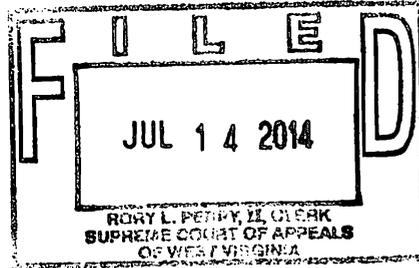


14-0670

**BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA**

In Re: Thorn H. Thorn,
a licensed member of
The West Virginia State Bar

Bar No.: 7346
I.D. Nos.: 13-06-191
13-02-230
13-02-305
13-02-384
13-02-414
13-02-417
13-02-538
13-02-542
13-02-578
14-02-058
14-02-183



STATEMENT OF CHARGES

To: Thorn H. Thorn, Esquire
1403 Saratoga Avenue
Morgantown, West Virginia 26505

YOU ARE HEREBY notified that a Hearing Panel Subcommittee of the Lawyer Disciplinary Board will hold a hearing pursuant to Rules 3.3 through 3.16 of the Rules of Disciplinary Procedure, upon the following charges against you:

1. Thorn H. Thorn (hereinafter "Respondent") is a lawyer practicing in Morgantown, which is located in Monongalia County, West Virginia. Respondent was admitted to The West Virginia State Bar on April 23, 1997, after successful passage of the Bar Exam. As such, he is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board.

Count I
Complaint of Debra Miller
I. D. No. 13-06-191

2. Ms. Miller hired Respondent in October of 2011 for a probate matter and paid him Three Thousand Six Hundred Ninety Five Dollars (\$3,695.00).
3. Respondent thereafter failed to properly advance the case and repeatedly cancelled hearings that had been set. Respondent also was nonresponsive to telephone messages left by Ms. Miller.
4. In or about October 11, 2012, Ms. Miller sent Respondent an email in which she terminated Respondent's representation, requested an itemized bill, and asked Respondent to provide her with a refund of the unearned retainer.
5. Ms. Miller stated that she heard nothing further from Respondent.
6. In response to the complaint, Respondent denied he had violated the Rules of Professional Conduct and asserted that Ms. Miller's retainer was "mainly exhausted," citing to work he had performed on her behalf. Respondent asserted that he would send Ms. Miller the balance of her retainer, but Ms. Miller had refused to tell him where to send it.
7. Thereafter, Ms. Miller contacted the Office of Disciplinary Counsel and advised that Respondent had not provided her with her file, despite her requests. By letter dated August 12, 2013, Disciplinary Counsel asked Respondent to provide Ms. Miller with her file on or before August 23, 2013.

8. By letter dated August 29, 2013, Respondent confirmed that he had forwarded a copy of the file to Ms. Miller at the address he had on file, but it had been returned to sender. Respondent stated that he resubmitted the file to Ms. Miller at the Post Office Box address she listed on her ethics complaint.
9. By email dated September 10, 2013, Ms. Miller informed Disciplinary Counsel that she had not yet received her file from Respondent.
10. Disciplinary Counsel alerted Respondent of the same and, by letter dated October 1, 2013, Respondent stated that he had again mailed a copy of Ms. Miller's file to her at the Post Office Box address.
11. To date, Ms. Miller has not received her file, nor has she received an accounting of her retainer or a refund of any unearned retainer from Respondent.
12. Because Respondent neglected Ms. Miller's case and failed to take appropriate action in the matter, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

13. Because Respondent failed to keep Ms. Miller informed as to the status of the matter and failed to respond to her requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

14. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Ms. Miller, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

15. Because Respondent failed to promptly deliver to Ms. Miller the unearned portion of her retainer or render a full accounting regarding such property pursuant to her request, he has violated Rule 1.15(b) of the Rules of Professional Conduct, which provides as follows:

Rule 1.15. Safekeeping property.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person shall promptly render a full accounting regarding such property.

16. Because Respondent failed to return her file and the unearned fee paid to him by Ms. Miller, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

Count II
Complaint of Bonnie R. Hughes
I. D. No. 13-02-230

17. Ms. Hughes retained Respondent on or about February 28, 2013, for representation in a time-sensitive guardianship matter and paid him a retainer of One Thousand One Hundred Eighty Five Dollars (\$1,185.00).
18. Ms. Hughes subsequently called Respondent approximately three (3) times per week to obtain the status of the matter and left messages with Respondent's answering service when she was unable to reach Respondent.
19. By May of 2013, Respondent had failed to take any action in Ms. Hughes' matter.
20. Thereafter, Ms. Hughes sought legal representation from another lawyer and, by email dated May 13, 2013, terminated Respondent's representation and requested that Respondent issue her a refund of the retainer. Ms. Hughes' new counsel also sought to obtain a refund from Respondent on her behalf.

