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**IN THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**



Re: JOSHUA C. CAIN, a member of
The West Virginia State Bar

Bar No.: 11507
Supreme Court No.: 20-0252
I.D. No.: 18-03-527

REPORT OF THE HEARING PANEL SUBCOMMITTEE

I. PROCEDURAL HISTORY

A Statement of Charges was filed against Joshua C. Cain (“Respondent”) with the Clerk of the Supreme Court of Appeals on March 19, 2020, and served upon Respondent via certified mail by the Clerk on or about March 23, 2020. On or about April 13, 2020, Sean T. Logue, Esquire, entered his Notice of Appearance on behalf of Respondent in the proceedings.

On April 15, 2020, a telephonic conference was held to set pre-hearing and hearing dates in the matter. At that time, the parties agreed to reschedule the conference to June 15, 2020, so that Respondent may complete a mental health evaluation and potential treatment with respect thereto, as Respondent indicated that he intended to present mitigation evidence regarding his emotional and mental health at the hearing. The Hearing Panel Subcommittee (“HPS”) extended the time period set forth in Rule 3.4 of the Rules of Disciplinary Procedure for good cause shown. Thereafter, on June 15, 2020, the scheduling conference was held, and a hearing in this matter was scheduled to commence on September 23, 2020. After previously receiving an extension of time for filing from Lawyer Disciplinary Counsel, Respondent, by counsel, filed his Answer to the Statement of Charges on or about June 21, 2020.

On September 8, 2020, a telephonic pre-hearing was held. The parties advised that they

were actively involved in negotiations and requested that the September 23, 2020 hearing be continued so that a West Virginia Judicial and Lawyer Assistance Program (“WVJLAP”) monitoring agreement be developed, and stipulations be completed. The HPS approved the continuance and new dates were agreed upon. The hearing was rescheduled to commence on November 9, 2020. On November 6, 2020, Respondent filed a Motion for Continuance in order to allow Respondent to finalize his acceptance into the WVJLAP. The HPS granted the motion and rescheduled the hearing in these matters for December 9, 2020.

Thereafter, this matter proceeded to a virtual hearing on December 9, 2020. The HPS was comprised of Stephen M Mathias, Esquire, Chairperson; Elizabeth Layne Diehl, Esquire; and Charlotte Norris, Layperson. Renée N. Frymyer, Lawyer Disciplinary Counsel, appeared on behalf of the Office of Lawyer Disciplinary Counsel (“ODC”). Mr. Logue appeared on behalf of Respondent, who also was present. The HPS heard testimony from: Amber L. Hanna, Esquire; Samuel E. White, Esquire; Carrie L. Scott; Terry McDiffitt; and Respondent. In addition, ODC Exhibits 1-27 and Respondent’s Exhibit 1 were admitted into evidence. Joint Exhibit 1 was also admitted into evidence, which consisted of stipulations of the parties regarding findings of fact, conclusions of law, and authenticity of records.

Based upon the evidence and the record, the Hearing Panel Subcommittee of the Lawyer Disciplinary Board submits 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. Respondent is a lawyer who practices in and around Moundsville, which is located in Marshall County, West Virginia. Respondent was admitted to The West Virginia State

Bar on April 26, 2011, 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 [Stipulated].

2. On November 20, 2018, Dana F. Eddy, Esquire, Executive Director for the Public Defender Services of West Virginia (hereinafter “PDS”) filed an ethics complaint regarding Respondent with the ODC. During the relevant time period, Respondent was a panel attorney whose invoices for payment were processed by the PDS [Stipulated].
3. In his complaint, Mr. Eddy stated that on or about August 31, 2017, he received an email from the Honorable Jeffrey Cramer, Judge for the Second Judicial Circuit, explaining that Respondent had delivered to him 85 vouchers for payment with a proposed Order Approving Payment of Appointed Counsel Fees and Expenses for each voucher. Most of the vouchers concerned matters for which a final disposition had been made eight to ten months before [Stipulated].
4. A relevant provision within the governing statute states, “[C]laims submitted more than ninety calendar days after the last date of service shall be rejected, unless for good cause, the appointing court authorizes in writing an extension.” W.Va. Code § 29-21-13a(a) [Stipulated].
5. In many of the vouchers, Respondent included a recent “review file” description to cover for the last date of service being well outside of the ninety-day calendar period of time [Stipulated].

