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DISMISSAL

Case No. 06-80-GA


James K. Jesse, P 15498, Buchanan, Michigan, by the Attorney Discipline Board Berrien County Hearing Panel #2.

1. Dismissal
2. Effective July 19, 2007

The two count formal complaint filed by the Grievance Administrator charged, in Count One, that respondent committed professional misconduct by failing to seek the lawful objectives of his client through reasonably available means permitted by law and failing to exercise professional judgment to waive or not assert a right or position of the client; charging and collecting an illegal or clearly excessive fee; failing to maintain a normal lawyer-client relationship with his client where his ability to make adequately reasoned decisions in connection with the representation was impaired; failing to seek the appointment of a guardian or take other protective action with respect to a client where the client cannot adequately act in his own interest; failing to deposit an advance fee into an IOLTA and failing to properly segregate his own funds from the client's funds; failing to promptly refund the unearned portion of an advance fee; failing to exercise independent professional judgment and render candid advice to the client; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; engaged in conduct prejudicial to the administration of justice; engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, engaged in conduct that is contrary to justice, ethics, honesty, or good morals, and violated or attempted to violate the Rules of Professional Conduct. Count Two charged that respondent failed to fully and fairly disclose all the facts and circumstances pertaining to the alleged misconduct in his answer to the request for investigation; made misrepresentations in his answer to the request for investigation; and knowingly made a false statement of material fact in connection with a disciplinary matter.

Respondent's conduct was alleged to be in violation of MCR 9.104(A)(1)-(4); and Michigan Rules of Professional Conduct 1.2(a); 1.5(a); 1.14(a) and (b); 1.15(d) and (g); 1.16(d); 2.1; and 8.4(a)-(c).

The panel heard oral arguments on respondent's motion for partial summary disposition and granted the motion in part as to the misconduct charged in Count One, paragraph 16(d). At the conclusion of petitioner's proofs, the panel then granted respondent's motion for involuntary dismissal, in part, by granting the motion as to Count Two of the complaint, in its entirety, and as to all of the remaining charges in Count One except the charges of misconduct in subparagraphs 16(a) and (g). At the close of the proceeding, the panel concluded that petitioner had not established misconduct as set forth in subparagraphs 16(a) and (g) by a preponderance of the evidence. Accordingly, Formal Complaint 06-80-GA was dismissed and no costs were assessed against respondent.


John F. Van Bolt

JUL 19 2007

Dated: _____