21. Respondent failed to promptly provide a refund to Ms. Hughes or otherwise communicate with her or her lawyer.
22. In his response to the complaint dated July 19, 2013, Respondent denied he had violated the Rules of Professional Conduct and asserted that he would provide Ms. Hughes with a refund.
23. Ms. Hughes confirmed that she received a refund from Respondent in late July, 2013.
24. Because Respondent neglected Ms. Hughes' case and failed to take any action in the matter, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

25. Because Respondent failed to respond to the inquiries of Ms. Hughes, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

26. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated

and agreed upon objectives of Ms. Hughes, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

27. Because Respondent failed to return the unearned fee paid to him by Ms. Hughes until after she filed an ethics complaint against him, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

Count III

Complaint of Jessica D. Morris

I. D. No. 13-02-305

28. Ms. Morris retained Respondent for representation in a divorce in October of 2011.
29. Respondent filed the appropriate paperwork with the Family Court of Marion County on or about November 30, 2011, but otherwise failed to advance the case.
30. Ms. Morris alleged that many of her subsequent calls and emails to Respondent were not returned, that Respondent failed to provide Ms. Morris with a copy of the response that had been filed in the matter, and that Respondent failed to provide certain documents to opposing counsel and the Court.

31. Thereafter, Ms. Morris sought legal representation from another lawyer and, by letter dated February 20, 2013, terminated Respondent's representation and requested that Respondent issue her a refund of the retainer and provide her with an itemization of accounting of all legal services rendered.
32. Respondent subsequently failed to provide a refund to Ms. Morris or otherwise communicate with her.
33. In his response to the complaint dated October 2, 2013, Respondent attributed the delays in the underlying matter to cancellations made by the Family Court.
34. Because Respondent neglected Ms. Morris' case and failed to take appropriate action in the matter, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

35. Because Respondent failed to keep Ms. Morris informed as to the status of the matter and failed to respond to her requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

36. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Ms. Morris, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

37. Because Respondent failed to promptly deliver to Ms. Morris the unearned portion of her retainer or render a full accounting regarding such property pursuant to her request, he has violated Rule 1.15(b) of the Rules of Professional Conduct, which provides as follows:

Rule 1.15. Safekeeping property.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person shall promptly render a full accounting regarding such property.

38. Because Respondent failed to promptly return unearned fee paid to him by Ms. Morris, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests,

such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

Count IV
Complaint of Todd H. Goodnight
I. D. No. 13-05-384

39. Respondent was appointed to represent Mr. Goodnight in criminal matters and in an abuse and neglect proceeding in the Circuit Court of Marion County.
40. Mr. Goodnight alleged that Respondent failed to appear for Court hearings that were scheduled in the abuse and neglect proceeding on February 4, 2013, March 8, 2013, and June 11, 2013.
41. On June 13, 2013, the Circuit Court entered an Order which relieved Respondent of his representation of Mr. Goodnight and appointed Mr. Goodnight a new attorney in the abuse and neglect cases. The Order noted that the State had advised the Court that Respondent had failed to appear for Multi-Disciplinary Team (“MDT”) meetings in the preceding six (6) months and had not been responsive to telephone calls made to him to determine the status of Mr. Goodnight.
42. Mr. Goodnight also alleged that Respondent was unresponsive to his inquiries.
43. In his response to the complaint dated October 2, 2013, Respondent denied that the allegations raised in Mr. Goodnight’s complaint affected the final disposition of either Mr. Goodnight’s criminal cases or the abuse and neglect cases.

44. Because Respondent failed to appear for MDT meetings and hearings in the abuse and neglect matters on behalf of Mr. Goodnight, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct which provide as follows:

Rule 1.1. Competence.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.3. Diligence.

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

45. Because Respondent failed to keep Mr. Goodnight informed as to the status of the matter and failed to respond to his requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

**Count V
Complaint of Mark D. Benkiel
I. D. No. 13-02-414**

46. Mr. Benkiel retained Respondent for representation relating to an automobile accident that occurred in the state of Pennsylvania on or about April 23, 2010, in which Mr.

