

## Attorney Discipline Board



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

NOTICE OF REPRIMAND

File No. DP-13/80

Related: 35695

CARL M. WEIDEMAN, JR. (P22096), 27050 Gloede, Warren, MI 48093, by Attorney Discipline Oakland Circuit Hearing Panel "C".

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

The Formal Complaint charges that: Respondent was retained to litigate a certain probate matter; that Respondent was paid a substantial retainer fee; that Respondent, upon termination of his services and appearance of substitute counsel, failed to return \$2,000 advanced by the client for costs; that Respondent failed to answer the client's inquiries regarding progress of the case and allowed the statutory period for reopening the estate to pass without a Petition for Rehearing or a Petition to Extend Time to File Claims or Set Aside the Account; that Respondent failed to file a Circuit Court action seeking equitable relief which the Probate Court could not render, in violation of Canon 6, DR 6-101 (A) (1) (3), Canon 7, DR 7-101 (A) (2), Canon 9, DR 9-102 (B) (3-4) of the Code of Professional Responsibility.

The Panel found that Respondent was retained to secure a proper accounting and full valuation of the assets contained in the estate of the client's late spouse; contingent fee agreement was executed and Respondent, in addition to his fee, was advanced \$2,000 to be deposited in his client's trust account for payment of costs as incurred; that Respondent failed to litigate the probate issues and allowed the statutory period for the reopening of the estate to pass without a Petition for Rehearing or Petition to Extend Time to File Claims or Set Aside Accounting; that Respondent failed to reply to his client's letters and failed to file a Circuit Court action; and, Respondent encountered no costs but refused to return the sum advanced for the same. The Panel considered the following in mitigation: Respondent has practiced law for 31 years with no prior record of misconduct; Respondent considered the subject of the

CARL M. WEIDEMAN, JR., NOTICE OF REPRIMAND (Continued)

Complaint to be essentially a fee dispute and there was no intent to permanently deprive the client of property or sums owed to the client; Respondent's actions in refusing to litigate the probate issues and his omissions allowing expiration of the statutory period for reopening the estate, although of questionable efficacy, was a trial strategy and this aspect of the matter did not involve neglect; Respondent made full restitution of the sums involved; a period of two and one-half years elapsed from the time of investigation to the time of the filing of the Formal Complaint.

The Hearing Panel determined that Respondent had violated Canon 6, DR 6-101 (A) (1) and (3) in that he had a duty to handle the matter competently and without neglect. The Panel found a violation of Canon 7, DR 7-101 (A) (2) based on Respondent's failure to carry out his contract of employment and Canon 9, DR 9-102 (B) (3) and (4) in that Respondent failed to promptly pay over and deliver to the client funds (\$2,000 for costs) which the client was entitled to receive. Respondent was assessed costs in the amount of \$81.80. Neither Respondent nor the Grievance Administrator filed a Petition for Review with the Attorney Discipline Board.



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David Baker Lewis, Secretary  
ATTORNEY DISCIPLINE BOARD

October 21, 1980.