STATE OF MICHIGAN

Attorney Discipline Board

Grievance Administrator,

Petitioner/Appellant,

v

Lisa Marie Muhleck, P 69374,

Respondent/Appellee,

Case No. 25-49-GA

Decided: September 15, 2026

Appearances

Pamela I. Linville, for the Grievance Administrator, Petitioner/Appellant
Francis A. Rosinski for Respondent/Appellee

BOARD OPINION

On February 10, 2026, Tri-County Hearing Panel #57 issued an order of reprimand with conditions, reprimanding respondent effective March 4, 2026. The Grievance Administrator filed a timely petition for review of the sanction imposed by the hearing panel, arguing that the panel erred in imposing a reprimand with conditions against respondent, because a 30-day suspension is the appropriate discipline to impose for a respondent's failure to answer a request for investigation, a final notice, and a formal complaint.

On May 13, 2026, the Attorney Discipline Board conducted review proceedings in accordance with MCR 9.118, which included a review of the evidentiary record before the panel and consideration of the briefs and arguments presented by the parties. For the reasons discussed below, we affirm the hearing panel's order of reprimand with conditions.

I. Panel Proceedings/Background

On June 16, 2025, the Grievance Administrator filed a two-count formal complaint against respondent. Count One relates to three overdraft notices, in the amount of $20.00 each that were presented for payment against respondent's IOLTA account, which in each case exceeded the balance in that account, which was $5.00 at the time of the transactions. Respondent was charged in Count One with: failing to provide a full and fair explanation of the cause of the overdrafts and how they were corrected upon receipt of a request for investigation from the Grievance Administrator, in violation of MRPC 1.15A(f); engaging in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and, engaging in conduct that is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).[1]

Count Two involves respondent's failure to answer a Grievance Administrator's Request for Investigation (GARI) pertaining to the overdrafts, and her alleged failure to appear for a sworn statement at the Attorney Grievance Commission pursuant to a duly served subpoena. Respondent was charged in Count Two with: knowingly failing to respond to a lawful demand for information from a disciplinary authority, in violation of MRPC 8.1(a)(2); failing to answer a request for investigation in conformity with MCR 9.113(A) and (B)(2), and in violation of MCR 9.104(7); failing to provide a full and fair explanation of the cause of the overdrafts and how they were corrected upon receipt of a request for investigation from the Grievance Administrator, in violation of MRPC 1.15A(f); engaging in conduct that is a violation of the Michigan Rules of Professional Conduct, in violation of MRPC 8.4(a) and MCR 9.104(4); engaging in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and, engaging in conduct that is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).

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[1] Respondent was not charged with any specific act of misconduct arising from the alleged overdrafts, violations typically found in MRPC 1.15.

Respondent did not file an answer to the formal complaint, and a default was entered against her on July 16, 2025. On November 13, 2025, a misconduct hearing was held before Tri-County Hearing Panel #57. Respondent did not contest any of the alleged violations and did not seek to set aside the default. Consequently, the panel found, by default, that respondent committed all of the allegations of professional misconduct alleged in the formal complaint. The panel then moved immediately to a sanction hearing after their findings.

During the sanction portion of the hearing, the Grievance Administrator argued for a 30-day suspension. The Grievance Administrator's argument focused on respondent's failure to answer the GARI, the final notice, which included a copy of the GARI, and the formal complaint. Counsel for the Grievance Administrator first elicited testimony from respondent as to her state of mind, and respondent testified that the GARI, and a subsequent final notice were mailed by regular and certified mail to respondent's correct firm address, and that despite having actual notice that an answer was required, respondent failed to file an answer because she "set aside" the documents, and they later "disappeared." (Tr 11/13/25, pp 66-69.)

Counsel for the Grievance Administrator then cited *Grievance Administrator v Lopatin,* 462 Mich 235 (2000), which sets forth that the ABA Standards for Imposing Lawyer Sanctions must be applied in determining the appropriate sanction to impose. With regard to the theoretical framework set forth in the standards, counsel argued that respondent violated duties owed to the public and the legal profession, and that her state of mind was knowing, thus counsel argued that ABA Standard 7.2 applies, which states, in relevant part, that "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."

In addition to citing ABA Standard 7.2, the Grievance Administrator's argument focused on a series of Board decisions, all progeny to *Grievance Administrator v Glenn*, DP 91/86 (ADB 1987). In *Glenn,* the Board increased the discipline imposed against Respondent Glenn for knowingly failing to answer a request for investigation from a reprimand to a 30-day suspension. Explaining their decision to increase discipline, the Board cited a concerning trend at the time of lawyers ignoring their duty to respond to requests for investigation. Seeking to address that trend, the Board held that a respondent that does so, ". . .absent exceptional circumstances, may expect a discipline greater than a reprimand." *Id.* at 7. The Administrator's counsel also cited three additional cases, *Grievance Administrator v Mark L. Brown*, 00-74-GA (ADB 2002), *Grievance Administrator v John D. Baker*, 06-66-GA (ADB 2007), and, *Grievance Administrator v Michael F. Walsh*, 90-102-GA; 90-112-FA (ADB 1991), all cases in which the Board increased discipline from a reprimand to a 30-day suspension based on the Board's prior holding in *Glenn*.