Benkiel suffered injury. Mr. Benkiel and Respondent entered into a contingent-fee agreement with respect to the matter.

47. Mr. Benkiel said that despite his phone calls and texts, Respondent failed to take any action in the case for three (3) years.
48. Respondent failed to file the complaint on Mr. Benkiel's behalf before the statute of limitation expired on April 23, 2012. In fact, Respondent, who is not licensed in Pennsylvania, advised Mr. Benkiel that Pennsylvania had a three (3) year statute of limitations period, and provided Mr. Benkiel with a one-page complaint for him to file *pro se* in Allegheny County, Pennsylvania, on April 24, 2013. The Clerk did not accept Mr. Benkiel's complaint at that time due to it being barred by the statute of limitations.
49. By letter dated September 11, 2013, the Office of Disciplinary Counsel sent Respondent a copy of the complaint and directed him to file a verified response within twenty (20) days.
50. After not receiving any response from Respondent, by letter dated November 15, 2013, sent via certified mail, return receipt requested, Disciplinary Counsel requested that Respondent provide the requested response by Tuesday, November [26], 2013,¹ or Respondent would be subpoenaed to appear at the Office of Disciplinary Counsel to give a sworn statement or the allegations in the complaint would be deemed

¹ The letter contained a typographical error for the date as follows, "Tuesday, November 26 21, 2013, . . ."

admitted and the matter would be referred to the Investigative Panel of the Lawyer Disciplinary Board.

51. Respondent failed to provide a verified response to the complaint by the above-referenced deadline and, as a result, Respondent was issued a subpoena to appear at the Office of Disciplinary to give a sworn statement. Respondent's statement was initially scheduled to take place on December 17, 2013, and such was subsequently rescheduled by agreement to February 24, 2014. However, on or about February 10, 2014, Disciplinary Counsel agreed to cancel the statement if Respondent provided a verified written response to Mr. Benkiel's complaint by February 28, 2014.
52. In his verified written response dated February 24, 2014, Respondent stated that the underlying matter involved pending litigation and he requested that he be permitted to respond to this complaint once the litigation had been resolved.
53. Because Respondent incorrectly advised Mr. Benkiel as to the law in another jurisdiction and failed to take any action on Mr. Benkiel's case before the statute of limitations expired, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct which provide as follows:

Rule 1.1. Competence.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.3. Diligence.

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

54. Because Respondent failed to keep Mr. Benkiel informed as to the status of the matter and failed to respond to his requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

55. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Mr. Benkiel, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

**Count VI
Complaint of Daniel N. Britton
I. D. No. 13-02-417**

56. Mr. Britton retained Respondent on or about June 14, 2013, for representation in a Family Court matter and paid him a retainer of One Thousand Seven Hundred Dollars (\$1,700.00). The matter involved a request to modify a parenting plan in order to permit Mr. Britton's children to attend a different school.

57. Despite Mr. Britton's representation that the matter was time sensitive, Respondent did not file the necessary documents on Mr. Britton's behalf until July 21, 2013.

58. Respondent was not responsive to Mr. Britton's subsequent phone calls.
59. In August of 2013, Mr. Britton contacted the Family Court to ascertain the status of the matter and when a hearing would take place. Respondent finally obtained a court date of August 23, 2013, purportedly after the Court's assistant phoned Respondent and informed him of Mr. Britton's call to the Court.
60. Mr. Britton believed that the Court ultimately denied his request to modify the parenting plan because the hearing took place after the new school year began. Mr. Britton further believed that Respondent's delays in the matter had been harmful to his case.
61. Mr. Britton desired a refund from Respondent of the unearned retainer fee.
62. By letter dated September 16, 2013, the Office of Disciplinary Counsel sent Respondent a copy of the complaint and directed him to file a verified response within twenty (20) days.
63. After not receiving any response from Respondent, by letter dated November 15, 2013, sent via certified mail, return receipt requested, Disciplinary Counsel requested that Respondent provide the requested response by Tuesday, November [26], 2013,² or Respondent would be subpoenaed to appear at the Office of Disciplinary Counsel to give a sworn statement or the allegations in the complaint would be deemed

² The letter contained a typographical error for the date as follows, "Tuesday, November 26 21, 2013, . . ."

admitted and the matter would be referred to the Investigative Panel of the Lawyer Disciplinary Board.