6. Judge Cramer's predecessor, the Honorable Mark A. Karl, returned vouchers to Respondent in 2013 as being excessive billing, and Respondent did not bill for any other matters in Marshall County until Judge Karl left the bench [Stipulated].
7. Judge Cramer noted that he found "numerous issues" in the billing, including but not limited to claiming an unreasonable amount of time opening, reviewing, and closing files, at least one instance of billing for a hearing that there was no evidence of having occurred, billing 1.5 hours of travel time to every Marshall County proceeding, when Respondent resided in Moundsville, and outrageous copying expenses [Stipulated].
8. Upon review of various vouchers Respondent submitted to the courts for work occurring in 2016 and 2017, PDS representatives found that Respondent billed a substantial amount of round-trip travel from a location in Cameron, West Virginia, instead of to and from his Moundsville, Marshall County residence, which is closer to most of the venues involved [Stipulated].
9. The address Respondent used for billing travel is located on the second floor of a Masonic Lodge in Cameron, West Virginia. Upon inspection of that location, an investigator viewed a space not equipped or used as office space. No phones or computer equipment were seen, and the room was reportedly in a state of disrepair. Respondent admits that this space was mostly used as storage space and not a functional everyday office [Stipulated].

10. Records reflect that Respondent billed 242.4 trips from the Cameron address, taking 527.7 hours. Respondent also claimed a mileage reimbursement for every such trip [Stipulated].
11. Respondent admits that he claimed miles that were not traveled in his billing [Stipulated].
12. In addition, vouchers included in Mr. Eddy's complaint showed that Respondent, almost exclusively, billed 0.5 hours for waiting in court. Respondent admits that he did not actually wait in court the time as billed [Stipulated].
13. Respondent also submitted billing for a significant number of hearings as taking 1.0 hour. However, Judge Cramer noted that his hearings in criminal matters rarely last one hour. He said that arraignments are generally three to five minutes at most, pleas between seventeen to twenty minutes almost without exception, Rule 35 hearings three to five minutes, etc. Respondent admits that he billed 1.0 hours for most hearings that did not last an hour [Stipulated].
14. In the vouchers provided by Judge Cramer, Respondent submitted a request for reimbursement of 39,350 copies in 138 cases. Respondent admits that he billed for an excessive number of copies [Stipulated].
15. Respondent also submitted billing for 253 hours of time for a "digital backup," an administrative task that should not be compensable. Respondent admits that he billed for this task that is not billable [Stipulated].

16. Respondent also admits that he overbilled for post-sentencing matters, copying, jail visits, travel to the jail facility, hearings, and duplicate travel as alleged in the Statement of Charges [Stipulated].
17. Respondent was never compensated, however, by PDS for the billing contained in evidence [Stipulated].
18. West Virginia Code § 29-21-13a(a) (2008) requires panel counsel for the PDS to “maintain detailed and accurate records of the time expended and expenses incurred on behalf of eligible clients[.]” Subsection (d) of that statute provides that panel counsel “shall be compensated . . . for actual and necessary time expended for services performed and expenses incurred[.]” *Lawyer Disciplinary Board v. Cooke*, 239 W.Va. 40, 49, 799 S.E.2d 117, 126 (2017) [Stipulated].
19. “West Virginia Code § 29-21-14 [1981], which governs state payment of counsel fees for indigent criminal defendants, envisages a system where each client is proportionately billed according to the time spent actually representing that client; consequently, billing for more hours than are actually worked is duplicative billing that is clearly contrary to the system envisaged by the legislature.” Syllabus Point 1, *Frasher v. Ferguson*, 177 W.Va. 546, 355 S.E.2d 39 (1987) [Stipulated].
20. Respondent admitted that his conduct had violated Rule 3.3(a)(1), Rule 1.5(a), and Rule 8.4(c) and (d) of the Rules of Professional Conduct [Stipulated].

21. Because Respondent misrepresented his actual and necessary time expended for services performed in filings before the appointed circuit judge and/or appointing tribunal, he has violated Rule 3.3(a)(1) of the Rules of Professional Conduct, which provides:

Rule 3.3. Candor Toward the Tribunal

- (a) A lawyer shall not knowingly:
 - (1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer[.]

22. Because Respondent engaged in improper and unsubstantiated billing with regard to cases in which he was appointed to represent indigent clients on behalf of the PDS, he has violated Rule 1.5(a) and Rule 8.4(c) and (d) of the Rules of Professional Conduct, which provides:

Rule 1.5. Fees.

