

MAR 19<sup>20</sup> 2002

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 13<sup>th</sup> of March, 2002, the following order was made and entered:

Lawyer Disciplinary Board, Complainant

vs.) No. 29973

Brentton W. Wolfinbarger, Respondent

On a former day, to-wit, January 8, 2002, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Michael T. Chaney, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended stipulated disposition recommending that respondent: (1) be reprimanded; (2) be required to attend an additional three hours of an office management seminar over and above his otherwise required mandatory continuing legal education hours during the reporting period which ends June 30, 2002; (3) be required to undergo an eighteen-month supervision of his law practice by an attorney approved by the Office of Disciplinary Counsel. The respondent and the Office of Disciplinary Counsel be required to enter into an agreement which shall include, at a minimum, the following provisions: (a) respondent shall provide to the supervising attorney a copy of his calendar which shows, at a minimum, appointments, deadlines and hearings; (b) the supervising attorney shall review respondent's calendar and goals to determine whether the calendar is too full for respondent to adequately represent his clients; (c) on a monthly basis, respondent shall submit to his supervising attorney a list of his open cases or legal matters which shows the case name, the nature of the case, the last date work was done

on the file, the work that is needed in order to move the case along, and significant dates including but not limited to deadlines for discovery and dates for hearings; (d) on a monthly basis, respondent shall submit to his supervising attorney records which give evidence that he has timely returned phone calls, has provided information reasonably requested by clients, and has timely met filing deadlines; (e) respondent shall specifically disclose to his supervising attorney any calls not returned for more than three days, any correspondence unanswered in fourteen days, any formal ethics complaints or informal inquiries from the Office of Disciplinary Counsel, and any requests for files which have not been fulfilled in fourteen days. Respondent shall also disclose to his supervising attorney if he misses a hearing or deadline for the filing of any document, and/or if a client of his complains, either orally or in writing, of a lack of diligence or failure to communicate; (f) the supervising attorney shall meet with respondent quarterly, monitor respondent's progress, discuss problems in his practice, review documents submitted by the respondent on a monthly basis, with the respondent having the responsibility to arrange these meetings; and (g) the respondent shall attend the quarterly meetings with his supervising attorney, to come prepared to tender required and requested documents and to participate in discussing problems and solutions; to willingly discuss areas which are problematic in his practice of which are not satisfactory according to his supervising attorney, and respondent shall attempt to modify his behavior and give a good faith effort to implement improvement plans; and (4) be required to reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter in the amount of Three Hundred Forty Dollars and Fifteen Cents (\$340.15).

Upon consideration whereof, the Court is of opinion to and doth hereby adopt the written recommended stipulated disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board.

It is therefore ordered that the respondent, Brentton W. Wolfinbarger be, and he hereby is, reprimanded. It is further ordered that respondent shall attend an additional three hours of an office management seminar over and above his otherwise required mandatory continuing legal education hours during the reporting period which ends June 30, 2002; shall undergo an eighteen-month supervision of his law practice by an attorney approved by the Office of Disciplinary Counsel. The respondent and the Office of Disciplinary Counsel shall enter into an agreement which shall include, at a minimum, the following provisions: (a) respondent shall provide to the supervising attorney a copy of his calendar which shows, at a minimum, appointments, deadlines and hearings; (b) the supervising attorney shall review respondent's calendar and goals to determine whether the calendar is too full for respondent to adequately represent his clients; (c) on a monthly basis, respondent shall submit to his supervising attorney a list of his open cases or legal matters which shows the case name, the nature of the case, the last date work was done on the file, the work that is needed in order to move the case along, and significant dates including but not limited to deadlines for discovery and dates for hearings; (d) on a monthly basis, respondent shall submit to his supervising attorney records which give evidence that he has timely returned phone calls, has provided information reasonably requested by clients, and has timely met filing deadlines; (e) respondent shall specifically disclose to his supervising attorney any calls not returned for

more than three days, any correspondence unanswered in fourteen days, any formal ethics complaints or informal inquiries from the Office of Disciplinary Counsel, and any requests for files which have not been fulfilled in fourteen days. Respondent shall also disclose to his supervising attorney if he misses a hearing or deadline for the filing of any document, and/or if a client of his complains, either orally or in writing, of a lack of diligence or failure to communicate; (f) the supervising attorney shall meet with respondent quarterly, monitor respondent's progress, discuss problems in his practice, review documents submitted by the respondent on a monthly basis, with the respondent having the responsibility to arrange these meetings; and (g) the respondent shall attend the quarterly meetings with his supervising attorney, come prepared to tender required and requested documents and participate in discussing problems and solutions; willingly discuss areas which are problematic in his practice which are not satisfactory according to his supervising attorney, and shall attempt to modify his behavior and give a good faith effort to implement improvement plans; and (4) shall reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter in the amount of Three Hundred Forty Dollars and Fifteen Cents (\$340.15), for violating Rules 1.4 and 8.1 of the Rules of Professional Conduct.

Service of an attested copy of this order upon the parties herein shall constitute sufficient notice of the contents.

A True Copy

Attest:

  
Clerk, Supreme Court of Appeals.