64. Respondent failed to provide a verified response to the complaint by the above-referenced deadline and, as a result, Respondent was issued a subpoena to appear at the Office of Disciplinary to give a sworn statement. Respondent's statement was initially scheduled to take place on December 17, 2013, and such was subsequently rescheduled by agreement to February 24, 2014. However, on or about February 10, 2014, Disciplinary Counsel agreed to cancel the statement if Respondent provided a verified written response to Mr. Britton's complaint by February 28, 2014.
65. In his verified written response dated March 9, 2014, Respondent denied that the late-August hearing date was a factor in the Court's decision in the underlying case, citing that the children had been attending the same school for the previous two (2) years based upon an agreed parenting plan that had been previously in place. Respondent also denied that he owed Mr. Britton any refund, citing the work he performed on the matter.
66. Because Respondent failed to take prompt action with regard to Mr. Britton's case after being retained, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

67. Because Respondent failed to keep Mr. Britton informed as to the status of the matter and failed to respond to his requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

68. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Mr. Britton, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

69. Because Respondent failed to comply with the Office of Disciplinary Counsel's lawful request for information, he has violated Rule 8.1(b) of the Rules of Professional Conduct, which provides as follows:

Rule 8.1. Bar admission and disciplinary matters.

[A] lawyer in connection with . . . a disciplinary matter, shall not:

(b) . . . knowingly fail to respond to a lawful demand for information from . . . disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

Count VII
Complaint of Martin H. Donovan
I. D. No. 13-02-538

70. Mr. Donovan retained Respondent on or about November 17, 2011, for an expungement matter and paid him a retainer of Six Hundred Dollars (\$600.00).
71. Respondent subsequently provided Mr. Donovan with no updates in the matter.
72. On or about October 22, 2013, Mr. Donovan contacted the Court to determine the status of the matter and learned that no expungement had ever been filed on Mr. Donovan's behalf.
73. By letter dated November 21, 2013, the Office of Disciplinary Counsel sent Respondent a copy of the complaint and directed him to file a verified response within twenty (20) days.
74. After not receiving any response from Respondent, by letter dated February 12, 2014, Disciplinary Counsel advised Respondent that if a response was not received by February 28, 2014, such would be regarded as an admission of the allegations and subject Respondent to disciplinary action.
75. In his verified written response dated March 13, 2014, Respondent acknowledged that he failed to complete the work he was paid to do by Mr. Donovan and that he would issue Mr. Donovan a full refund.
76. To date, Respondent has failed to refund Mr. Donovan any amount.

77. Because Respondent failed to take any action with regard to Mr. Donovan's case after being retained, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

78. Because Respondent failed to keep Mr. Donovan informed as to the status of the matter and failed to respond to his requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

79. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Mr. Donovan, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

80. Because Respondent failed to promptly return unearned fee paid to him by Mr. Donovan, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

81. Because Respondent failed to comply with the Office of Disciplinary Counsel's lawful request for information, he has violated Rule 8.1(b) of the Rules of Professional Conduct, which provides as follows:

Rule 8.1. Bar admission and disciplinary matters.

[A] lawyer in connection with . . . a disciplinary matter, shall not:

(b) . . . knowingly fail to respond to a lawful demand for information from . . . disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

82. Because Respondent intentionally took and/or used Mr. Donovan's funds for his own personal use he has violated, Rule 8.4(c) and 8.4(d) of the Rules of Professional Conduct, which provide as follows:

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

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

Count VIII
Complaint of Tony Bethea
I. D. No. 13-02-542

83. On or about December 10, 2004, Respondent was appointed by the Circuit Court of Monongalia County to file a *writ of habeas corpus* on behalf of Mr. Bethea.
84. Respondent was relieved as counsel by Order entered January 8, 2013, and Attorney Christopher Miller, Esquire, was appointed to represent Mr. Bethea in the matter.
85. Mr. Bethea alleged that despite several requests, Respondent had not turned over the files in his possession relating to Mr. Bethea's case to Mr. Miller.
86. In his verified written response dated March 13, 2014, Respondent stated that Mr. Miller should have had access to the file *via* the Courthouse. Respondent further stated that he delivered everything in his possession relating to Mr. Bethea's case to Mr. Miller on March 13, 2014.
87. Because Respondent neglected Mr. Bethea's case and failed to take any action in the matter, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

88. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Mr. Bethea, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

89. Because Respondent failed to promptly surrender papers and property to which the Mr. Bethea and his new counsel were entitled, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

**Count IX
Complaint of Lisa A. Long
I. D. No. 13-02-578**

90. In mid-2012, Ms. Long and her husband paid Respondent to file a bankruptcy action on their behalf.

91. Ms. Long stated that despite complying with all of Respondent's requests, Respondent had taken no action in the matter.