In contrast, respondent argued that a reprimand was appropriate. First, as to the overdraft notices that lead to the GARI, respondent testified that they were very inconsequential and did not involve client funds of any kind. Respondent further testified that she opened an IOLTA in 2021 and was not even using it at the time of the overdrafts. Respondent explained that she had practice management and payment software called OptoLexPay, the cost of which was withdrawn from her operating account when she was practicing, but then OptoLexPay migrated to a different service called Stacks, and $20 payments were then charged against her IOLTA account for reasons unclear. Respondent testified that she reached out to Stacks to try to get an explanation and was told that it may have been human error, but the attempted withdrawals stopped at that point. (Tr 11/13/25, pp 60-62.)

Next, respondent testified as to many difficult circumstances she was encountering in her life at the time that she received the GARI. Respondent testified that she was diagnosed with multiple sclerosis in 2011, and that during the time frame in which the GARI was served on her, she had been forced to switch doctors which was causing confusion and difficulty with her treatment. Further, respondent testified that her health, and a personal situation that occurred with her daughter at school that resulted in her daughter having emotional problems, and PTSD, resulted in respondent leaving her position at Miller Canfield in 2023, which caused a drastic loss of income for her family and additional stressors. Additionally, respondent testified that after she left Miller Canfield, she was diagnosed with a lesion behind her optic nerve that resulted in pain and required additional medical treatment. Against that backdrop, and being very busy with her kids' activities and sports, including a good deal of travel, respondent testified that she simply did not recognize the GARI for what it was. She believed it to be a "questionnaire" related to her IOLTA account, and that it was more important for her to take steps to address the overdrafts with her bank. Respondent further testified that she had no prior contact of any kind with the Attorney Grievance Commission and had no reason to believe there would be any further action taken against her with regard to the overdrafts. (Tr 11/13/25, pp 49-53.)

Respondent's counsel argued that, notwithstanding *Glenn,* there is existing precedent that supports the imposition of a reprimand in these circumstances, and that the Board has even decreased discipline from a suspension to a reprimand in cases strikingly similar to the matter at bar. Respondent's counsel cited *Grievance Administrator v Baumgartner,* 91-91-GA; 91-108-FA (ADB 1992) and *Grievance Administrator v Gregory S. Thompson*, 97-68-GA; 97-99-FA (ADB 1998), both cases in which reprimands were imposed for conduct that included knowingly failing to answer a request for investigation.

In sum, respondent's counsel argued that a reprimand was appropriate in this matter due to the exceptional circumstances present in respondent's life at the time she received the GARI, final notice, and formal complaint, and because Board precedent made it clear that the imposition of a reprimand for failing to answer a request for investigation can be an appropriate exercise of a hearing panel's discretion.

On February 10, 2026, the panel issued its report on both misconduct and discipline. Consistent with what was placed on the record at the November 13, 2025 hearing,[2] the panel found that all of the allegations of professional misconduct had been established by virtue of respondent's default. As to sanction, the panel found that a reprimand was appropriate, with the following conditions:

> Within 60 days from the effective date of the Order of Reprimand, Respondent must retain and engage at her expense, an attorney-mentor, who is approved by the Grievance Administrator, and with whom she shall confer with virtually or in person for a period of 90 days, at not greater than 30 day intervals, to establish a law practice operating model that meets good, if not best, practices standards to avoid mishandling of mail, to establish docketing practices, and other well accepted means and methods to support the ethical practice of a solo practitioner. The attorney-mentor will report to the Grievance Administrator, not more than 180 days from the effective date of the Order of Reprimand, the steps recommended and taken in this process over that period.
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> Within 60 days of the effective date of the Order of Reprimand, Respondent must begin engaging in regular therapy consultations [that she has testified have been "very helpful"] with a qualified

[2] Tr 11/13/25, pp 11-12.

> therapist of her choice, whose identity shall be reported to the Grievance Administrator, for a period of 90 days. The therapist shall provide, at 30-day intervals, a professional evaluation of Respondent's progress in her treatment, including a written opinion as to her ability to conduct a solo law practice under her circumstances to the Grievance Administrator. Respondent shall sign any and all waivers necessary to allow her therapist to communicate with the Attorney Grievance Commission regarding her treatment. [Report 2/10/26, pp 7-8.]