- (a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:
 - (1) the time and labor required, the novelty and difficulty of the questions involved, and skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services, and

(8) whether the fee is fixed or contingent.

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[.]

23. Because Respondent knowingly deceived and intentionally made false statements to the Court(s), to PDS, and others with regard to his billing, he has violated Rule 8.4(c) of the Rules of Professional Conduct, which provides:

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

* * *

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

24. Respondent and ODC further stipulated and agreed that the appropriate sanction for Respondent's conduct rests with the discretion of the HPS and, ultimately with the Court, upon hearing and reviewing all the testimony and evidence submitted by the parties and upon consideration of all applicable aggravating and mitigating factors under Rule 3.16 of the Rules of Lawyer Disciplinary Procedure [Stipulated].
25. The parties also stipulated to the authenticity of the documents contained in the exhibits [Stipulated].

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

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

The parties stipulated, and the evidence in these cases establishes by clear and convincing proof that Respondent has violated duties owed to his clients, to the public, to the legal system and to the legal profession. 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. Respondent fell short of these duties when he engaged in improper billing of his court-appointed cases. This is conduct contrary to what is required the applicable statute, which speaks clearly in terms of the required accuracy and detail, and contrary to the affirmation that Respondent provided with the submission of his itemized statement of legal services in which he verified the accuracy of such.

B. Respondent acted in an intentional and knowing matter.

The *ABA Standards for Imposing Lawyer Sanctions* states that the most culpable mental state is that of intent, when the lawyer acts with the conscious objective or purpose to accomplish a particular result. The next most culpable mental state is that of knowledge, when the lawyer acts with conscious awareness of the nature or attendant circumstances of his conduct, both without the conscious objective or purpose to accomplish a particular result. The least culpable mental state is negligence, when a lawyer fails to be aware of 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 the situation. Respondent stipulated that he acted in an intentional and knowing manner in the underlying matters.

C. Respondent's misconduct has caused actual injuries.

It appears that none of Respondent's clients were harmed in these matters and that there is no restitution owed to PDS as a result of Respondent's misconduct, as the vouchers at issue were never ultimately submitted for payment [Hrg. Tr. p. 20]. However, as a result of Respondent's conduct, the PDS was forced to divert resources to investigate Respondent's improper billing. Respondent stipulated that overbilling problems have thwarted the efforts of the PDS to obtain a pay increase in the hourly wage of publicly compensated lawyers who are appointed to represent indigent clients for years. Respondent also stipulated that there is also a substantial impact on the legal profession generated by lawyer overbilling, that Respondent's noncompliance with these rules as exhibited in the record is clearly detrimental to the legal system and legal profession, and that his conduct has brought the legal system and legal profession into disrepute.

D. There are mitigating factors.

"Mitigating factors in a lawyer disciplinary proceeding are any considerations or factors

that may justify a reduction in the degree of discipline to be imposed.” Syllabus Point 2, Lawyer Disciplinary Board v. Scott, 213 W.Va. 209, 579 S.E.2d 550 (2003) *quoting ABA Model Standards for Imposing Lawyer Sanctions*, 9.31 (1992). The parties agree that the following mitigating factors in this case are: (1) inexperience in the practice of law; (2) personal or emotional problems; (3) full and free disclosure to disciplinary board; and (4) remorse.

At the hearing, Respondent testified as to his diagnosis of having a major depressive disorder and an anxiety disorder and provided a neuropsych evaluation taken in May of 2019 supporting these findings [Exhibit 27]. The evaluation notes that Respondent is diagnosed with following conditions: depression, anxiety, hypotestosterone, chronic back, joint, and chest pain, diabetes mellitus, hypertension, narcolepsy, obstructive sleep apnea, morbid obesity, hyperflexible joints with arthralgia, gastroesophageal reflux disease, hypercholesterolemia, and vertigo. Respondent discussed these issues as well as his current medications at the hearing [Hrg. Tr. pp. 27, 31-32]. Respondent testified as to being overwhelmed at the time his billing problems occurred [Hrg. Tr. pp. 22-23]. Respondent stated that he believes he is a better attorney now because of the help he is receiving, and that he is not at risk or danger to his clients as far as being able to provide competent representation [Hrg. Tr. pp. 27-29]. There is no evidence that Respondent is or was suffering from a substance abuse issue. Respondent also testified that he currently follows the PDS guidelines with regard to his billing and indicated a willingness to bill properly [Hrg. Tr. pp. 24-25].

