existing law. [footnote 7].

State v. McGill, 230 W.Va. 85, 736 S.E.2d 85 (2012). The footnotes explain that in certain instances appointed counsel must file an *Anders* Brief. Respondent “thought, obviously erroneously, that [her] sending Mr. Greynolds a letter saying that based on [her] review of [his] file, there’s nothing to appeal with satisfactory.” Hrg. Trans. p. 92. Further, Respondent testified that she “should’ve sent a letter to the court and asked to withdraw [from Mr. Greynolds’ case] because [she] found no reason to appeal.” Hrg. Trans. p. 93. Mr. Greynolds testified that he can no longer file an appeal in his case. Hrg. Trans. p. 13.

**B. Respondent acted negligently.**

The evidence establishes that Respondent acted negligently in these matters. The ABA Standards for Imposing Lawyer Sanctions define negligence as the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in that situation.

**C. A real injury exists.**

ODC alleges the Complainant’s injury is “great.” This Panel is not clearly convinced this is the case. However, Complainant did suffer an injury when his appointed counsel failed to either withdraw, attempt to withdraw or file an *Anders* Brief on his behalf. Respondent did none of the above. While Complainant’s odds of appellate success may have been slim, he will never know with certainty whether he would have succeeded. Respondent’s misconduct has brought the legal system and legal profession into some level disrepute. To a minor extent, Respondent also failed to timely communicate with ODC, which prolonged this process and took additional public resources to correct.

**D. There are aggravating and mitigating factors present.**

Aggravating factors are considerations enumerated under Rule 3.16 of the Rules of Lawyer Disciplinary Procedure for the Court to examine when considering the imposition of sanctions. Elaborating on this rule, the Scott Court held “that aggravating factors in a lawyer disciplinary proceeding ‘are any considerations, or factors that may justify an increase in the degree of discipline to be imposed.’” Lawyer Disciplinary Board v. Scott, 213 W.Va. 216, 579 S.E. 2d 550, 557 (2003) quoting *ABA Model Standards for Imposing Lawyer Sanctions*, 9.21 (1992). Respondent admitted in her stipulations in this case that she has experience in the practice of law and prior disciplinary action by the Investigative Panel of the Lawyer Disciplinary Board. *See* Joint Exhibit 1.

The Scott Court also adopted mitigating factors in a lawyer disciplinary proceeding and stated that mitigating factors “are any considerations or factors that may justify a reduction in the degree of discipline to be imposed.” Lawyer Disciplinary Board v. Scott, 213 W.Va. 216, 579 S.E.2d 550, 557 (2003). The following mitigating factors are present: a cooperative attitude toward proceedings and remorse. *See* Joint Exhibit 1. Respondent also testified at length during hearing about substantial personal problems she suffered from during the pendency of Mr. Greynolds’ underlying case. Those issues are not repeated here. However, they are of the kind and type that would distract any reasonable lawyer. ODC did not dispute Respondents’ personal issues. *See*, Hrg. Trans. pp. 97-101.

**IV. SANCTION**

The Rules of Professional Conduct state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action. Syllabus Pt. 3, *in part*, Committee on Legal Ethics v. Tatterson, 173 W.Va. 613, 319 S.E.2d 381 (1984), *cited in* Committee on Legal Ethics v. Morton, 186 W.VA. 43, 410 S.E.2d 279, 281 (1991). In addition, discipline must serve

as both instruction on the standards for ethical conduct and as a deterrent against similar misconduct to other attorneys. In Syllabus Point 3 of Committee on Legal Ethics v. Walker, 178 W.Va. 150, 358 S.E.2d 234 (1987), the Court stated:

In deciding on the appropriate disciplinary action for ethical violations, this Court must consider not only what steps would appropriately punish the respondent attorney, but also whether the discipline imposed is adequate to serve as an effective deterrent to other members of the Bar and at the same time restore public confidence in the ethical standards of the legal profession.

Moreover, a principle purpose of attorney disciplinary proceedings is to safeguard the public's interest in the administration of justice. Daily Gazette v. Committee on Legal Ethics, 174 W.Va. 359, 326 S.E.2d 705 (1984); Lawyer Disciplinary Board v. Hardison, 205 W.Va. 344, 518 S.E.2d 101 (1999).

The principle purpose of attorney disciplinary proceedings is to safeguard the public's interest in the administration of justice. Syl. pt. 3, Daily Gazette v. Committee on Legal Ethics, 174 W.Va. 359, 326 S.E.2d 705 (1984); and Syl. pt. 2, Lawyer Disciplinary Board v. Hardison, 205 W.Va. 344, 518 S.E.2d 101 (1999).

