

STATE OF MICHIGAN

Attorney Discipline Board

FILED  
ATTORNEY DISCIPLINE BOARD

In Re: AGC INVESTIGATIVE SUBPOENA 2614-12,

OCT 17 AM 9:39

Case No. 14-29-MZ

**ORDER DENYING MOTION TO QUASH SUBPOENA UNDER MCR 9.112(D)**

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

The Chairperson of the Attorney Discipline Board has considered the motion to quash an Attorney Grievance Commission investigative subpoena under MRC 9.112(D), has carefully reviewed the briefs filed by the parties, and carefully considered the arguments presented by the parties at the August 20, 2014 oral argument on the motion. Pursuant to MRC 9.112(D), the Board Chairperson may quash or modify an investigative subpoena if compliance would be unreasonable or oppressive.

Movant acknowledged that no attorney/client relationship is involved, but argues that the investigative subpoena issued by the Grievance Administrator should be quashed because of a common law fiduciary duty and a constitutional right to privacy. Movant also cites numerous authorities for the proposition that matters discussed in consultation with a prospective client are confidential and privileged, but these authorities are clearly inapposite. There is no common law or other duty of confidentiality, nor is there such thing as a "facilitative fiduciary relationship" as described by Movant, which would preclude a respondent attorney from providing the information sought in the subpoena issued by an agency investigating lawyer conduct. Nonetheless, it is presumed that the Attorney Grievance Commission will conduct its investigation of the underlying matter with sensitivity to concerns witnesses may have regarding privacy and disclosure of personal information. Should a formal complaint eventually be filed, it would be anticipated, as represented by the Grievance Administrator's counsel, that anonymity, protective orders, and other such mechanisms can and will be reasonably employed to address any real concerns that a witness may express to the Attorney Grievance Commission and/or the Attorney Discipline Board.

The Chairperson is not persuaded that Movant's compliance with the investigative subpoena would be unreasonable or oppressive. See, e.g., *Yates v Keane*, 184 Mich App 80, 457 NW2d 693 (1990).

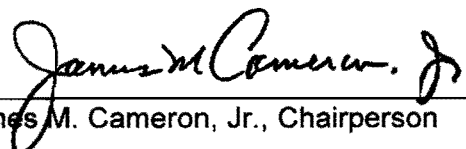
The Chairperson being otherwise advised;

**NOW THEREFORE,**

**IT IS ORDERED** that the motion to quash is **DENIED**.

ATTORNEY DISCIPLINE BOARD

By:

  
James M. Cameron, Jr., Chairperson

DATED: October 17, 2014