At the hearing, Amber Hanna, Program Coordinator Director for WVJLAP, provided information regarding Respondent’s entry and involvement with a WVJLAP monitoring agreement [Hrg. Tr. pp. 7-13] [Exhibit 26]. She testified as to the determination that Respondent’s previously diagnosed conditions appeared to be treatable as office management

issues and that he was a good fit for the monitoring program. She asserted that the monitoring program requires that Respondent check in every day with an online-based recovery system and that he would also receive random alcohol and drug testing as well as testing that he is on the proper medications that he has been prescribed by his doctors. Respondent also is to attend therapy and a mental health support group on a weekly basis. Ms. Hanna stated that if there was any failure to comply with the terms of the agreement, it would be immediately reported to the ODC.¹

Respondent has agreed to waive any compensation he would be entitled to in the representation of clients in the billing referenced in this case.

E. There is an aggravating factor.

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. 209, 216, 579 S.E. 2d 550, 557 (2003) *quoting ABA Model Standards for Imposing Lawyer Sanctions*, 9.21 (1992). An aggravating factor present in this case is a dishonest or selfish motive. Prior discipline may also be considered an aggravating factor. Respondent has never been disciplined by the Supreme Court of Appeals of West Virginia. He was issued an admonishment by the Investigative Panel of the Lawyer Disciplinary Board for a violation of Rule 1.3 and Rule 1.4 of the Rules of Professional Conduct on December 8, 2017 [Exhibit 25, pp. 1003-1009].

IV. SANCTION

¹ In February of 2021, the WVJLAP provided the ODC with an update indicating that

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, 45, 410 S.E.2d 279, 281 (1991). 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 fundamental 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). Indeed, "the primary purpose of the ethics committee [ODC] is not punishment but rather the protection of the public and the reassurance of the public as to the reliability and integrity of attorneys. Office of Lawyer Disciplinary Counsel v. Albers, 214 W.Va. 11, 13, 585 S.E.2d 11, 13 (2003) *citing* Committee on Legal Ethics of the West Virginia State Bar v. Ikner, 190 W.Va. 433, 436, 438 S.E.2d 613, 616 (1993) (internal citations omitted).

Absent any aggravating or mitigating circumstances, the American Bar Association recognizes that in cases involving improper fees, a suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. *ABA Model Standards for Imposing Lawyer Sanctions*, 7.2 (1992). The West Virginia Supreme Court of Appeals has

Respondent remained in full compliance with the monitoring program.

specifically held in cases of fraudulent PDS billing, suspensions appear to be the norm. See Lawyer Disciplinary Board v. Cooke, 239 W.Va. 40, 799 S.E.2d 117 (2017) (two-year suspension for lawyer's misconduct of overbilling PDS; Mr. Cooke did not have a history of discipline and voluntarily entered into a conciliation agreement with PDS, but had two additional complaints involving failure to timely file a brief as a guardian *ad litem* in an abuse and neglect case and failure to communicate and refund funds in a case wherein he took an up-front retainer); Lawyer Disciplinary Board v. Hassan, 241 W.Va. 298, 824 S.E.2d 224 (2019) (six-month suspension for intentional use of "value billing" to PDS); Lawyer Disciplinary Board v. Gerald G. Jacovetty, Jr., No. 18-0364 (WV 4/11/19) (two-year suspension for fraudulent overbilling to PDS in the amount of \$127,771.55); Lawyer Disciplinary Board v. Daniel R. Grindo, 243 W.Va. 130, 842 S.E.2d 683 (2020) (two-year suspension for intentional errors in PDS billing as well as failure to be truthful about self-reporting his misconduct along with having prior discipline); Lawyer Disciplinary Board v. David A. Kirkpatrick, No. 18-1113 (WV 7/23/20) (six-month suspension where a rogue legal assistant was allegedly responsible for the errors in PDS billing, but that conduct was "knowing" as inferred from the circumstances; multiple mitigating factors were present in case including no prior discipline, good character, efforts to mitigate the issues, and restitution).

