

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 23rd of January, 2002, the following order was made and entered:

Lawyer Disciplinary Board, Complainant

vs.) No. 27867

Steven L. Miller, a member of The West Virginia State Bar, Respondent

AND

Lawyer Disciplinary Board, Complainant

vs.) No. 28885

Steven L. Miller, a member of The West Virginia State Bar, Respondent

On a former day, to-wit, November 13, 2001, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Nancy C. Hill, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition recommending that: (1) the license to practice law in the State of West Virginia of the respondent, Steven L. Miller, be suspended for a period of two years and six months, effective thirty days from entry of the Court's order; (2) respondent be required to petition for reinstatement and demonstrate good character and fitness to practice; (3) be required to prove by expert medical testimony that any medical or psychiatric conditions he suffers would not impair his ability to practice, such medical experts to be selected and compensated by respondent but approved by the Office of Lawyer Disciplinary Counsel; (4) as a mandatory requirement

of reinstatement, respondent be required to undergo supervision of his practice for a period of two years, the supervisor to be selected by the respondent and approved by the Office of Lawyer Disciplinary Counsel. Respondent's supervised practice be required to be governed by a written agreement between the supervisor, the respondent and the Office of Lawyer Disciplinary Counsel, said agreement to require that the supervisor physically be present and physically supervise respondent a minimum of five hours per week. Further, the supervisor be required to provide regular reports to the Office of Lawyer Disciplinary Counsel and be required to answer all inquiries from the Office of Lawyer Disciplinary Counsel regarding the respondent. In the event the respondent and the Office of Lawyer Disciplinary Counsel cannot agree on the supervisor or the supervision agreement, then the Hearing Panel Subcommittee of the Lawyer Disciplinary Board shall decide; (5) respondent be required to have an office review performed within two months of reinstatement, where an expert on law office practices would suggest policies, procedures, forms, etc., for respondent and his practice, said review to involve all aspects of respondent's office, but especially focus on trust account procedures and methods of timely completing work. Respondent be required to implement the reviewer's recommendations; (6) for a period of five years following reinstatement, respondent be required to undergo an annual audit of every trust account he maintains, said audit to be performed by a certified accountant who is not respondent's regular business accountant and is not on respondent's staff, with the respondent required to fully comply with the accountant's requests for information, and with copies of the audit reports to be provided to the Office of Lawyer Disciplinary Board; and (7) the respondent be required to

reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter in the amount of Three Thousand Three Hundred Sixty-Two Dollars and Eighty-One Cents (\$3,362.81).

There having been heard neither consent nor objection from either the Office of Lawyer Disciplinary Counsel or the respondent, the Court doth hereby adopt the recommended disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board.

Upon consideration whereof, the Court doth hereby adopt the written recommended disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board. It is therefore ordered that: (1) the license to practice law in the State of West Virginia of the respondent, Steven L. Miller, be, and it hereby is, suspended for a period of two years and six months, said suspension effective thirty days from entry of this order, for violating Rules 1.1, 1.3, 1.4(a) and (b), 1.7(b), 1.8(a), 1.15(a), 3.1, 3.2, 3.4(c) and (d), 5.3(c)(2), and 8.4(c) and (d) of the Rules of Professional Conduct; (2) respondent shall petition for reinstatement and demonstrate good character and fitness to practice; (3) respondent shall prove by expert medical testimony that any medical or psychiatric conditions he suffers would not impair his ability to practice, such medical experts to be selected and compensated by respondent but approved by the Office of Lawyer Disciplinary Counsel; (4) as a mandatory requirement of reinstatement, respondent shall undergo supervision of his practice for a period of two years, the supervisor to be selected by the respondent and approved by the Office of Lawyer Disciplinary Counsel. Respondent's supervised practice shall be governed by a written agreement between the

supervisor, the respondent and the Office of Lawyer Disciplinary Counsel, said agreement to require that the supervisor physically be present and physically supervise respondent a minimum of five hours per week. Further, the supervisor shall provide regular reports to the Office of Lawyer Disciplinary Counsel and answer all inquiries from the Office of Lawyer Disciplinary Counsel regarding the respondent. In the event the respondent and the Office of Lawyer Disciplinary Counsel cannot agree on the supervisor or the supervision agreement, then the Hearing Panel Subcommittee of the Lawyer Disciplinary Board shall decide; (5) the respondent shall have an office review performed within two months of reinstatement, where an expert on law office practices shall suggest policies, procedures, forms, etc., for respondent and his practice, said review to involve all aspects of respondent's office, but especially focus on trust account procedures and methods of timely completing work. Respondent shall implement the reviewer's recommendations; (6) for a period of five years following reinstatement, respondent shall undergo an annual audit of every trust account he maintains, said audit to be performed by a certified accountant who is not respondent's regular business accountant and is not on respondent's staff; with the respondent fully complying with the accountant's requests for information, and with copies of the audit reports to be provided to the Office of Lawyer Disciplinary Board; and (7) the respondent shall reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter in the amount of Three Thousand Three Hundred Sixty-Two Dollars and Eighty-One Cents (\$3,362.81). Chief Justice Davis and Justice Maynard would impose more severe sanctions.

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

A True Copy

Attest: Ray J. Perry II.
Clerk, Supreme Court of Appeals