On February 23, 2026, the Grievance Administrator filed a petition for review, arguing that the hearing panel erred in imposing a reprimand with conditions, and seeking an increase in the sanction imposed to a 30-day suspension.

II. Standard of Review

On review, the Board must determine whether the panel's findings have adequate evidentiary support in the record. *Grievance Administrator v August*, 438 Mich 296,304; 475 NW2d 256 (1991). See also, *Grievance Administrator v T. Patrick Freydl*, 96-193-GA (ADB 1998). When it comes to reviewing questions involving the level of discipline imposed, the Board possesses a relatively high measure of discretion. *Grievance Administrator v August,* 438 Mich 296 (1991). However, the Board also affords a certain level of deference to a hearing panel's subjective judgment on the level of discipline. *Grievance Administrator v Deutch,* 455 Mich 149, 166; 565 NW2d 369 (1997) ("attorney misconduct cases are fact-sensitive inquiries that turn on the unique circumstances of each case.")

III. Discussion

This case requires the Board to review the factors a hearing panel considers when determining whether a respondent has established "exceptional circumstances" to warrant the imposition of a reprimand for failing to answer a request for investigation, final notice, and formal complaint, to determine whether the hearing panel abused its discretion in finding that respondent established “exceptional circumstances,” and whether to afford deference to the panel’s subjective judgment that a reprimand with conditions is sufficient here.

To begin, a review of *Glenn* and some of its progeny is in order. In *Glenn,* the Board increased a hearing panel's imposition of a reprimand to a 30-day suspension where the hearing panel found, by default, that Respondent Glenn failed to answer one request for investigation. Noting with dismay the relatively high percentage of cases being brought by the Grievance Administrator for attorneys failing to answer requests for investigation, the Board concluded that the sanction for such conduct could not be limited to a reprimand. In determining to increase the discipline imposed on Respondent Glenn, the Board stated:

> Our decision to increase the discipline imposed by the Hearing Panel from a Reprimand to a suspension of 30 days is intended to serve notice upon the Respondent and the Bar that the lawyer who ignores the duty imposed by Court Rule to answer Requests for Investigation and Formal Complaints does so at his or her peril and that, absent exceptional circumstances, that attorney may expect a discipline greater than a Reprimand, *supra* at 5.

Without question, *Glenn* has remained controlling precedent since it was decided. In the three cases cited by the Grievance Administrator, the Board relied specifically on the holding in *Glenn* while increasing discipline from a reprimand to a 30-day suspension. In *Brown*, the Board held that ABA Standard 7.2, which calls for a suspension, was the proper Standard to apply when a lawyer knowingly fails to answer a request for investigation. Next, in *Baker,* the Board increased discipline from a reprimand to a 30-day suspension where Respondent Baker failed to answer a request for investigation, failed to appear for a sworn statement, and engaged in underlying neglect of a legal matter. In that case, the Board found that Respondent Baker's testimony that he had been dealing with depression and the loss of his parents did not amount to "exceptional circumstances" to warrant imposing a reprimand instead of a 30-day suspension. Lastly, in *Walsh*, the Board increased discipline from a reprimand to a 30-day suspension where Respondent Walsh failed to answer a request for investigation because he "froze up" and "shut down" due to the fear and anxiety associated with the disciplinary process. The Board found that such excuses did not amount to "exceptional circumstances" to warrant imposing a reprimand instead of a 30-day suspension.

Further, the influence of *Glenn* is not confined to specific instances in which the Board has increased discipline. Instead, *Glenn* has stood and remained as the primary precedential case cited by the Grievance Administrator in nearly every case involving a respondent's failure to answer a request for investigation, and countless hearing panel and Board decisions have relied upon *Glenn* and its progeny in determining the appropriate sanction when such a violation has been established.

However, as respondent herein correctly points out, *Glenn* has not stood unmarred. In *Baumgartner,* the Board vacated a 30-day suspension imposed by the hearing panel and imposed a reprimand, holding that the imposition of a reprimand for failing to answer a request for investigation can be an appropriate exercise of a hearing panel's discretion. Likewise, in *Thompson,* the Board affirmed the reprimand imposed by the hearing panel in the case of a respondent who failed to answer one request for investigation, like respondent herein, distinguishing the matter from *Brown*, *supra,* wherein the respondent failed to answer three requests for investigation. As argued by respondent, taken together, these cases illustrate that while *Glenn* is certainly persuasive precedent, the Board has not read it as establishing a *per se* minimum level of sanction that removes all independent judgment or discretion from a hearing panel or the Board.