92. Ms. Long also stated that Respondent had not returned her phone calls.

93. In his verified written response dated March 2, 2014, Respondent attributed the delay in the case to scheduling issues.

94. Because Respondent failed to take any action with regard to Ms. Long's case after being retained, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

95. Because Respondent failed to keep Ms. Long informed as to the status of the matter and failed to respond to her requests for information, Respondent has violated Rule 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

96. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of Ms. Long, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

Count X
Complaint of Carly A. Wears
I. D. No. 14-02-058

97. In August of 2013, Ms. Wears retained Respondent to represent her in a child custody matter and paid him a retainer of Two Thousand Five Hundred Dollars (\$2,500.00).
98. From late August to October, 2013, Respondent was routinely nonresponsive to Ms. Wears' calls of inquiry and rarely provided her with updates in the matter.
99. On or about October 8, 2013, Ms. Wears called Respondent to obtain the status of her case and learned that a settlement conference was scheduled to take place three days later, on October 11, 2013. Respondent had not given prior notice of the settlement conference to Ms. Wears and she was to be out of town that day. As such, the conference had to be rescheduled, which ultimately delayed the final hearing in the matter.
100. Ms. Wears visited Respondent's office on or about October 10, 2013, and noticed a copy of discovery responses Respondent had prepared for her case. Ms. Wears observed that the Certificate of Service for the documents was for that same day, which was two (2) months past the deadline given in the Temporary Order entered by the Court in the matter for such.
101. Ms. Wears subsequently received text messages from Respondent which she felt were attempts to mislead her as to the nature of the work he was rendering in her case.

102. By letter dated October 25, 2013, Ms. Wears terminated Respondent's representation and requested that he return the remainder of her retainer in a timely manner.
103. By letter dated November 27, 2013, Ms. Wears again requested a refund of her retainer along with a final bill and a copy of her file.
104. Respondent provided Ms. Wears with her file on or about December 10, 2013. To date, Respondent has failed to refund Ms. Wears any amount.
105. By letter dated January 31, 2014, the Office of Disciplinary Counsel sent Respondent a copy of the complaint and directed him to file a verified response within twenty (20) days. This letter also notified Respondent that failed to respond may be regarded as an admission of the allegations and may for the basis for a Statement of Charges.
106. Respondent failed to respond to Ms. Wears' complaint.
107. Because Respondent failed to file appropriate pleadings in the underlying matter pursuant to deadlines that had been set by the Family Court for such, he has violated Rule 1.3 of the Rules of Professional Conduct, which provides as follows:

Rule 1.3. Diligence.

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

108. Because Respondent failed to keep Ms. Wears informed as to the status of the matter, failed to respond to her requests for information, and failed to be available to explain to her important legal issues, Respondent has violated Rules 1.4 of the Rules of Professional Conduct which provides as follows:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

109. Because Respondent failed to promptly return unearned fee paid to him by Ms. Wears, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, which provides as follows:

Rule 1.16. Declining or terminating representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

110. Because Respondent failed to comply with the Office of Disciplinary Counsel's lawful request for information, he has violated Rule 8.1(b) of the Rules of Professional Conduct, which provides as follows:

Rule 8.1. Bar admission and disciplinary matters.

[A] lawyer in connection with . . . a disciplinary matter, shall not:

(b) . . . knowingly fail to respond to a lawful demand for information from . . . disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

111. Because Respondent intentionally took and/or used Ms. Wears' funds for his own personal use he has violated, Rule 8.4(c) and 8.4(d) of the Rules of Professional Conduct, which provide as follows:

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

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

**Count XI
Complaint of the Office of Disciplinary Counsel
I. D. No. 14-02-183**

112. By letter dated February 28, 2014, Attorney Delby B. Pool advised Disciplinary Counsel of a Family Court matter involving her client, Amy Dovola, and Ms. Dovola's former husband, who was represented by Respondent.