Recently, in Lawyer Disciplinary Board v. Courtney L. Ahlborn, No. 18-0344 and 18-0549 (WV 1/30/20), a case involving improper PDS billing, the Court suspended the lawyer's license for six-months, with all six months deferred, placing the lawyer on a two-year probationary period subject to the conditions of two years supervised practice and continued compliance with a five-year WVJLAP agreement. Ms. Ahlborn was found to have been NEGLIGENT in PDS billing matters and presented evidence to support mitigation, including an

ADHD diagnosis and initial compliance with a WVJLAP monitoring agreement. The West Virginia Supreme Court of Appeals has also previously ordered deferred suspensions in lawyer disciplinary matters. See Lawyer Disciplinary Board v. Sidiropolis, 241 W.Va. 777, 828 S.E.2d 83 (2019) (held that two-year suspension from practice of law, subject to conditional stay after serving of first 60 days, was appropriate sanction for misconduct where lawyer demonstrated rehabilitation including compliance with WVJLAP contract). As the Court has noted, “there is no ‘magic formula’ . . . to determine how to weigh the host of mitigating and aggravating circumstances to arrive at an appropriate sanction; each case presents different circumstances that must be weighed against the nature and gravity of the lawyer’s misconduct.” Lawyer Disciplinary Board v. Sirk, 240 W.Va. 274, 282, 810 S.E. 2d 276, 284 (2018).

Guided by our Court’s holdings but taking into consideration the distinguishing and mitigating factors as heretofore discussed, the parties agreed that a served suspension along with the condition of supervised practice and continued compliance with a WVJLAP contract will appropriately serve the interests of this proceeding, including deterring other lawyers from engaging in engaging in similar conduct in the future and restoring the faith of the general public in the integrity of the legal profession. Evidence supports that Respondent’s rehabilitative efforts will reduce the likelihood that Respondent will engage in future misconduct. However, if Respondent is in violation of any of the terms of the WVJLAP agreement, the parties agreed that the ODC will seek an additional term of suspension, with the requirement that Respondent seek reinstatement of his license pursuant to Rule 3.32 of the Rules of Lawyer Disciplinary Procedure. Dana Eddy, Executive Director of the PDS, was asked by Lawyer Disciplinary Counsel for any comments about this recommendation as to sanction and he specified that he had no opposition.

The Hearing Panel agrees with the nonbinding stipulated sanctions except that based on the aforesaid case law, the nature of the violations, and the intent of the Respondent in committing the violations, this Hearing Panel believes that a suspension of Respondent's law practice for a period of 180 days is more appropriate than 90 days.

V. RECOMMENDED SANCTIONS

In this case, it is clear, and Respondent stipulated, that he misrepresented his actual and necessary time expended for services performed in filings before the appointed circuit judge and/or appointing tribunal, and engaged in improper and unsubstantiated billing with regarding to cases in which he was appointed to represent indigent clients on behalf of the PDS, and that he knowingly deceived and intentionally made false statements to the Court(s), to PDS, and others with regard to his billing.

The Office of Lawyer Disciplinary Counsel has proven by clear and convincing evidence that Respondent violated Rules 3.3(a)(1), 1.5(c) and 8.4(c) and (d) of the Rules of Professional Conduct. For the public to have confidence in our State's disciplinary and legal systems, lawyers who engage in the type of conduct exhibited by Respondent must be disciplined. Respondent should be suspended for his conduct. Such a sanction is also necessary to deter other lawyers from engaging in similar conduct and to restore the faith of the general public in the integrity of the legal profession. Accordingly, Respondent should be suspended for his misconduct.

For the reasons set forth above, the Hearing Panel Subcommittee of the Lawyer Disciplinary Board recommends the following sanctions:

- A. That Respondent's law license be immediately suspended for a period of 180-days, and that he be ordered to fully comply with the mandates of Rule 3.28 of the

Rules of Lawyer Disciplinary Procedure upon suspension, and Rule 3.31 of the Rules of Lawyer Disciplinary Procedure upon reinstatement.

- B. That Respondent be placed on two years of supervised practice by an active attorney in his geographic area in good standing with the West Virginia State Bar and agreed upon by ODC. The goal of the supervised practice will be to improve the quality and effectiveness of Respondent's law practice to the extent that Respondent's sanctioned behavior is not likely to recur.
- C. That Respondent remain compliant with the monitoring agreement he entered into with WVJLAP on December 2, 2020, as contained in the record at Exhibit 26.
- D. That Respondent be ordered to pay the costs of these proceedings pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.



Stephen M. Mathias, Esq., Chairperson

Hearing Panel Subcommittee

Date: 4/15/21



Elizabeth Layne Diehl, Esquire

Hearing Panel Subcommittee

Date: 4/15/21



Ms. Charlotte Norris, Laymember

Hearing Panel Subcommittee

Date: 4/15/21