

DISMISSAL

Case No. 03-135-GA

Harry R. Boffman, III, P 55052, Detroit, Michigan, by the Attorney Discipline Board affirming Tri-County Hearing Panel #31's order of dismissal.

1. Dismissal
2. Effective November 26, 2004

The Grievance Administrator filed Formal Complaint 03-135-GA alleging that respondent committed misconduct by neglecting a matter entrusted to him, failing to refund unearned fees; and misappropriating \$5,000.00. Respondent's conduct was alleged to have been in violation of MCR 9.104(A)(1)-(4); and Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.15(a)-(d); 1.16(d); and 8.4(a) and (c).

During the pendency of this matter, the Grievance Administrator withdrew the neglect allegation and the hearing panel found no misconduct with respect to the remaining allegations. On November 4, 2004, the panel issued an order dismissing Formal Complaint 03-135-GA.

The Grievance Administrator filed a petition for review and on September 28, 2005, the Attorney Discipline Board issued its order and opinion concluding that respondent's failure to segregate unearned fees paid in advance from his own funds constituted a violation of MRPC 1.15(a), but affirming the panel's order of dismissal, finding that "prospective application of [the Board's] holding (was) appropriate in this rare instance." No costs were assessed against respondent.