

Attorney Discipline Board



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This is to inform the Courts of the State of Michigan of the following Order of Discipline:

(Revised) NOTICE OF REPRIMAND

File No. 36469-A
Related: 34906-A

BERNARD LAMPEAR (P16373), 18711 W. Ten Mile Road, Suite 200, Southfield, MI 48075, by Attorney Discipline Board Macomb Circuit Hearing Panel "A", as affirmed by the Attorney Discipline Board deciding a Petition for Review filed by the Grievance Administrator.

- (1) Reprimand;
- (2) Effective September 24, 1980.

The Formal Complaint charged that Respondent was convicted, by a plea of guilty, of a federal misdemeanor, to wit: aiding and abetting Medicaid kick-back payments in violation of Title 42, USC Section 1396 (H) (B) (1), Title 18, USC Section 2 and the Disciplinary Rules set forth at MGCR 953 (1) (5) and 969 and Canon 1, DR 1-102 (A) (1) (3-6) of the Code of Professional Responsibility. Counts II and III of the Formal Complaint alleged that Respondent violated New Jersey Statutes by improper representation of outstate residents seeking to adopt Michigan-born infants, allegedly in violation of New Jersey Statutes 2A: 98-1 and 2A: 98-2 and the Disciplinary Rules set forth at MGCR 953 (1-5) and Canon 1, DR 1-102 (A) (1) (3-6) of the Code of Professional Responsibility.

The Hearing Panel dismissed, without prejudice, Counts II and III of the Formal Complaint alleging violation of New Jersey adoption statutes. Based upon Respondent's federal misdemeanor conviction, the Panel found that Respondent had violated MGCR 953 (2) and (5); however, the Panel considered several factors in mitigation of the federal misdemeanor conviction including Respondent's heretofore long-standing, unblemished personal and professional record of more than fifteen years and the fact that Respondent faced very substantial legal defense fees by a trial of the charge and severe income loss due to extensive physical injuries sustained in an accident occurring at about the time of prosecution. The Grievance Administrator appealed the Panel decision to the Discipline Board, claiming an abuse of discretion by the Panel in limiting the discipline to a Reprimand. Respondent did not appeal the Reprimand,

but did appeal the dismissal without prejudice of Counts II and III. Before the Board, Respondent maintained his claim of innocence in the criminal matter, setting forth in his Appeal Brief a long and detailed list of reasons why he pled guilty to the federal charge. The Board, after examination of the whole record and consideration of the degree of demonstrated culpability, affirmed the decision of the Hearing Panel, including the without prejudice dismissal of Counts II and III. No appeal of the Board decision was filed with the Supreme Court.



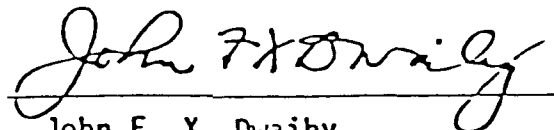
David Baker Lewis, Secretary
ATTORNEY DISCIPLINE BOARD

October 20, 1980.

SPECIAL NOTE OF ADB COUNSEL IN RE THE REPRIMAND OF B. LAMPEAR:

Criminal conviction (misdemeanor or felony) of an attorney usually results in a more severe disciplinary action. Therefore, in the absence of a Board Opinion (normally issued only when discipline is modified or increased), and due to the unusual circumstances giving rise to the decision of Reprimand, the following is offered to the Bar and the public:

- (1) The Board was presented with several apparently compelling mitigating factors and extenuating circumstances, including Respondent's unrefuted argument that extensive physical injuries suffered in an accident caused a loss of income needed to successfully defend the misdemeanor charge.
- (2) The finding of criminal responsibility is supported only by the U.S. District Court "Judgment and Conviction Order" (G.A. Exhibit #2). The now-repudiated guilty plea aside, there is an absence of any independent investigative information or corroborative evidence which might tend to show actual guilt. The Board did not totally discount the effect of the official conviction; however, the financial arrangements between Respondent and his physician-client do not appear to be prima facie improper. Respondent's connection with the alleged Medicaid transaction, as recounted in the Panel proceedings, was portrayed as tenuous - this could be a basis for a finding of minimal culpability.
- (3) The U.S. District Court judge eventually substantially reduced Respondent's sentence of probation of two years.
- (4) The U.S. Attorney's office apparently promised dismissal of the charges against Respondent should the physician-codefendants prevail in their appeals.
- (5) The Michigan Supreme Court has required consideration of all mitigating factors attendant to criminal convictions and in the interest of individual justice, has provided the Board and its Panels a degree of latitude in assessing appropriate discipline in such cases. In re Lewis, 389 Mich 668 (1973); In re Sauer, 390 Mich 449 (1973).



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ATTORNEY DISCIPLINE BOARD