With that history in mind, we now turn to the case at bar. First, it must be said that there are portions of the panel's reasoning with which we do not agree. Specifically, the panel's analysis regarding respondent's state of mind in failing to answer the GARI, final notice, and formal complaint is not supported by the record. Of respondent's intent, the panel went through the following analysis and concluded that:

> After determining the duty violated, the Panel must next consider Respondent's mental state. In this regard, the Panel notes that there are elements of all various mental states in this matter. None, in our view, involve an intent to ignore the grievance process. The record of Respondent's direct testimony and on cross examination (11/13/25 Tr, pp 54,73), provides the basis for our consideration. This testimony reflects that Respondent did intentionally set things aside that she knew required a response and then neglected to get back to them. Respondent had at least constructive knowledge from the mailing of notices to her office address, and actual knowledge of some of the communications from the Grievance Administrator. However, the Panel does not conclude that Respondent's conscious intention was to fail to answer either the overdraft violation or the Request for Investigation. This case seems more to be an example of "negligence" as defined in the Standards 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 the situation." Thus, the Panel

> finds that Respondent's conduct, taken as a whole, was negligent. [Report 2/10/26, p 4-5.]

We disagree with the panel that respondent's state of mind was negligent. Rather, it clearly was knowing. Respondent testified that she received and reviewed a copy of either the GARI, or the final notice, which included an additional copy of the GARI, and believed it was a "questionnaire." Respondent further testified that after reviewing the final notice, she thought it was a misunderstanding of some kind, put it aside, and that it "disappeared" and she simply never got back to it. (Tr 11/13/25 pp 54-56.)

The GARI received and reviewed by respondent, and admitted as an exhibit at the hearing, leaves little to the imagination. The second and third paragraphs clearly state as follows:

> **PLEASE TAKE NOTICE** that pursuant to Michigan Court Rule 9.113(A) and Michigan Rule of Professional Conduct l.15A(f), you are required to file with the Grievance Administrator an answer to this Request for Investigation within twenty one (21) days from the date of this notice. Your answer must be in writing and must fully and fairly disclose all the facts and circumstances pertaining to the allegations contained in this Request for Investigation.
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> **PLEASE TAKE FURTHER NOTICE** that failure by you to submit an answer within the time required is professional misconduct pursuant to Michigan Court Rule 9.104(7) and may subject you to separate, independent prosecution and discipline. [Petitioner's Exhibit 6.]

No fair reading of the GARI, nor the briefest of glances for that matter, would result in any confusion as to what the document is, and what respondent's duties were upon receipt of it. Respondent did not merely have "constructive knowledge" of the GARI, she had actual knowledge of it. The panel's attempt to re-frame respondent's state of mind because of their belief that her actions did not "involve an intent to ignore the grievance process" is of no consequence. Respondent may have never formed the *intention* to ignore the grievance process, but she did *know* that the process had been initiated against her and *knowingly* failed to respond although specifically advised that she was required to do so. Accordingly, the panel's conclusion that, "absent consideration of aggravating and mitigating factors, the "ordinary" sanction to be imposed in these circumstances is a reprimand pursuant to ABA Standard 7.3," is erroneous. The Grievance Administrator is correct that ABA Standard 7.2 applies to respondent's conduct, and that standard specifically calls for a suspension.

That does not end the inquiry, however. In fact, if the Board were to rely solely on *Glenn*, and its progeny, it would arguably be completely beside the point. *Glenn* was decided in 1987, long before the Supreme Court's decision in *Lopatin*, *supra,* that adopted and specifically ordered hearing panels and the Board to use the ABA Standards for Imposing Lawyer Sanctions to determine the appropriate sanction to impose for attorney misconduct. Accordingly, the Board's decision in *Glenn*, which has been the benchmark for determining the appropriate sanction to impose for failing to answer a request for investigation since it was decided, was wholly devoid of any analysis under the ABA Standards. This begs the question, is *Glenn* controlling here, or are the ABA Standards? The answer, it turns out, is *both.*

Again, in *Glenn,* the Board increased discipline from a reprimand to a 30-day suspension, and held that absent "exceptional circumstances," a respondent who knowingly fails to answer a request for investigation, should expect discipline greater than a reprimand. Accordingly, as a preliminary inquiry, *Glenn* set forth what ABA Standard 7.2 later reaffirmed - the "generally appropriate" sanction for knowingly failing to answer a request for investigation is a suspension. However, what the Board must wrestle with now is what inquiry is required to determine whether "exceptional circumstances" exist for a sanction less than a suspension to be appropriate, and how does that inquiry integrate with the necessary analysis under the ABA Standards.

