

STATE OF MICHIGAN

Attorney Discipline Board

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ATTORNEY DISCIPLINE BOARD

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GRIEVANCE ADMINISTRATOR,  
Attorney Grievance Commission,

Petitioner/Appellant,

v

Case No. 14-54-GA

SUSAN M. EIFLER, P 57222,

Respondent/Appellee.

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**ORDER INCREASING DISCIPLINE TO A  
30-DAY SUSPENSION AND MODIFYING CONDITIONS**

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

On November 7, 2014, Calhoun County Hearing Panel #1 issued an order reprimanding respondent, Susan M. Eifler, and imposing conditions relevant to the admitted misconduct. The Grievance Administrator filed a petition for review and the Attorney Discipline Board conducted review proceedings, in accordance with MCR 9.118, on March 18, 2015, which included a review of the whole record before the panel and consideration of the Grievance Administrator's brief and the arguments presented. For the reasons discussed below, we increase the discipline imposed from a reprimand with conditions to a 30-day suspension of respondent's license to practice law and modify the conditions.

On May 13, 2014, the Grievance Administrator filed Formal Complaint 14-54-GA alleging that respondent had committed professional misconduct by failing to answer a request for investigation which was served on her by the Grievance Administrator. Respondent did not file an answer to the complaint and a default was filed on June 19, 2014. Based on respondent's default, the panel's subsequent report found that the allegations in the formal complaint were admitted and that respondent had committed professional misconduct, in violation of MCR 9.104(1)-(3) and (7); MCR 9.113(A) and (B)(2); and MRPC 8.1(a)(2) and 8.4(c). Although the Grievance Administrator's counsel argued for a suspension of respondent's license under the ABA Standards and Board precedent, the panel ordered that respondent be reprimanded and be subject to a number of conditions, such as being mentored and monitored.

At the panel hearing, and on review, counsel for the Grievance Administrator argued that a suspension was the appropriate sanction under ABA Standard 7.2 (violation of duties owed to the profession); *Grievance Administrator v Mark L. Brown*, 00-74-GA (ADB 2002) (increasing a panel's reprimand for failure to answer three requests for investigation to 30-day suspension under Board case law); and *Grievance Administrator v John D. Baker*, 06-66-GA (ADB 2007) (following *Brown* and prior precedent, and increasing reprimand to 30 days where respondent failed to answer a request for investigation.)

The Board's decision in *Brown, supra*, analyzed prior cases and the recently adopted Standards and reaffirmed the guideline set forth in *Grievance Administrator v David A. Glenn*, DP 91/86 (ADB 1987), wherein the Board stated:

Our decision to increase the discipline imposed by the Hearing Panel from a Reprimand to a suspension of 30 days is intended to serve notice upon the Respondent and the Bar that the lawyer who ignores the duty imposed by Court Rule to answer Requests for Investigation and Formal Complaints does so at his or her peril and that, *absent exceptional circumstances, that attorney may expect a discipline greater than a Reprimand.* [Glenn, *supra*, p 5. Emphasis added.]

However, as noted in the Grievance Administrator's brief, there are no exceptional circumstances in the instant case to support the imposition of reprimand. We agree with the Grievance Administrator that respondent's prior discipline (which includes a 2007 reprimand for neglect and failure to communicate, as well as four admonishments, three of which were late answers to requests for investigation) is, in itself, a sufficiently aggravating factor which weighs in favor of a suspension.

After careful consideration, the Board finds that the reprimand imposed by the hearing panel should be increased to a 30-day suspension of respondent's license to practice law. With respect to the conditions imposed by the panel, the Board notes that respondent, during the review hearing, stated that she had been assessed by the Lawyers and Judges Assistance Program (LJAP) and it was determined that she suffers from an anxiety disorder. Respondent was assigned a peer monitor and, based on the recommendation by LJAP that she seek counseling, she stated that she had scheduled an appointment with a psychologist. Respondent also stated that she is participating in the State Bar of Michigan's Risk Management Program. Accordingly, we will vacate the conditions imposed in the panel's order. Instead, we will require that respondent file, within 21 days, an affidavit with the Grievance Administrator and the Attorney Discipline Board attesting to her activities related to the LJAP assessment and recommendations. Thereafter, the Grievance Administrator may seek the imposition of additional conditions from the panel if he deems it appropriate. We do not retain jurisdiction.

**NOW THEREFORE,**

**IT IS ORDERED** that the discipline in this case is increased from a reprimand to a **SUSPENSION OF RESPONDENT'S LICENSE TO PRACTICE LAW IN MICHIGAN FOR 30 DAYS, EFFECTIVE AUGUST 5, 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 the conditions imposed by the hearing panel in its November 7, 2014 order are **VACATED**.

**IT IS FURTHER ORDERED** that respondent shall, within 21 days, file an affidavit upon the Grievance Administrator and the Attorney Discipline Board attesting to her activities related to the LJAP assessment and recommendations.

**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;
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 **August 5, 2015**, pay costs incurred by the Board for the transcript of the review proceedings conducted on March 18, 2015, in the amount of **\$82.33**. Costs may be paid by check or money order 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: July 7, 2015

Board members James M. Cameron, Jr., Lawrence G. Campbell, Dulce M. Fuller, Sylvia P. Whitmer, Ph. D., Rosalind E. Griffin, M.D., Louann Van Der Wiele, Michael Murray, and John W. Inhulsen concur in this decision.

Board member James A. Fink was absent and did not participate.