“A sanction is to not only punish the attorney, but should also be designed to reassure the public confidence in the integrity of the legal profession and deter other lawyers from similar conduct.” Syl. pt 2, Committee on Legal Ethics v. White, 189 W.Va. 135, 428 S.E.2d 556 (1993); Syl. pt 3, Committee on Legal Ethics v. Walker, 178 W.Va. 150, 358 S.E.2d 234 (1987); Syl. pt. 5, Committee on Legal Ethics v. Roark, 181 W.Va. 260, 382 S.E.2d 313 (1989); Syl pt. 3, Lawyer Disciplinary Board v. Friend, 200 W.Va. 368, 489 S.E.2d 750 (1997); and Syl pt. 3, Lawyer Disciplinary Board v. Keenan, 208 W.Va. 645, 542 S.E.2d 466 (2000).

The Rules of Professional Conduct state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action. Syl.pt. 3, in part, Committee on Legal Ethics v. Tatterson, 173 W.Va. 613, 319 S.E.2d 381 (1984), cited in Committee on Legal

Ethics v. Morton, 186 W.Va. 43, 45, 410 S.E.2d 279, 281 (1991). Respondent, a lawyer with considerable experience, has demonstrated conduct which has fallen below the minimum standard for attorneys, and discipline must be imposed.

The American Bar Association has recognized that a reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed to a client, the public, or the legal profession and causes injury or potential injury to a client, the public or the legal system. *See*, ABA Model Standards for Imposing Lawyer Sanctions, § 4.13.

A public reprimand was issued and supervised practice was ordered by the Supreme Court of Appeals for conduct involving lack of diligence and lack of communication along with failure to respond to disciplinary counsel in Lawyer Disciplinary Board v. Geraldine Roberts, 217 W.Va. 189, 617 S.E.2d 539 (2005). *See also*, Lawyer Disciplinary Board v. Brentton W. Wolfingbarger, No. 29973 (WV 3/13/02): lawyer reprimanded for violations of Rules 1.4 and 8.1 (unreported case); Lawyer Disciplinary Board v. Lee F. Benford, No. 31795 (WV 1/19/05): lawyer reprimanded for violations of Rules 1.3, 1.4(a), and 8.1(b); Lawyer Disciplinary Board v. Reggie R. Bailey, No. 31799 (WV 3/9/05): lawyer reprimanded for violations of Rules 1.3, 1.4 and 8.1 (unreported case); Lawyer Disciplinary Board v. Richard L. Vital, No. 32229 (WV 5/25/05): lawyer reprimanded for violations of Rules 1.3, 1.4, and 8.1(b) (unreported case); Lawyer Disciplinary Board v. David S. Hart, No. 33328 (WV 9/14/07): lawyer reprimanded for violations of Rules 1.3, 1.4, and 8.1(b) (unreported case); Lawyer Disciplinary Board v. April D. Conner, No. 35434 (WV 10/27/10): lawyer reprimanded for violations of Rules 1.3, 1.4, 8.1(b), 1.15(b), and Rules 1.16(b) (unreported case); Lawyer Disciplinary Board v. Daniel R. Grindo, 231 W.Va. 365, 745 S.E.2d 256 (2013): lawyer reprimanded for violations of Rules 1.3, 3.2, and 3.4(c); Lawyer Disciplinary Board v. Donna M. Price, No. 11-1345 (WV 3/25/14): lawyer reprimanded for violations of Rules 1.1 and 1.3 (unreported case); Lawyer Disciplinary Board v. Donna M. Price, No. 13-0478 (WV 5/27/14): lawyer reprimanded for violations of Rule 8.1(b) (unreported);

and Lawyer Disciplinary Board v. Jeffrey S. Rodgers, No. 13-0721 (WV 10/15/14): lawyer reprimanded for violations of Rules 1.3, 1.4(a), 1.4(b), 1.15(a), 1.15(b), 8.4(c), and 8.4(d).

For the reasons set forth above, the Hearing Panel Subcommittee recommends the following sanctions be imposed:

- a. That Respondent shall be reprimanded;
- b. That, pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure, Respondent shall pay costs of this disciplinary proceeding.

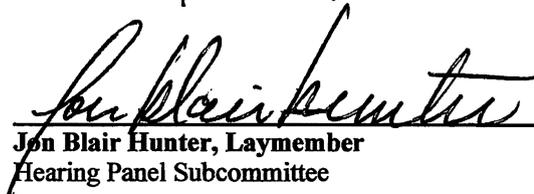
The Hearing Panel Subcommittee hereby recommends that the Supreme Court of Appeals of West Virginia adopt the recommendations as set forth above.<sup>10</sup>

  
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**James R. Akers, II, Esquire, Chairperson**  
Hearing Panel Subcommittee

Date: 9-15-15

  
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**Henry W. Morrow, Esquire**  
Hearing Panel Subcommittee

Date: September 9, 2015

  
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**Jon Blair Hunter, Laymember**  
Hearing Panel Subcommittee

Date: September 11, 2015

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<sup>10</sup> A public reprimand rather than admonishment is recommended here, in part, due to Respondent's other disciplinary actions. ODC's request for two (2) years of supervised practice is denied. While Respondent committed misconduct in this case the injury is not as great, for example, as that proven in the *Brown* case. This Panel separately agreed to ODC's request for two (2) years of supervised practice in *Brown*.