The answer, we believe, is relatively simple, and already set forth in *Brown, supra.* In *Brown*, in assessing whether Respondent Brown had established the requisite exceptional circumstances for the imposition of a reprimand for his failure to answer three requests for investigation, the Board looked specifically to the existence of aggravating and mitigating factors under ABA Standards 9.22 and 9.32. In holding that Respondent Brown had not established exceptional circumstances to deviate from a 30-day suspension, the Board concluded as follows:

> The facts present in Mr. Brown's case tend to endorse a finding that the mitigating factors do not outweigh the aggravating factors. Consequently, despite the presence of some mitigating circumstances, the respondent has not established the existence of "exceptional circumstances" which would warrant a departure from what ordinarily would be a 30 day suspension for failure to answer a request for investigation. *Id.* at 7-8.

We do not see any reason, nor any justification, for making the inquiry any more complicated than this. At the time *Glenn* was decided, hearing panels were not required to look specifically at the ABA Standards to determine the appropriate sanction to impose. Thus, while the analysis of the appropriate sanction often entailed consideration of factors that are now specifically identified in the ABA Standards as "aggravating" or "mitigating," doing so was not required, nor were such factors expressly identified. Now they are. Accordingly, in the context of the ABA Standards, and still taking into consideration the reasoning in *Glenn*, "exceptional circumstances" is best, and perhaps only, understood as circumstances in which the mitigating factors so outweigh the aggravating factors that a downward departure from the generally appropriate sanction of a 30-day suspension to a reprimand is appropriate.

We are cognizant that, later in *Brown*, the Board noted that:

> Although the mitigating factors presented by Mr. Brown might seem to outweigh the aggravating factors presented by the Grievance Administrator, the Board is not simply charged with balancing the aggravating factors against the mitigating factors. Instead, under *Glenn* and its progeny, the question to be addressed is whether there is sufficient evidence to support the panel's finding that this case presents "exceptional circumstances." *Id.* at 16.

Now, after the adoption of the ABA Standards, it is clear that the existence of "exceptional circumstances" cannot be determined without direct reference to the applicable aggravating and/or mitigating factors. Nor can the definition of "exceptional circumstances" be left undefined and amorphous, or requiring a showing of circumstances so far-fetched or illusory that they could never be established. As put succinctly by the concurring opinion in *Baumgartner, supra:*

> However, the "exceptional circumstances" exception remains undefined under our colleagues' opinion. Panels are given no clue of how to predict what this Board will find to be an exceptional circumstance. This case is a perfect example. Without articulating the "exceptional circumstance," our colleagues would find that there is one. This approach is unfair to hearing panels who are given absolutely no direction to aid them in figuring out the amorphous "exception." Even more important, as respondent here argued, respondents are given no direction as to what may constitute an "exceptional circumstance" so they may adequately prepare and present their cases. *Id.* at 5.

We see no reason to continue to intentionally avoid the question of what constitutes exceptional circumstances when the answer may be so clear and accessible. As referenced earlier, *Glenn* was decided well before the ABA Standards were adopted. Accordingly, there is no specific mention of aggravating and mitigating factors, but instead the more amorphous reference to "exceptional circumstances." However, post-*Lopatin*, and after adoption of the ABA Standards, including the directive to specifically consider the relevant aggravating and mitigating factors, the threshold is clear. In determining whether exceptional circumstances exist, the relevant inquiry must begin with whether a respondent has established mitigating factors that so outweigh the applicable aggravating factors that a sanction less than suspension is appropriate.

On review, it is our duty to determine whether the Panel abused its discretion in imposing a reprimand, or whether a reprimand is "outside of the range of acceptable discipline for the conduct that occurred." *Grievance Administrator v Jason Kolkema*, 23-74-GA (ADB 2025). We conclude that it is not.

In determining that a reprimand with conditions was the appropriate sanction to impose in this case, the panel found the following factors:

> 1. Respondent knowingly and negligently did not respond to a Request for Investigation of the Notice from Chase Bank about an overdraft in the IOLTA and negligently failed to respond to a subpoena to appear before the Grievance Administrator to provide information about the Notice from Chase. These are serious offenses and have been consistently regarded as such in Board decisions cited in this Report, but ones for which a presumptive disciplinary consequence may be ameliorated.
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> 2. Respondent was not charged with a violation of MRPC 1.15 for mismanagement of her IOLTA. She did not authorize the attempted withdrawal from that account. (11/13/25 Tr, pp 61.) She failed to monitor the account voluntarily. Although late in the process, Respondent has investigated why and how the IOLTA was charged by the payee. The incident(s) seem to have no active involvement of either Respondent or the payee. (Respondent's Exhibit 3.)
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> 3. Respondent knowingly failed to respond to the Formal Complaint filed by the Grievance Administrator as required by Court Rule. This violation of a Court Rule has resulted in respondent's default, resulting in admission of the violations charged. It has temporally interfered with the Administrator's pursuit of knowledge about a