113. Ms. Pool stated that the underlying matter reached a settlement on October 30, 2013, which required Respondent's client to pay Six Thousand Five Hundred Dollars (\$6,500.00) to Ms. Dovola within sixty (60) days. Respondent was to prepare the agreed order.

114. Despite Mr. Dovola's representation to Ms. Pool and her client that the Six Thousand Five Hundred Dollars (\$6,500.00) had been timely sent to Respondent, Respondent had not forwarded any such funds to Ms. Pool's client.

115. Ms. Pool maintained that she sent Respondent several reminders to forward the funds to her client.

116. On or about January 17, 2014, Ms. Pool filed a Motion for Sanctions in the matter, in which she alleged that Respondent had not tendered the funds to Ms. Dovola, nor had he tendered the agreed order to the Court.
117. On or about February 12, 2014, Respondent provided Ms. Pool with a check from his Client Trust Account made payable to Ms. Pool in the amount of Six Thousand Five Hundred Dollars (\$6,500.00).
118. On or about February 18, 2014, Ms. Pool deposited the same in her IOLTA account and then disbursed the funds to her client the next day.
119. On or about February 27, 2014, a copy of the check from Respondent was received in the mail by Ms. Pool from her bank marked "NOT SUFFICIENT FUNDS."
120. Ms. Pool notified Respondent of the bad check and advised Respondent to provide the funds to her immediately.
121. By letter dated March 31, 2014, the Office of Disciplinary Counsel sent Respondent a copy of the complaint and directed him to file a verified response within twenty (20) days. This letter also notified Respondent that failed to respond may be regarded as an admission of the allegations and may for the basis for a Statement of Charges.
122. Respondent failed to respond to the complaint.
123. Because Respondent failed to promptly tender the agreed order to the Family Court and failed to promptly forward funds from his client to Ms. Dovola, Respondent has violated Rule 1.3 of the Rules of Professional Conduct which provides as follows:

Rule 1.3. Diligence.

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

124. Because Respondent engaged in dilatory practices that brought the administration of justice into disrepute and failed to make reasonable efforts consistent with the stated and agreed upon objectives of his client, he has violated Rule 3.2 of the Rules of Professional Conduct which provides as follows:

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

125. Because Respondent failed to promptly deliver to Ms. Dovola funds to which she was entitled, he has violated Rule 1.15(b) of the Rules of Professional Conduct, which provides as follows:

Rule 1.15. Safekeeping property.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person shall promptly render a full accounting regarding such property.

126. Because Respondent failed to file a verified response to this complaint and failed to comply with the Office of Disciplinary Counsel's lawful request for information, he has violated Rule 8.1(b) of the Rules of Professional Conduct, which provides as follows:

Rule 8.1. Bar admission and disciplinary matters.

[A] lawyer in connection with . . . a disciplinary matter, shall not:

(b) . . . knowingly fail to respond to a lawful demand for information from . . . disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

127. Because Respondent intentionally took and/or used another party's funds for his own personal use he has violated, Rule 8.4(c) and 8.4(d) of the Rules of Professional Conduct, which provide as follows:

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

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

AGGRAVATING FACTOR

128. As an aggravating factor, Respondent has exhibited a pattern and practice of misconduct by failing to communicate with his clients; failing to diligently pursue claims on behalf of clients; and failing to respond to lawful requests for information from the Office of Disciplinary Counsel. This pattern and practice is exhibited in the cases charged in this Statement of Charges.

* * *

Pursuant to Rule 2.9(d) of the Rules of Lawyer Disciplinary Procedure, the Investigative Panel has found that probable cause exists to formally charge you with a

violation of the Rules of Professional Conduct and has issued this Statement of Charges. As provided by Rules 2.10 through 2.13 of the Rules of Lawyer Disciplinary Procedure, you have the right to file a verified written response to the foregoing charges within 30 days of service of this Statement of Charges by the Supreme Court of Appeals of West Virginia. Failure to file a response shall be deemed an admission of the factual allegations contained herein.

STATEMENT OF CHARGES ORDERED on the 21st day of June, 2014, and
ISSUED this the 27 day of June, 2014.



Charles J. Kaiser, Jr., Chairperson
Investigative Panel
Lawyer Disciplinary Board