

STATE OF MICHIGAN

Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD

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GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 14-82-GA

CAROLYN J. JACKSON, P 53018,

Respondent.
_____ /

**ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION
AND RESTITUTION WITH CONDITIONS**

Issued by the Attorney Discipline Board
211 W. Fort St., Ste. 1410, Detroit, MI

Tri-County Hearing Panel #57 of the Attorney Discipline Board issued an order on December 30, 2014, that reprimanded respondent conditioned upon her payment of \$1,000 to Crystal Gutierrez by January 6, 2015; noting that if payment was not made by that date, respondent's license would be suspended for 60 days upon the filing of an affidavit by the Grievance Administrator attesting to respondent's failure to pay the restitution as ordered. The December 30, 2014 order also required respondent to turn over her client file to Ms. Gutierrez within 14 days; attend the next scheduled "Tips and Tools" seminar; and obtain a mentor to oversee her practice for 12 months. The order again specifically noted that if respondent failed to timely satisfy the terms of the conditions, her license would be suspended for 60 days upon the filing of an affidavit by the Grievance Administrator attesting to respondent's failure to comply with the conditions as ordered.

The Grievance Administrator subsequently filed a motion to increase discipline and an affidavit attesting that respondent had failed to comply with the conditions within the time frames referenced in the hearing panel's order. On January 20, 2015, an order of suspension and restitution with conditions was issued by the hearing panel suspending respondent's license for 60 days and reaffirming that the conditions contained in the panel's December 30, 2014 order remained in full force and effect. Although respondent filed a petition to set aside the order of suspension and restitution with conditions, on February 4, 2015, the panel issued an order denying respondent's petition.

Respondent then petitioned for review, arguing that the hearing panel exceeded and/or abused its authority when the panel ordered that the discipline imposed on respondent be increased. The discipline ordered by the hearing panel was automatically stayed pursuant to MCR 9.115(K) upon the filing of respondent's petition for review and petition for stay.

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including review of the evidentiary record before the panel and consideration of the briefs and arguments presented by the parties at a review hearing conducted on May 20, 2015.

On review, respondent relied on MCR 9.115(J)(3)¹ to argue that the hearing panel had no authority to increase discipline prior to the effective date of the original order of reprimand. However, respondent's reliance on the provisions of MCR 9.115(J)(3) is misplaced given the terms specifically noted on the record at the November 21, 2014 hearing and set forth in the hearing panel's original order of reprimand issued on December 30, 2014. Respondent was specifically put on notice, both by the language of the order and the statements made at the November 21, 2014 hearing, that her failure to pay the restitution by January 6, 2015, would result in the issuance of an order suspending her license for 60 days, without further notice to her. There was no requirement that respondent be allowed to respond or that a hearing be held prior to the entry of an order increasing discipline. Instead, the Grievance Administrator's counsel only had to file an affidavit attesting to the fact that respondent failed to timely pay the restitution, which was done at the time the motion to increase discipline was filed. Respondent knew what the consequences would be if she failed to comply with the condition deadlines and her explanations for why she failed to timely comply are irrelevant given her acknowledgment of the consequences at the November 21, 2014 hearing and given that respondent took no action to contact the Grievance Administrator's counsel before the January 6, 2015 deadline to request additional time to comply.

NOW THEREFORE,

IT IS ORDERED that the hearing panel's order of suspension and restitution with conditions issued January 20, 2015, is **AFFIRMED**.

IT IS FURTHER ORDERED that respondent's license to practice law in Michigan is **SUSPENDED FOR 60 DAYS, EFFECTIVE SEPTEMBER 22, 2015**, and until the respondent's filing of an affidavit of compliance with the Supreme Court, the Attorney Discipline Board and the Attorney Grievance Commission in accordance with MCR 9.123(A).

IT IS FURTHER ORDERED that from the effective date of this order and until reinstatement in accordance with the applicable provisions of MCR 9.123, respondent is forbidden from practicing law in any form; appearing as an attorney before any court, judge, justice, board, commission or other public authority; or holding herself out as an attorney by any means.

IT IS FURTHER ORDERED that, in accordance with MCR 9.119(A), respondent shall, within seven days after the effective date of this order, notify all of her active clients, in writing, by registered or certified mail, return receipt requested, of the following:

1. the nature and duration of the discipline imposed;
2. the effective date of such discipline;
3. respondent's inability to act as an attorney after the effective date of such discipline;

¹ MCR 9.115(J)(3) states, in relevant part: "[the order of discipline] shall take effect 21 days after it is served on the respondent unless the panel finds good cause for the order to take effect on a different date, in which event the panel's decision must explain the reasons for ordering a different effective date."

4. the location and identity of the custodian of the clients' files and records which will be made available to them or to substitute counsel;
5. that the clients may wish to seek legal advice and counsel elsewhere; provided that, if respondent was a member of a law firm, the firm may continue to represent each client with the client's express written consent;
6. the address to which all correspondence to respondent may be addressed.

IT IS FURTHER ORDERED that in accordance with MCR 9.119(B), respondent must, on or before the effective date of this order, in every matter in which respondent is representing a client in litigation, file with the tribunal and all parties a notice of respondent's disqualification from the practice of law.

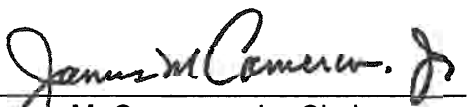
IT IS FURTHER ORDERED that, respondent shall, within 14 days after the effective date of this order, file with the Grievance Administrator and the Attorney Discipline Board an affidavit of compliance as required by MCR 9.119(C).

IT IS FURTHER ORDERED that respondent's conduct after the entry of this order but prior to its effective date, shall be subject to the restrictions set forth in MCR 9.119(D); and respondent's compensation for legal services shall be subject to the restrictions described in MCR 9.119(F).

IT IS FURTHER ORDERED that respondent shall, on or before **September 22, 2015**, pay costs in the amount of **\$94.84**, consisting of court reporting costs incurred by the Attorney Discipline Board for the review proceedings conducted on May 20, 2015. Check or money order shall be made payable to the Attorney Discipline System and submitted to the Attorney Discipline Board, 211 West Fort St., Ste. 1410, Detroit, MI 48226, for proper crediting. (See attached instruction sheet).

ATTORNEY DISCIPLINE BOARD

By:


James M. Cameron, Jr., Chairperson

DATED: August 24, 2015

Board members James M. Cameron, Jr., Lawrence G. Campbell, Dulce M. Fuller, Michael Murray, James A. Fink, and John W. Inhulsen concur in this decision.

Board members Rosalind E. Griffin, M.D., Sylvia P. Whitmer, Ph.D., and Louann Van Der Wiele were absent and did not participate.