> potential violation of MRPC 1.15, but primarily, if not solely, it has inured to the disadvantage of Respondent.
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> 4. Respondent has been admitted to practice for 18 years and has no disciplinary record. Although this should be expected of any lawyer, it is a factor recognized in cases cited in this Report in deciding between a suspension for 30 days and reprimand, which are the choices in this case.
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> 5. Respondent's misconduct is based solely on her disregard of requests from the Grievance Administrator, and its complaint. The grievance here is not in the context of client related matters, dishonesty, or other offenses that have harmed or caused potential harm to third persons or – beyond the record of this proceeding – has publicized behavior that could adversely portray the legal system or the profession or provide comfort to other lawyers that the Grievance Administrator can be ignored. We note, however, that such damage seems inextricably linked to this fact alone, as night follows day, detachable only for exceptional circumstances.
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> 6. Respondent's conduct occurred over a time in which she was beset by personal problems that were distracting her attention from managing her law practice and her professional life. Her practice was limited in scope – perhaps failing. These problems include diagnosis of and treatments for multiple sclerosis, a situation concerning her high school aged daughter, her loss of income from affiliation with law firms, and intensive involvement in family activity.
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> 7. Respondent has independently sought therapy regarding life focus. (11/13/25 Tr, pp 62-63; Respondent's Exhibit 1.)
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> 8. In her testimony, Respondent expressed remorse for the consequences of her conduct. (11/13/25 Tr, pp 61-62.) [Report 2/10/26, p 6-7.]

First, we find that some of the panel's considerations in this regard were misplaced. The panel's repeated reliance on the fact that respondent was not charged with any other "substantive" misconduct is notably incorrect and regrettable. Failure to answer a request for investigation is misconduct, plain and simple:

> Participants in the discipline system should avoid the trap of distinguishing between "substantive" misconduct and "mere" failure to answer a request for investigation or failure to answer a formal complaint. The attorney who has actual notice of a request for investigation or formal complaint and nevertheless ignores the duty to answer which is explicitly set forth in the court rules has committed professional misconduct. *Thompson, supra.*

The fact that the Grievance Administrator did not charge respondent with other underlying or client related misconduct is irrelevant to determining the appropriate sanction to impose for failure to answer a request for investigation and/or formal complaint.

The remainder of the factors set forth by the panel do articulate substantial mitigation. Because the panel was addressing the amorphous notion of "exceptional circumstances" instead of conducting a traditional sanction analysis, they did not specifically identify mitigating factors under ABA Standard 9.3, but the factors are nonetheless present. It is undisputed that respondent has no prior disciplinary history, thus Standard 9.33(a) (absence of a prior disciplinary record) is applicable. There was no dishonest or selfish motive, and much of the harm resulting from respondent's misconduct have befallen her, thus Standard 9.33(b) (absence of dishonest or selfish motive) is applicable. Further, it is undisputed that respondent was suffering from personal and emotional problems at the time she received the GARI, final notice, and formal complaint, including her continuing battle with multiple sclerosis, and the continuing challenges that her condition was causing in balancing her professional and family life, thus, Standards 9.33(c) (personal or emotional problems) and (h) (physical disability) both apply. Additionally, Respondent took prompt action with her financial institution to discontinue the transactions causing the overdrafts, and has thus established that 9.33(d) (timely good faith effort to make restitution or rectify consequences of misconduct) applies. Lastly, respondent has conveyed her genuine remorse, which makes 9.33(l) (remorse) applicable.

In contrast, the panel found that no aggravating factors apply, and we see no error in that determination. The only aggravating factor that could arguably apply would be Standard 9.22(e) (bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency) given her failure to respond. However, the Panel found that respondent's conduct was not in service of an intentional plan to ignore the disciplinary process and we see no cause to disturb that determination.

Taken together, in the context of disciplinary proceedings, the panel was operating within their discretion and exercising their independent judgment when they determined that this degree of established mitigation constitutes "exceptional circumstances." Respondent has had no prior contact with the disciplinary system in any form, was dealing with personal and medical issues at the time of the conduct, did not engage in a pattern of misconduct or commit multiple offenses, has addressed the underlying issues that lead to the overdraft, and has been contrite and shown remorse. Given the totality of the circumstances in this particular case, if we were to find that the panel abused their discretion, we would be hard-pressed to envision a scenario in which a reprimand could ever be appropriate for a respondent's failure to answer a request for investigation. This should not be the case.

As stated above, failing to answer a request for investigation constitutes professional misconduct, and it should not be minimized. However, taken alone, and in consideration of the unique factors of specific cases, it is not such serious misconduct that it compels such a degree of heightened scrutiny over and above that which is already compelled by the ABA Standards. We are cognizant that we have greater discretion to review and, if necessary, modify a hearing panel's decision as to the level of discipline to ensure a level of uniformity and consistency, however, affording deference to the panel's subjective judgment that a reprimand with conditions was appropriate here does not mark a major departure from prior precedent.

It is true that, on certain occasions, the Board has held steadfast to the reasoning in *Glenn* as evidenced by both *Baker* and *Walsh*. However, it is equally true that the Board has deviated from *Glenn* when appropriate, as evidenced by both *Thompson* and *Baumgartner.* Further, we do not view *Glenn* as requiring the Board to engage in any degree of "enhanced" scrutiny over and above our ordinary oversight function. Accordingly, we do not find that the panel's decision in this case to be either an abuse of discretion or so contrary to established precedent to create inconsistency or any notable lack of continuity. Lastly, we view the conditions set forth by the panel to be both relevant to the established misconduct, and potentially very helpful to respondent going forward to help to ensure that the misconduct committed here is not repeated in the future.

Accordingly, we affirm the order of reprimand with conditions imposed by the hearing panel.

Board members Rev. Dr. Louis J. Prues, Andreas Sidiropoulos, MD, Katie M. Stanley, Tish Vincent, and Jason M. Turkish concur in this decision.

Board member Linda M. Orlans was absent and did not participate.

Board Members Alan Gershel, Peter Smit and Kamilia Landrum dissent from the majority opinion to affirm the reprimand with conditions imposed by the hearing panel. They would increase the sanction imposed on respondent from a reprimand with conditions to a 30-day suspension.

Just as it is the duty of every attorney to conduct himself or herself at all times in conformity with standards imposed on members of the bar as a condition of the privilege to practice law, the practice of law in Michigan includes the basic fundamental responsibility to comply with our system of discipline. As our Supreme Court has stated:

> The process of investigating complaints depends to a great extent upon an individual attorney's cooperation. Without that cooperation, the [Attorney Grievance Commission] is deprived of information necessary to determine whether the lawyer should continue to be certified to the public as fit. Obviously, unless attorneys cooperate in the process, the system fails and public confidence in the legal profession is undermined. If the members of our profession do not take the process of internal discipline seriously, we cannot expect the public to do so and the very basis of our professionalism erodes. Anonymous v Attorney Grievance Commission, 430 Mich 217, 249, 422 NW2d 648 (1988); citing In Re Del H. Clark, 99 Wash2d 702, 707-708, 663 P2d 1339 (1983). [Grievance Administrator v John D. Baker, 06-66-GA (ADB 2007).]

In this case, respondent admitted receiving, over several months, a Grievance Administrator's request for investigation (GARI), a final notice, and a formal complaint from the Grievance Administrator. Respondent set forth several excuses and explanations as to why she neither responded nor took any other action regarding these transmittals, but she clearly received them, and knew, or certainly should have known, that a response was required.

ABA Standard 7.2 clearly sets forth suspension as the "generally appropriate sanction" for knowingly failing to respond to a request for investigation. Relevant Board precedent does allow for a lesser sanction, but only if the failure to respond was due to "exceptional circumstances." Grievance Administrator v Glenn, DP 91/86 (ADB 1987). While respondent has alleged that she was suffering from health problems that disrupted her personal family routine, as to the specific issue of her failing to answer the GARI, the final notice, and the formal complaint, her actual excuse is essentially that she received them, set them aside, and forgot about them.

Nothing in the record below supports a finding that respondent's health problems or family issues directly related to her failure to respond. Nor is there any evidence that respondent was in any way prevented from responding, or that her failure to respond was impeded by something out of her control. To the contrary, respondent's enumerated reasons for not responding are strikingly similar to the reasons set forth by the respondent in Grievance Administrator v Walsh, 90-102-GA: 90-112-FA (ADB 1991), where the Board found no exceptional circumstances, and increased discipline from a reprimand to a 30-day suspension.

We are not unsympathetic to respondent's purported health problems, or the complexities of her personal life. However, hundreds, if not thousands of attorneys practicing in Michigan who receive requests for investigations from the Attorney Grievance Commission manage to respond while also facing personal and professional obstacles like respondent has alleged herein. Further, we cannot help but note that despite such difficulties, respondent was able to maintain a thriving part-time law practice and to travel extensively for her family's sports and recreational endeavors during the exact time frames in which she received the GARI , the final notice, and the formal complaint.

Simply put, there has not been established a sufficient causal connection between respondent's health and family issues and her failure to respond. As a result, we find that the circumstances that led to respondent's failure to respond to any of these documents are plainly not exceptional. As has been stated on numerous occasions in numerous prior cases:

> The Board does not traditionally disturb a panel's determination as to the appropriate level of discipline unless it is clearly contrary to fairly uniform precedent for very similar conduct or is clearly outside the range of sanctions imposed for the type of violation at issue. Grievance Administrator v Gregory J. Reed, 10-140-GA (ADB 2014); Grievance Administrator v Jeffrey R. Sharp, 19-80-GA (ADB 2020); Grievance Administrator v Christopher S. Easthope, 17-136-GA (ADB 2021). Furthermore, the Board's responsibility to

> ensure consistency and continuity in discipline imposed under the ABA Standards and case law necessarily means that the Board may not always afford deference to a hearing panel's sanction decision . . . Grievance Administrator v Saunders V. Dorsey, 02-118-AI; 02-121-JC (ADB 2005); as cited in Grievance Administrator v Jason Kolkema, 23-74-GA (ADB 2025). [Emphasis added.]

We disagree with the majority that the panel's decision should be afforded deference here. To the contrary, we find that the hearing panel's decision to impose a reprimand with conditions rather than a 30-day suspension, is clearly "contrary to fairly uniform precedent for very similar conduct." Further, while we agree with the majority that the Court's direction in Grievance Administrator v Lopatin, 462 Mich 235 (2000), to employ the ABA Standards may compel hearing panels and the Board to consider other factors in addition to Glenn and its progeny, the question to be addressed by the Board on review remains whether there is sufficient evidence in the record to support a hearing panel's finding that the case before them presents "exceptional circumstances." In other words, the Board needs to determine whether respondent has presented evidence in mitigation that is sufficiently exceptional to deviate from the generally appropriate level of discipline set forth by the Standards; suspension. Even after the Court's directive in Lopatin, we believe it is not sufficient for a hearing panel to simply balance the aggravating factors against the mitigating factors, or vis versa, to determine the appropriate sanction, especially in a case like the instant one when there are aggravating factors which the majority seems willing to ignore.

In this case, respondent did not merely fail to answer the GARI, but she failed to respond to a subsequent final notice, which enclosed an additional copy of the GARI , and also failed to file an answer to the formal complaint. Under ABA Standard 9.22(e), bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency is an aggravating factor. Whether respondent's cumulative conduct displays "bad faith" is a rhetorical discussion in which we decline to engage, but it was clearly knowing, repetitive, and prolonged, and turned what could have been a minor matter for all parties involved into a formal disciplinary matter that has required substantive resources to litigate. The majority's decision to affirm the hearing panel's finding in this case that respondent has established "exceptional circumstances" warranting a reprimand rather than a suspension, erodes the concern which prompted

Glenn in the first place - lawyers who ignore the duty to file an answer to a request for investigation do so at their peril and may generally expect a discipline greater than a reprimand - and nullifies years of prior Board precedent.

Affirming the panel's finding that a reprimand with conditions is appropriate in these circumstances will ultimately make it easier for respondents to make a similar claim in the future for a multitude of reasons not contemplated by Glenn, and our disciplinary system will likely suffer as a result. The panel's decision improperly focuses on the lack of other "substantive" misconduct as both a mitigating factor and to justify finding that exceptional circumstances exist. However, any failure to answer a request for investigation is misconduct per se, regardless of whether or not the underlying grievance would have evidenced other, more "substantive," misconduct. Grievance Administrator v Mark L. Brown, 00-74-GA (ADB 2002) citing Matter of James H. Kennedy, DP 48/80 (ADB 1981).

Further, a respondent's knowing failure to answer a request for investigation uniformly results in the exercise of significant resources by the Grievance Administrator, hearing panels and the Board, that most often can be avoided if a respondent simply abides by his/her duty, pursuant to MCR 9.113(A), to file with the Administrator a written answer that fully and fairly discloses all of the facts and circumstances pertaining to the alleged misconduct. Particularly, as it pertains to the duty of the Grievance Administrator to conduct an investigation after an answer to a request for investigation is filed or the time for filing an answer has expired, such investigations may not be as thorough, timely and complete as they otherwise would be if an answer is received. Additionally, because a respondent often provides relevant evidence in support of their position in an answer to a request for investigation, the failure to do so renders the Grievance Administrator powerless to exercise the authority to summarily dismiss a grievance where appropriate, leading to unnecessarily prolonged investigations that result in formal disciplinary proceedings that may not otherwise be initiated. In short, this case illustrates the very circumstance that Glenn sought to address, and the majority's decision to affirm the reprimand with conditions imposed by the hearing panel may have far reaching implications that we simply do not believe are being contemplated or appreciated.

Finally, we further find that the conditions imposed by the hearing panel, retaining and engaging an attorney-mentor and engaging in regular therapy consultations with a qualified therapist, are not relevant to the established misconduct, as set forth in MCR 9.106(3). Again, the record in this case does not establish any actual causal connection between the conditions in respondent's life or her law practice and her failure to properly respond. We are not persuaded that the conditions imposed by the panel are necessary for the protection of the public or the legal system, nor are we persuaded that they are necessary to ensure that respondent will comply with her basic fundamental duty to respond in the future.

For these reasons, we respectfully dissent.